The Current State of the Legal Protection of Intellectual Rights within the Scope of Private International Law

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Abstract

This study aims to investigate the current reality of the protection of intellectual rights legally in accordance with the references of private international law by following the descriptive and analytical research methodology for the most important international legal sources to regulate and protect intellectual rights, including laws, charters, principles, regulations and guides for framing intellectual rights, classifying them, mechanisms and means of protecting them and dealing with violators of rights. In this study, a set of questions were revealed with objective reference and comparative analysis related to the nature of intellectual rights and their ownership; Through the development of the Internet as the first medium in the publication, exchange of information and data, lead to the violation and confiscation of property rights, as the Internet facilitated the violation of intellectual rights without material compensation which complicated the possibility of owners to protect their rights due to the large number of violators and their presence in different countries. On the other hand, preventing the dissemination and exploitation of ideas considering the Internet has in fact become a difficult and even very complex and difficult matter. This makes the analysis of the current reality of intellectual rights and their property legal protection in accordance with what is applicable in private international law, to enrich real legal protection, material and moral protection of intellectual rights of all kinds.

Keywords: rights, intellectual, protection, legal, private international law.

1. Introduction

Today's intellectual effort has become the driving force of the modern economy, which is based on the capabilities of human and intellectual capital in terms of its capabilities for invention creativity and the effective development closely related to that economy.

The revolution of knowledge and technical growth in the field of human intellectual and creative mass production, investment and marketing has become one of the most significant aspects of economic, industrial and commercial progress of the new world order. This made the reality and possibilities of managing human's intellectual output and employing it to serve humanity one of the priorities of modern human development.

As a result of this modern importance of intellectual capital, the interest of countries in this type of property rights has increased, and the dedication of the protection of these rights has become one of the international demands directed to international bodies and law organizations specialized in the field of intellectual rights and property, especially with the development of the role of the Internet as the first medium in the publication, storage and exchange of information and data, as the internet facilitated the exploitation of the ideas of others published without financial compensation, and in return made preventing the continuation of its publication, exchange and illegal exploitation is very important difficulty. This requires a greater and broader role for systems and bodies towards their legal protection.

Considering the above, this study came as a modest attempt in this field, by standing on the reality of regulating human rights from intellectual property and protecting private international law for effective legal protection.

Study problem

An era in which the determinants of capital are transformed from assets to information, data and knowledge; and from material values to digital values, which have increased the creativity of human thought, through technology, to reflect on the well-being, progress and prosperity of peoples, relying on scientific human creativity. Therefore, intellectual (scientific) creativity is no longer just a strongly important factor in the economy of countries; scientific knowledge has become an essential pillar of human life.

The criterion of the powers of modern classification countries today has become adopted today with their intellectual capabilities (that is, the size of the intellectual right belonging to their property), and the damage of this criterion is one of the factors of the economic and human gap between the countries of the world on the path of development and progress, which made its legal protections as one of the types of ownership resulting from its intellectual right one of the most important issues in the current era marked by the age of law and rights, and even one of the most prominent demands of the whole world of bodies and systems with references International and international competence in the legal protections and regulation of human rights in general and intellectual in particular and specifically legally .In this context, the evolution of the status of rights in international law since the beginning of the new millennium has led to further conflict and overlap between general and personal human rights as a party and intellectual rights as a counterparty; The 2005 Geneva Declaration on WIPO and its future as a world organization explicitly stated that the world was facing a global knowledge management crisis, which required the modernization of its protection laws .

In general, today' s intellectual property rights holders face a large number of problems created by Internet publishing . At the Arab level in particular, the results of recent studies indicate that the recognition of copyright on his mental output is no longer sufficient alone to achieve the necessary protection, but rather the legislator must intervene and impose legal protection for this creativity and deconstruction .

At the level of the Arabic environment, public and local, the reality of the situation indicates that Arabic legislative institutions still receive the rules of legislation in the information age and do not manufacture them, but rather they receive them without subjecting them to study and

scrutiny to explore their validity and effectiveness for the Arabic environment, especially legislation on his right as a human being, and the protection of his intellectual rights in particular, as a research problem for this study, which the researcher was able to frame in the set of questions identified below.

Study Questions

The main question: "What is the reality of the protection of intellectual property rights by private international law?

1. What is the theoretical framework for the concepts of study?

2. What are the actual international frameworks and references for regulating intellectual rights in accordance with private international law?

3. What is the reality of the legal protection of intellectual rights in the light of private international law?

Objectives of the study

4. Introducing the general concept of intellectual rights in contemporary legal thought.

5. A statement of the most important frameworks for the world's references and laws in regulating intellectual property in agreement with private international law.

6. Analyse the reality of the legal protection of intellectual human rights in accordance with the scopes of private international law.

The importance of the study

The protection of the rights and property of intellectual rights legally plays an important and effective role with a general utilitarian value for its societies and individuals, as it achieves the actual benefit from the intellectual production of all owners of intellectual rights, away from the concept of monopoly. Its importance as legal protection is compounded by the great interest that the States of the world attach to it as one of the most important components of the knowledge economy . The 2005 Geneva Declaration on Intellectual Property and its global organizations called on the countries of the world, as well as the WIPO Organization for Intellectual Property, to prioritize and intensify their efforts to adopt alternative approaches and policies that promote creativity and innovation away from the calculations and standards of privatization and trade .The importance of protection for this level / class of intellectual rights is highlighted legally, from its special value manifested in what various international legal references have given it as a human right, as the protection achieved by the author as a legal system laws is one of the most relevant legislations for the intellectual development of nations (Benhalima, 2017). It is also of great importance and is reflected in the great momentum of international treaties, charters, laws and global legislation to regulate and protect intellectual rights (Catherine Saez, 2023).

