



# Applications of the Akhi Tradition, which Lights the Way of the Turkish Legal System\*

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**Abstract:** Historically, the Akhi tradition established an order that remained influential in Anatolia for centuries. This influence extended even to rural villages, underscoring the profound significance of the Akhi tradition in society. The primary objective of the Akhi tradition was the moral and religious development of individuals within the community. Additionally, it sought to ensure the stability of commercial life, implementing numerous regulations over time to achieve this secondary goal. As a natural consequence of being a craftsmen's organization, the material and financial advancement of its members were also among the Akhi tradition's main priorities. Another notable function of the Akhi organization was its role in providing soldiers for the state. To achieve these objectives, the Akhi organization derived its principles from Islamic legal texts and customary law regulations, positioning itself as both a religious and social institution. Even after its decline, the Akhi tradition has continued to shape the Turkish world. It can be argued that the foundations of professional chambers established during the Republican era were rooted in Akhi practices. In this regard, the Akhi system has influenced and guided various aspects of modern life. The legal field is among the areas significantly impacted by the Akhi system. This study primarily examines the influence of the Akhi tradition on commercial law and consumer law. The origins of modern banking and social insurance practices can be traced back to the "middle funds" of the Akhi system, which undoubtedly paved the way for today's banking and insurance sectors. Moreover, the Akhi system introduced consumer protection regulations that continue to inspire contemporary standards. Similarly, intellectual property practices within the Akhi tradition bear striking similarities to modern systems. These parallels reveal that the Akhi system has played a crucial role in shaping numerous legal practices that persist to this day.

**Keywords:** Akhi; Middle Chest; Guild; Akhi Evran; Bank; Insurance; Consumer; Intellectual Property

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## *Aplicaciones de la tradición Akhi que iluminan el camino del sistema legal turco*

**Resumen:** Históricamente, la tradición Akhi estableció un orden que influyó en Anatolia durante siglos. Esta influencia se extendió incluso a las aldeas rurales, lo que resalta la profunda importancia de la tradición Akhi en la sociedad. El objetivo principal de la tradición Akhi era el desarrollo moral y religioso de los individuos dentro de la comunidad. Además, buscaba garantizar la estabilidad de la vida comercial, implementando numerosas regulaciones a lo largo del tiempo para lograr este objetivo secundario. Como consecuencia natural de ser una organización de artesanos, el avance material y financiero de sus miembros también se encontraba entre las principales prioridades de la tradición Akhi. Otra función destacada de la organización Akhi era su papel en el suministro de soldados para el estado. Para alcanzar estos objetivos, la organización Akhi basaba sus principios en textos jurídicos islámicos y regulaciones de derecho consuetudinario, posicionándose como una institución tanto religiosa como social. Incluso después de su declive, la tradición Akhi ha seguido moldeando el mundo turco. Se puede argumentar que los fundamentos de las cámaras profesionales establecidas durante la era republicana tienen sus raíces en las prácticas Akhi. En este sentido, el sistema Akhi ha influido y guiado diversos aspectos de la vida moderna. El ámbito legal es una de las áreas más significativamente impactadas por el sistema Akhi. Este estudio examina principalmente la influencia de la tradición Akhi en el derecho comercial y el derecho del consumidor. Los orígenes de las prácticas modernas de la banca y los seguros sociales pueden rastrearse hasta los “fondos intermedios” del sistema Akhi, que sin duda allanaron el camino para los sectores bancario y aseguradores actuales. Además, el sistema Akhi introdujo regulaciones de protección al consumidor que siguen sirviendo de inspiración para los estándares contemporáneos. Del mismo modo, las prácticas de propiedad intelectual dentro de la tradición Akhi guardan notables similitudes con los sistemas modernos. Estas conexiones revelan que el sistema Akhi ha desempeñado un papel crucial en la configuración de numerosas prácticas legales que aún perduran.

**Palabras clave:** Akhi; fondo intermedio; gremio; Akhi Evran; banco; seguro; consumidor; propiedad intelectual

## *Aplicações da Tradição Akhi que Iluminam o Caminho do Sistema Legal Turco*

**Resumo:** Historicamente, a tradição Akhi estabeleceu uma ordem que influenciou a Anatólia durante séculos. Essa influência estendeu-se até mesmo às aldeias rurais, o que ressalta a profunda importância da tradição Akhi na sociedade. O principal objetivo da tradição Akhi era o desenvolvimento moral e religioso dos indivíduos dentro da comunidade. Além disso, buscava garantir a estabilidade da vida comercial, implementando inúmeras regulamentações ao longo do tempo para atingir esse objetivo secundário. Como consequência natural de ser uma organização de artesãos, o progresso material e financeiro de seus membros também estava entre as principais prioridades da tradição Akhi. Outra função destacada da organização Akhi era seu papel no fornecimento de soldados para o Estado. Para alcançar esses objetivos, a organização Akhi baseava seus princípios em textos jurídicos islâmicos e regulamentações de direito consuetudinário, posicionando-se como uma instituição tanto religiosa quanto social. Mesmo após seu declínio, a tradição Akhi continuou moldando o mundo turco. Pode-se argumentar que os fundamentos das câmaras profissionais estabelecidas durante a era republicana têm suas raízes nas práticas Akhi. Nesse sentido, o sistema Akhi influenciou e guiou