Therefore, the importance of our study comes from the importance of intellectual rights as one of the most important contemporary topics in the field of legal studies, and its importance increases by focusing on the reality of legal protection according to the scope of the private

international law system, to constitute an important reference for researchers and lawyers who can benefit from its results in the future.

Study terminology and procedural definitions

The intellectual right: It means every innovative creative human product, registered with international bodies and competent authorities in the name of its owner (author / inventor / innovator).

Private International Law: means the set of legal instruments issued by the Hague Conference (HCCH and WIPO) related to intellectual rights, including laws, treaties, conventions, principles and international legal instructions in force.

Legal protection: means the provision of judicial systems, frameworks, means and policies legally binding on states, such as systems of reference specialized in the moral and/or material protection of intellectual human rights, national and international legitimacy.

2. Previous studies

1. A study (Chnouf and Ezzahi: 2003) with the aim of knowing the most important rights related to the right related to the author's party as well as their legal protection in international laws; and concluded that the laws have granted intellectual rights to the groups that assist the author in reaching his author to society; these rights are called rights adjacent to the right of the author's person himself, and their owners are in three categories: Artists Performance, as well as producers and recorders of voices, as well as broadcast bodies (visual), audio (audio) and compact (audiovisual).

2. A study (Sahuna; and Bakhoush: 2008) to introduce the reality of the status of intellectual human rights in Algeria, and the adequacy of the legal measures taken to achieve the necessary protection for creators and their creative works. Considering the analysis methodology, I concluded that there is a clear absence of judicial procedures and mechanisms, both criminal/civil, at the level of special laws related to intellectual property. Proof of industrial property rights by registering them at the level of the National Institute of Industrial Property in accordance with the legal conditions is necessary and imperative to give them protection, unlike copyright as well as neighboring rights that benefit from protection despite not being registered at the level of the National Copyright Office of the State.

1. A study (Abdel-Ilah: 2011) to find out the reality of protecting the intellectual right legally in the fields of satellite broadcasting operations Egyptian and Emirati, in light of the methodology of comparison; Satellite broadcasting, which makes this piracy an illegal violation of both dimensions: property and intellectual rights; she also pointed out that the UAE has a leading role in protecting broadcasting rights and property, and that its application of this current proof deserves respect.

2. A study (Ben Halima: 2017) to find out the reality of the protection of copyright by the Algerian and Jordanian legislators as a legal protection to compare them as two Arab legislations, namely the Algerian and the Jordanian legislation, in light of the comparative

analytical approach, and concluded that the Algerian and Jordanian legislators have given these rights legal importance, as both the Algerian and Jordanian legislators intervened and determined controls and standards for the protections of these rights, i.e. related to the person of the author, but what was observed about the Algerian law on the intellectual property right of the author is the one that came to provide you with legal protection that is effective at the level of what is hoped for and to the strongest degree of the Jordanian legislation, by criminalizing the infringement of copyright and increasing the penalty, as well as through the establishment of bodies for the collective management of authors' rights in addition to joining the most important conventions and organizations of the world. Despite this, the problem still exists and is the weak activation of the role of protection at a stronger legal and practical level than it is current.

3. A study (Sudani; Ashour: 2020) to find out the requirements for including brain drain within the international convention(s) and instruments of the world for intellectual human rights and intellectual property and its impact on the transfer of their automated technologies programmed to transfer these information to the environments of the developing world; Owners of creations and innovations are granted property rights, which ensure that they alone can use and dispose of the things embodied in their creations and innovations, and not allow others to use or dispose of them without obtaining permission or license from them. These rights are also known as any telecommunications that respond to intellectual property in the name of human right and ownership of his thought (intellectual property rights), and a problem has arisen in the intellectual property right of immigrant brains in terms of the country in which they can operate. This point is very critical as the points have not been adjudicated, nor are there provisions addressing the problem of brain drain and intellectual property rights at the level of WIPO as a global international organization concerned with intellectual property.

- A study (Al-Safri; Al-Hassan: 2020) to find out the most important components and dimensions of the use of blockchain technology in preserving the right to intellectual property and the extent of its impact on some areas of major intellectual rights, and referring to the most important obstacles to its structure of the rights of publishing houses and printing presses listed under intellectual property, in the documentary method, where it had concluded that blockchain technology is one of the latest and most important technologies, which began to be used in this field, and that it has technical capabilities Big in this aspect as many sectors are starting to explore their possibilities with the emergence of new smart uses.

3. Study Methodology:

For the purpose of achieving the objectives of the study and answering its questions, the researcher has followed the descriptive level research methodology, specifically (desktop analysis) according to the method of documentary analysis, based on identifying and collecting the sources of the research material - laws, legislations and instruments - as the intended sources by analysing them according to the documentary method as direct sources of the necessary library research information, and analysing its contents objectively according to the methods of induction and deduction, to reach systematic scientific conclusions according to the

predetermined objectives of the study, and to ensure the answer. on questions related to these goals.

Study tools and sources:

The study tools adopted as the main sources of the research material intended as a content analysis material consisted of a consistent set of official international legal frameworks declared and binding on governments and states, in the field of regulating the rights of persons and intellectual legal bodies and protecting their property rights in legitimate legal protection; i.e. the Hague Conference on Private International Law and the World Intellectual Property Rights Organization WIPO

Limitations of the study

1. Objective limitations: The study is limited in its subject matter to the reality of the actual legal protection of all rights of thought and its ownership within the scope of private international law and its legislation directly related to intellectual rights, focusing on the right of ownership related to copyright.

2. Time limits: The study was conducted in May 2024, so the results of the study apply only to private international law legislation issued before the date of the study.

Considering the above, the study was divided into three main sections, according to the objectives of the study and its questions, followed by a conclusion that includes a brief summary of its most important conclusions and the recommendations of the researcher and his proposals.

The first topic: the theoretical framework of the main study concepts.

First: The concept of private international law

In its general sense, international law is defined as the body of law enacted by sovereign States in their territories or between them, as general international legal legislation binding on all States belonging to the membership of the competent legislative bodies and bodies.

Private international law as one of the branches of law was initially defined as a judicial practice dating back to 1834, when it first appeared from the point of view of some researchers in Netherlands; while the emergence of private international law as a recognized legal concept and term dates back to after the French Revolution (i.e. after 1869), as its emergence was, as some have seen, a natural result of the beginning of States to apply the principle of the principle of absolute/complete sovereignty of the State.

At the beginning of the nineties of the nineteenth century, private international law was known as one of the officially recognized branches of law in the field of legal sciences and jurisprudence, where the organization of private international law represented a basic goal for which the Hague Conference on Private International Law in Geneva in 1893 "HCCH" was established as a permanent global organization for transnational international legal cooperation in the field of civil and commercial issues .

Although the concept of private international law as a term that expresses one of the types of international law has passed since its emergence for a long time, from study and research,

specialists in international law still provide more than one definition according to angles and points of view, as a result of the nature of this type of international law, the specificity of its topics, in addition to the multiplicity and diversity of its arbitration and judicial sources, and the nature of its cases and their parties.

In any case, experts and researchers of international law believe that the most important famous definitions taken as theoretical conceptions of the concept of private international law are determined in three legal directions for its definition :

1. The first trend / and they define it - i.e. private international law - as one of the branches of international law and is concerned only with the statement of the law that requires application in legal relations with special international dimensions.

2. The second trend / and they define it - i.e. private international law - as one of the branches of international law and is concerned only with indicating the law to be applied in it and appointing the competent court in relations with special international dimensions.

3. Private international law is defined as: the broader legal scope that is concerned with the statement of the nationality of persons in relation to States, their domicile and their legal status across borders, as well as the statement of law (applicable) as well as the appointment of a court of jurisdiction in private international relations.

Private international law is also defined and known according to some universal legal systems and academic literature according to the "conflict of laws" rule, where in the legal systems of the Hague Conference it is defined that the law on the regulation of transnational relations, involving a foreign element, where private international law deals with three main legal questions :

4. International jurisdiction: Designating the jurisdiction of a court to decide the case.

5. Determine the exact law that is appropriate and legitimate and requires application to the case alone.

6. Identification and administration of foreign judgments.

7. Judicial and administrative collaboration between States in any disputes involving a non-domestic foreign element.

It is therefore a type of international law, defining private international law as a set of national legal rules relating to private international relations issues of individuals, on the basis of its determination of nationality and domicile, as well as its determination of the applicable law and its designation as well as its designation of a judicial authority such as its international system of courts in disputed relations as dispute cases and having a non-domestic foreign dimension.

From the above, we can simply define private international law as everything that represents an international legal instrument in force and binding on States in disputes involving a foreign element and requiring the determination of a domicile or nationality therein, as well as the resolve of the applicable law, and the description of the competent authority as cases expressly related to intellectual rights.

Therefore, private international law is distinguished from public international law in that it derives its provisions from a variety of sources, some of which are international, such as treaties, international norms and international judicial rulings, and others are national sources such as legislation, custom, judiciary and jurisprudence . In accordance with its establishment and the purpose of its mandate, the Hague Conference (HCCH) is concerned with achieving the progressive unification of all the rules of international law of all States and undertakes the preparation of treaties, conventions and international instruments in three main areas:

1. International Child Protection and Family Law.
2. International civil proceedings.
3. International commercial and financial law.

The dimensions of the work of the Hague Conference "HCCH", instead of being binding on all Member States of more than 152 members, are the most important legal references that are required to be resorted to by the actors in various activities that are at the heart of business and intellectual activities, on disputes related to the protection of their intellectual property rights, whether personal/legal/commercial or mental .

For this and other reasons, it is clear that the work of HCCH is relevant to intellectual human rights property issues , because these instruments facilitate, through the legal certainty and predictability they establish, the completion of cross-border international transactions relating to the enforcement of their property rights and the settlement of all disputes related thereto, and thus provide the international legal framework with effective solutions emanating from private international law.). The instruments of the Hague Conference "HCCH" are binding on all member states, as international governing and legal rules for the international or private relations of individuals in their human rights cases on the basis of nationality and domicile, determining the law to be arbitrated, as well as appointing the international jurisdiction to adjudicate, in legal relations that fall under a non-domestic (transnational) foreign element.

Second: The concept of intellectual rights

The development and advancement of legal thought so quickly has led to the emergence of new human rights, in addition to the rights, whatever they are in kind or are personalities known as intellectual rights (mental) as they are called by some international legal systems, where they express the right to intellectual production, as an intangible moral product, and make the owner the authority to monopolize this production and exploit it financially .

From the perspective of international law, intellectual rights, in their general concept, mean all rights associated with any human intellectual activity expressive or tangible product, in the field of trade and industry, or in the field of scientific, cultural, artistic and literary life.

1. A right related to the owner of the intellectual production (the author) or related to this right.
2. New inventions (patents) as well as information approved and concealed as trade secrets.

3. Industrial designs (such as those sometimes known as "design patents")

4. Commercial or industrial marks, as well as so-called certification marks and collective marks as well.

Industrial rights: It is one of the rights related to the rights of the intellectual dimension, and all industrial property such as trademarks, trade and industrial names, geographical indications, appellation of origin, industrial shape or model, patent, utility model, plant varieties fall under it:

As for mental rights, also called "authors' rights" or authorship, which are all rights that apply to all works of literary scientific mental scientific research or literary writings, prose arts or plastic art such as printed books, as well as blogs, music, dance and paintings, as well as creative works of art such as sculptures, as well as soap operas and films, scientific articles and computer software. .

Rights are called intellectual property rights because they belong to the field of human production rights, which constitute a certain intellectual creativity, whether in the scientific, literary or artistic field, and are no different from other human rights.

Third: The Concept of Intellectual Property

Intellectual property is not a concept that can be considered modern, as some trace its roots to the modern European Renaissance, specifically to the modern Italian statein the north, where it was issued from Venice specifically, the law for the protection of any human creativity represents a new invention, in the year 1474 AD, including special provisions to make the person who produced that innovative creativity inventor legally obtain a material and moral return from it as a right, and this law was also concerned with regulating the property rights of authors according to its own system that appeared The year 1440 AD coincided with the development of machines or printing presses for letters by the first inventor Gutenberg Johannes. Therefore, the term "intellectual property" is a term in general, belonging to the field or field of more comprehensive and general terminology, that is, among the legal terms that include numerous legal systems, to regulate them, such as special legal regimes on assets classified as intangibles, and systems that are legal systems relating to the field of copyright, or systems relating to trademarks or inventors registered as a patent .

In intellectual literature and private law studies, this concept (intellectual property), as defined by some researchers, is defined as any literary or financial achievement of what is produced that represents creative ideas and new intellectual innovations that are practically applicable and can be exploited and used in the fields of human life .

The second topic: the nature of the legal protection of intellectual rights in private international law (concept, importance, historical roots and dimensions).

Legal protection of intellectual rights (nature and ownership)

Intellectual property as one of the modern human rights has become a pillar of the progress of humanity and the transfer of modern technologies and technologies between human societies Technology and its transfer have become the subject of trade relations and the transition from

one country to another and its exchange on a global scale is required for the progress of humanity and the preservation of man and his protection against nature and overcoming its difficulties. Therefore, many countries around the world have sought to create new laws that regulate intellectual property, and several treaties have been actually signed worldwide to regulate and protect them legally without equivocation or dependence, such as the Paris Convention of 1883 and the Berne Convention of 1886, in addition to the establishment of competent international bodies for this purpose .

Legal protection is defined in its concept as any legal frame of reference that enhances the immunity of ideas as property rights that have their sanctity and respect by all, before everyone and for everyone in the world, so that all their legal cases are directly resolved, even if they are described as pending cases. Legal protection as defined by the Practical Dictionary of Basic Law and the Cardozo Law are: ensure that the use of force against individuals is restricted or withheld, through the means of Strengthened legality to protect them as inherent rights .

Some define it as the protection that guarantees every intellectual product holder the right to benefit from it with a material return, as well as guarantees him its protection from being used by others without a licence or consideration .

This means that the legal protection of intellectual property means the set of intellectual property protection systems concerned with regulating copyright and patents ... According to diverse methods of intellectual property, the kinds of formations to which they apply, the rules for determining the material submitted in terms of whether they qualify for protection or not, and what conduct is considered to be in violation of the owner's exclusive rights and require legal sanctions .

The Importance of Effective Intellectual Property Protections Legally

The challenges and risks to which intellectual property has been exposed since 2000 have pushed the countries of the world towards its legal protection as intellectual rights guaranteed and legally protected at the global and international levels, due to its strong importance for the progress of the world in all fields. As a result, the 2005 Geneva Declaration on WIPO explicitly stated that the world is facing a global crisis in knowledge management. Its urgent need to update and intensify its efforts to adopt alternative approaches and policies that promote creativity and innovation away from the calculations and standards of privatization and trade ().

As a result of the increasing economic relations, trade and industry around the world, as well as the spread of thought across political borders, as well as the availability and speed of information and communication on the other hand, the need to expand the protection of human intellectual rights and property has increased legally, whether within the State or across international borders. The right holder enjoys his right across the borders of his country, and within its agreed territories to provide them to their producers. This is consistent with the texts and articles of the reports and resolutions of the Sub-Commission for the Promotion and Protection of Human Rights.

Attention to intellectual human rights has been the most prominent in recent decades as this right stem from the right to science and culture and their protection as the foundations of the renaissance, progress, progress and prosperity of the world.

In the light of the foregoing, the real and legal protection as an effective protection of the ownership of this type of right (intellectual property rights) is manifested, as some see in the following :

1. Preserving ideas and protecting them safely from being stolen or making gains without the permission of their owner.

2. The growth and prosperity of private business away from the robbery of competitors in the markets.

3. Providing feasible ways of legal protection so that we ensure that inventors are encouraged to submit new innovations and inventions that contribute to their real push for comprehensive development at the public level, whether locally or nationally, for the state, the region and the world as a whole.

The historical roots of the emergence and development of legal protection of intellectual property

The importance and place of science in the progress and prosperity of the world has imposed on the modern world that the issue of the participation of science and culture and the issue of the protection of authorship and publication, as global human rights issues, are amongst the elementary values of international systems and law, especially human rights systems and laws, the most important of which is international law. The Universal Declaration on the Rights of Indigenous Peoples, marked with (UNDRIP)) adopted by the General Assembly vote in September 2007, explicitly affirming the rights of individuals and indigenous peoples to the protection of their culture, by explicitly stating in article 31 of the document the right of peoples and individuals to preserve, protect and develop their intellectual property. The issue of sharing and protecting science – with a guaranteed and protected human right, binding on all countries of the world.

The document of the International Declaration of Human Rights also explicitly and unequivocally stipulated in its twenty-seventh article, specifically paragraphs 1 and 2 of the same article, that everyone has the right to participate freely in science and culture, to enjoy the arts, as well as to contribute to scientific progress, as well as his right to benefits. Resulting therefrom, and his right to protection of his material and moral interests resulting from any intellectual product of his creativity and innovation, whether scientific, artistic, literary or the like .

In confirmation of these rights, most, if not all, subsequent legislation related to the issue and human rights included legal texts - even if they are not independent or indirect - affirming the right to cultural contribution and the protection of authorship, as one of the areas of human rights, as it was explicitly stipulated in Article 15, first paragraph, on the right to cultural participation and the protection of authorship. Interpretive guidance for particular aspects of it relating to the right to science and culture has been developed by the Competence Committee; and The UNESCO Constitutive Charter of the United Nations Educational, Cultural and Scientific Organization (UNESCO) includes in article 15 the Standard Principles for the Protection and Development of Science and Culture and Freedom as a prerequisite for the understanding of the right to science and culture and the importance of the obligation of Governments and States to safeguard and protect these rights. The issue of the right to science,

culture and the protection of authorship, as one of the principles and dimensions of human rights, is rooted in many constitutions and conventions of the world national, regional and universal, coupled with the commitment to protect countries and their governments for the ownership of intellectual rights to protect his right.

Although their legal protection – intellectual property – which are copyright rights – has emerged in Europe centuries before at the civic national levels because automatic publishing technology has enabled the large-scale imitation of written materials, recent developments in the modern century of private international law have also reflected on intellectual property and its legally independent protection of the right.

The growing interest in authentic scientific and cultural human rights has also created momentum in addressing intellectual property policy from a special perspective related to human rights, as human rights legislation and laws on the right to science and culture have affirmed their right to benefit and to protect and fortify their legal material and moral interests, regardless of their type, regardless of their scientific/literary/artistic nature .

The Sub-Commission on the Protection and Promotion of Human Rights also adopted another resolution on the human right to property relating to his intellectual right and called for the human right in this area to be put ahead of commercial law (Committee on Rights of 2000). The beginning was with the 2005 Geneva Declaration of WIPO and the need for it to have legal systems and policies that promote and protect innovation and intellectual creativity, culminating in intellectual property systems binding governments and states to "recognize and reward human creativity and innovation, and at the same time to ensure that the general public receives its fruits. Rebalancing the International Intellectual Property Administration . Article No. 17 of the report of the Sub-Commission on the Promotion of Human Rights for the year 2005 dealt with the subject of copyright protection, and affirmed the right of every individual to benefit from a real and undiminished benefit from the existence of actual legal protection related to his interests resulting from his intellectual production in accordance with what ensures that all interests are achieved for him, whether material or moral, and for any of his products, as he distinguishes between intellectual property as a private right and other human rights, stressing that interests any material or moral (legal), whether related to its authors and does not necessarily coincide with the prevailing approach to intellectual property law.

In summary of the above, and in light of it, we can say that the fact that intellectual production is the pillar of the formation of science, it is natural that we find legislative frameworks for the right to science legally at the international level, as well as other human rights and within the scope of private international legal thought through its UN bodies. To represent the basic and most important roots, to establish and form an independent international legislative structure for its intellectual rights and protection. To constitute then everything that falls under the system of international laws, especially private international law, the most important and most competent legal scope in its subject area, which came to be specialized and addressed by the researcher in the following section.

The third topic: the reality of legal protection of intellectual property rights.

This section constitutes the essence of the subject of the study and its research problem, as it answers the main question of the study within the scope of private international law. This reality has been studied and analysed, in the light of three levels of reference within the scope and horizon of private international law, according to an inductive method from general to specific, as follows:

Legal protection of intellectual property rights (dimensions)

The historical review shows that the systems of royal protection have evolved at several levels and stages, where human rights and intellectual property have evolved at the end of the last century, as strongly influential factors in international law; however, the development of these concepts at the global and international levels has begun since the beginning of the new millennium to appear conflicting and overlapping among themselves (human rights and other intellectual rights), as a new wave of international references has emerged within the issue of rights and ownership of ideas demanding their protection and immunization from that. The perceived contradiction that prevails between them – i.e. intellectual property – and human rights standards. In 2000, the Sub-Commission adopted a resolution on intellectual and human rights calling for human rights to take intellectual rather than commercial precedence .

Since then, internationally and legally competent groups have gradually aligned themselves with legitimate competence over the issue of public interest and developing countries in a movement for "access to knowledge" that seeks to rebalance the governance of intellectual rights and property with an internationally protected legal administration.

Although the intellectual rights that are related to the right of ownership, from the fields that apply only within the scope of territorial borders, but they have not separated and independent by themselves from the reality of contemporary trade, these rights today - any intellectual - are still absorbed within the property rights in commercial transactions that are cross-border, and in the face of this challenge of the progress and development of the issue of intellectual property and its permanent adherence to commercial transactions, interest has increased in the availability of real legal protection for the right of mental and authorial ideas, as intellectual property rights. To a greater extent, private international law, as the law competent to regulate relations between litigants outside national borders, both the HCCH of the Hague Conference on Private International Law and WIPO have recognized the priority of studying and analysing the reality of the legal protection of intellectual property rights within a scope framed by private international law and its frames of reference.

All official frameworks for the tasks and work of the HCCH Organization for Private International Law, and its legal competencies, also emphasize the depth of its practical relationship with issues and issues of intellectual rights, considering its legislative legal issues as facilitative instruments in international disputes and transactions on any intellectual property, its rights and enforcement, the protection of property rights and the resolution of disputes related to them, as international law provides an effective legal framework for the termination and adjudication of various issues and issues related to intellectual rights and their ownership through private international law.).

In addition to the organization "HCCH" for private international law, the organization "WIPO" since its establishment in 1967 as an international forum in providing information, services and policies related to property, as well as being considered as an institution organizationally affiliated with the United Nations system funding and organization, includes 192 member states, where the mission of "WIPO" focuses on achieving an effective system that helps actors to make the best use of their intellectual property, by setting international rules of a legal character that protect intellectual property on the merits. Keep up .

The Intellectual Property Regulation Law is the most important and efficient as it is an international legal system that includes a set of specific legislation for all human duties and rights related to creative and innovative intellectual production, as it is reflected in two types of property, the first falls under the category of all industrial property and the second falls under its category all intellectual property of copyright and the like and related rights .

From the above, it is clear that knowing and understanding the reality of the protection of private international law for this type of human rights property, which is intellectual property, its main dimensions depend on what is contained in the international references and instruments that came legally competent for intellectual rights and ownership, represented by all legal instruments adopted and in force issued by the international legislative entity known and recognized by all countries of the world, represented by the Hague Conference Organization " HCCH" and " WIPO ". "Related to intellectual human rights, property and legal protection,

Its main dimensions can be identified as follows:

1. International references on human rights.
2. International references for copyright.
3. International references on intellectual rights, its ownership and legal protection.

WIPO:

According to some historical sources of intellectual property rights and their ownership, the roots of the existence of a legitimate body for the protection of intellectual property rights and their legal regulation date back to 1883 when several European countries adopted in the French capital, Paris, a convention on industrial intellectual property and its legal protection, and then to 1886 when the special Berne Convention was adopted. For the protection of all literary, cultural, artistic and scientific works, these two conventions provided for the establishment of a secretariat under the name of the International Bureau and in 1893 it began its practical emergence and began their work under different names, other than WIPO . The most recent is what was initially known as WIPO Offices with international custom and regulation for the legal protection of intellectual property at the international level, all of which were subsequently and subsequently embodied under WIPO Offices as a specialized international agency.

Under the Stockholm Convention signed on the fourteenth of July 1967, the establishment of WIPO as a specialized global organization was announced, under an international agreement bearing its title that later characterized it, this agreement entered as the first agreement for this purpose in its implementation / actual application officially three years after its declaration, i.e.

in 1970, and for this it was considered as one of the most important GATT agreements as it represented the actual beginning of the internationalization of protection Intellectual legally and under the umbrella of WIPO ( ). December 1974 marked the broadest and specialized official appearance of WIPO as a United Nations special legal agency responsible for the legal protection of intellectual rights through the following functions:

1. Legitimate and legal support for any party in intellectual property rights issues and their legal protection.

2. Achieving real international administrative cooperation between the organizations and bodies of countries specialized in the field of intellectual property

3. intellectual, especially inventions, trademarks and industrial designs, especially in the field of special international legal protection of the material and moral rights of authors resulting from their intellectual productions.

WIPO performs its activities and legal roles for effective protection, by establishing legal norms for human thought and protecting its property, administering treaties to those norms and standards, providing legally and technologically important information, such as that relating topatent documents and the International Register of Marks, and undertaking an important program to assist developing countries in protecting their intellectual property legally and technically in keeping pace with the modern economy .

WIPO represents the most famous and important international legal body concerned with the protection of intellectual rights and legal property, as it has defined it in:

1. Economic property (industrial and commercial): Its dimensions are determined by legal protections related to the field of industrial intellectual property, in two sub-dimensions:

1. Production-related property, including industrial designs, such as innovative product models, and patent ownership (e.g., innovative goods and products and their manufacturing mechanisms).

2. Marketing-related property, including trademarks such as the name or registered marks; and geospatial indications such as domicile, goodwill and hedge.

3. Cultural intellectual property: It is called mental rights, and the dimensions are:

4. Copyright and its vicinity, which are works that carry creative ideas, including books and materials recorded in cinema and radio, as well as computer programs.

5. As well as integrated electronic circuits.

6. Confidential information, i.e. that has not been published to preserve its leakage, being exclusive.

WIPO operates through 24 international treaties (16 for industrial property and seven for copyright);

1. International Patent Cooperation Treaty (PCT), which allows users in Member States to file international patent applications.

2. The Madrid System, which provides States and individuals with "International Registration of Marks" services.

1. Hague system for registering new innovative industrial models and labels.

1. Lisbon System is a system for the service of product and origin labels.

2. WIPO IP classification systems regulate the totality of information related to patents as well as marks, marks and trade names through clearly tabular and indexing structures for better management and easier retrieval.

3. WIPO Arbitration Centre for the Resolution of Domain Name Ownership Disputes between Individuals and Companies.

Berne Convention

Bilateral agreements between European countries are considered the first international works on copyright, as many of their legislations have been signed by international law in the field of intellectual property rights and protection, initially under the names of copyright, the most important of which are the Berne and TRIPS Conventions. In 1886, 12 countries signed the Berne Multilateral Convention on the Legal Protection of Works in 1886, and despite this, its spread and fame expanded geographically around the world, to a large extent, as the number of signatories during 2014 reached one hundred and sixty-eight countries / parties concerned. In 1961, copyright expanded to include artistic productions, where in the first year of the sixties of the last century – Specifically in 1961 - the first legal reference at the international level concerned with the intellectual property of artists and performers of recorded and audio recordings.

TRIPS Agreement

The TRIPs Agreement is one of the agreements that resulted from the Uruguay Round, which began in 1986, so that this agreement became effective on 1/1/1995, and the TRIPs Convention includes strict standards for the maintenance of intellectual property rights, and it also forms the basis for legislative systems and decisions related to the right to intellectual property and legal protection, the agreement includes articles on punitive measures to deter acts of infringement..

In 1994, the Legislative Department of the World Trade Organization announced its Agreement on Intellectual Property Rights for the Commercial and Industrial Field, tagged with the TRIPS Agreement. TRIPs are binding on states, and it also affirms that all states must respect relevant international treaties such as the 1967 Paris Convention, the Berne and Rome Conventions, and the Integrated Circuits Treaty. It is worth mentioning that the TRIPS Agreement includes with it most of what was mentioned in the famous Berne Convention document announced before it, so that the last decade of the last century comes more than that in strengthening the field of international legal protection for intellectual rights of all kinds, and through more powerful and widespread international bodies such as bodies specialized in human rights. In 1995, the General Values and Strategies for the Protection of the Heritage of Indigenous Peoples made an significant involvement to familiarising concepts such as the moral and material interest of authors and publishers to the context of inherent ownership of peoples, such as

inherent cultural property. Traditional owners are a prerequisite for any agreements that may be made for the recording, study, use or display of indigenous peoples' heritage; In 1996, the international treaty known as the WIPO Treaty was proclaimed, and in 1996 it was also concluded a treaty that is the most famous and competent and legally protected intellectual property within the system of private international law; Its international legal protection applies to copyright automatically, once the author has produced a work, with the duration varying from country to country and according to the type of work. International agreements commonly require Member States to guarantee the duration of copyright protection over at least the life of the author plus 50 years after his death for the value of his heirs or purchasers. Some countries have granted copyright protections as well as publishers ranging from seventy to one hundred years after the author's death was declared. Therefore, and others, the protection of those rights usually extends for more than a century. Once the term expires, the creative work enters the public domain for use by anyone without a license. To protect the interests of authors in terms of reputation and social status as well as the truth of their formations, copyright laws usually enforce certain responsibilities, which cannot be waived by contract, on publishers as well as on owners of any other secondary rights other than those known and specified as primary .

Protection of intellectual property within the scope of basic human rights laws

Human rights are fundamental, universal and inalienable and belong to individuals and, in some cases, categories of individuals and societies, and intellectual rights are a form of human rights; Article 15, paragraph 1c, of the Universal Declaration of Human Rights recognizes the right of everyone to be a beneficiary of all aspects and forms of international protection concerning the moral and material interests resulting from any production of his authorship as a right guaranteed to The intellectual right of man, as stipulated in the paragraph, is distinguished from other legal human rights, as it has become a priority through which States seek to provide incentives for innovation and creativity, encourage the dissemination of creative and innovative effects, develop cultural identities and preserve the integrity of scientific, literary and artistic monuments for the benefit of society as a whole. Unlike human rights, ideas as property rights are generally temporal in nature and can be revoked, licensed or assigned to another person.

However, property regimes for intellectual rights primarily protect the interests of corporations, businesses and their investments, and furthermore, the scope of those interests (material and moral) in terms of copyright protection expressly provided for in Article 15 does not necessarily coincide with what is referred to in national laws or international agreements, as the right of intellectual property such as the Paris Agreement for the Protection of Industrial Property, as last revised in 1967; Authored literature, as last revised in 1979; the Rome Convention as an International Convention for the Protection of Performers as well as Producers of Phonograms; the WIPO Treaties on Authorship, Publishing and Biodiversity as well as the Universal Copyright Convention of 1971 and in this context. Thus, the right to benefit from the protection of the author's interests has been recognized in various instruments, legislation and by various official reference bodies for the international legal protection of rights. Similarly, article 1 of the 1952 Protocol Additional to the Convention on Fundamental Human Freedoms and Rights, known as the European Convention .

In this context, the benefit of the owners of ideas as legally protected property at the international level from any possible legal protection under the system of international private law of human rights legislation is directed towards the person of the author, as the only party that may benefit from the protection guaranteed by paragraph 1 (c) of Article 15, where Article 15 itself defines the author as the author of scientific, literary or artistic productions, whether man or woman, individual or group of individuals, such as writers and artists, for example. Male but not limited to. This follows from the expressions "individual", "he" and "author" to the effect that the drafters of that article appear to have been regarded as merely natural persons . Under these protection regimes, as well as the international treaties that exist today, entities are among the parties with intellectual rights and ownership in a smooth and strongly protected hierarchy. However, their rights are not flexible enough by their different nature to protect human rights; Therefore, the right to benefit from property protection of scientific, literary, artistic and other intellectual rights can in some cases also be enjoyed by groups of individuals or communities. Such as transnational or domestic corporations and even States . Within the meaning of article 15, paragraph 1 (c), "scientific, literary or artistic production" means scientific monuments and refers to the creativity of the human mind, such as scientific publications and innovations, including "literary and artistic monuments" such as poems and novels and the like.

Regarding the right of rights owners to benefit from legal protection, the first paragraph (C) of Article 15 affirmed the full right of authors to benefit from some kind of protection for their intellectual works produced without specifying the modalities of such protection. In order for this provision not to be devoid of any meaning, the protection provided must take an effective manner in order to make it effective in securing the interests and returns of its owners. However, the protection guaranteed by article 15, paragraph 1C, does not require that the protection of copyrights, patents and inventions thereafter be reflected from intellectual rights as long as the protection available is appropriate in order to provide the owner of the production with a return on his production, as article 15, paragraph 1 (c), recognizes his right to protection for his interests, and does not necessarily prevent States parties from adopting higher standards of protection in international treaties for the protection of is of material and moral interest to the author in its domestic laws, provided that these standards do not impose undue restrictions on the enjoyment by others of their rights as provided for in the articles of the Covenant. In the same vein, article 27, paragraph 2, affirms the right of authors of all artistic, literary and scientific works and creators, as well as the right to fair remuneration for their efforts, to retain a moral right to their work and/or creation that does not disappear even after such work has become public domain .

According to the same article, the interests recognized in the Covenant include the right of the author to have recognition of every scientific, literary and artistic work of his own creation and the right to object to any change that distorts, distorts, detracts from his status and damages him, and his reputation and affects such productions (Berne Convention: Article 6). The protection of the "material interests" of authors in article 15 (c) reflects the close relationship of this provision to the right to property recognized in article 17 of the Universal Declaration and regional instruments as well as the right of any worker to adequate remuneration (art. 7 (a)). Contrasting other human rights, the material concerns of authors are directly linked to the person of the creator but contribute to the enjoyment of the right to an adequate standard of living (art. 11, para. 1). Although the period of protection against material interests ratione temporis set out in

1 (c) of M15 does not necessarily extend over the life of the author, the objective of enabling the author to enjoy a decent standard of living can also be achieved by granting him a single remuneration or by entitled, for a limited period of time, the exclusive exploitation of his production. The Arab Society (ASPIP) is one of the most important devices that enhance the reality of intellectual property protection in the Arab world, as A professional non-governmental organization, founded by specialists and experts, and organized by academics, consultants, lawyers and employees who assume leadership roles in this field. The Academy was founded in 1987 in Munich, Germany, under the auspices of the German Patent Office. In terms of the most important roles played by the Academy, in addition to playing its advisory role in the group of Arab flag States, the Arab Academy has undertaken many of its accomplishments of several tasks in the Gulf States (GCC), such as proposing draft laws and amendments to laws in the field of intellectual property and enhancing the reality of legal protection in the Arab world .

4. Conclusions

The study concluded that the perspective of intellectual human rights in accordance with private international law has focused its attention on copyright in a narrow sense, which is mainly commercial, and that the legal protection of intellectual property, in light of the available frames of reference in private international law, emphasizes several things, the most important of which are: the social and human dimension of intellectual property rights, the public interest at the expense of personal interest, and the value of non-profit production and innovation in the cultural field, taking into account the special effects. with copyright. Therefore, establishing copyright protection legally within the scope of private international laws is not sufficient to realize the human right to copyright protection. In light of this, the study recommends the need to formulate national regulations and regulations for the regulation and legal protection of intellectual property rights in light of the WIPO principles, in order to ensure the enhancement of the ability of creators to earn a living and protect their scientific and creative freedom, the integrity of their works and their right to attribution. And by finding ways to litigate or file lawsuits against the party or parties infringing on a personal or neighbouring intellectual right while simplifying the enforcement of protection. And work to spread the culture of intellectual capital and protect it legally and benefit from it and the establishment of seminars and conferences to enhance it in the research community, and the development of what can be converted into school or university educational curricula that ensure education, training and modern awareness of their promotion, protection and benefit, and the researcher proposes in light of this to carry out further studies to consider what is necessary Reforms to improve the reality of protection in light of the dangers of the Internet, as well as to study the possibility of establishing a basic list of the minimum required exceptions, restrictions and guarantees related to the enjoyment of material and moral rights by authors.

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