diversos aspectos da vida moderna. O campo jurídico é uma das áreas mais significativamente impactadas pelo sistema Akhi. Este estudo examina principalmente a influência da tradição Akhi no direito comercial e no direito do consumidor. As origens das práticas modernas de bancos e seguros sociais podem ser rastreadas até os «fundos intermediários» do sistema Akhi, que, sem dúvida, pavimentaram o caminho para os setores bancário e segurador atuais. Além disso, o sistema Akhi introduziu regulamentações de proteção ao consumidor que continuam servindo de inspiração para os padrões contemporâneos. Da mesma forma, as práticas de propriedade intelectual dentro da tradição Akhi apresentam notáveis semelhanças com os sistemas modernos. Essas conexões revelam que o sistema Akhi desempenhou um papel crucial na configuração de diversas práticas jurídicas que ainda perduram.

**Palavras-chave:** Akhi; fundo intermediário; Guilda; Akhi Evran; banco; seguro; consumidor; propriedade intelectual

## Introduction

Akhism is a tradition that emerged among the Anatolian Turks in the first half of the 13th century and spread to Anatolia, the Balkans, and Crimea until the second half of the 19th century. The Akhi organization was particularly active during the Anatolian Seljuk and Ottoman periods (Balci, 2023, pp. 956–957).

In addition to being an association of tradesmen, Akhism played a significant role in shaping, preserving, and transmitting Turkish culture to future generations. It served as the overarching term for tradesmen and craftsmen's associations (Gündüz *et al.*, 2012, p. 39; Çağatay, 1997, p. 215).

As the Akhi tradition gained popularity among the population, it evolved into a formal institution and expanded its organizational structure, reaching even the most remote villages (Gündüz *et al.*, 2012, p. 40; Çağatay and Ahilik, 1997, p. 215; Serinikli, 2017, p. 686; Tatlılıoğlu, 2012, p. 155; Yılmaz and Köse, 2022, p. 138).

During its active years, Akhism aimed to equip the Turkish people with better artistic and professional skills, foster moral development, and encourage honesty and integrity (Tatlılıoğlu, 2012, p. 155; Serinikli, 2017, p. 684; Öziyici, 2002, p. 201; Yılmaz and Köse, 138).

## The founder of the Akhi organization

The founder of the Akhi organization is Sheikh Nasîrüddin Ebü'l Hakayık Mahmud bin Ahmed al-Hoyî (Akhism Encyclopedia, Vol. 1, p. 23). However, he is more commonly known as Akhi Evran, and the name of the organization derives from this popular designation. Although there is no consensus on the precise meaning of the word "Akhi," the Turkish Language Association defines it as "generosity, openhandedness." The term "Akhi" is also interpreted as "brother, brotherhood, open-handed, and generous" (Tuncay and Ekmekçi, 2023 p. 86; Tatlılıoğlu, 2012, p. 153). It can be said that the fundamental purpose of Akhism is "to raise Akhi people" (Gündüz *et al.*, 2012 p. 50).

Akhism is primarily a professional organization that undertook numerous missions. These included monitoring the professional development of its members, overseeing their activities once they entered their professions, and ensuring the maintenance of professional ethics. Furthermore, the organization sought to address broader societal needs, such as ensuring unity in Anatolia, promoting the welfare and development of society, and meeting both the material and spiritual needs of the people (Gündüz *et al.*, 2012, p. 48).

To achieve these goals, the Akhi order adopted several principles aimed at fostering a dignified, moral, and virtuous life among its members (Tatlılıoğlu, 2019, p. 154; Çağatay, 2010, p. 92; Bilgin and Tanıyıcı, p. 138). For this reason, Akhism has been described as "the harmonious combination of morality and art" (Gündüz *et al.*, 2018, p. 38). It has also been referred to as "the institutionalized form of Islamic morality" (Öziyici, 2017, p. 204). Due to these characteristics, it can be argued that the Akhi tradition played a significant role in the establishment and rise of the Ottoman Empire (Yılmaz and Köse, 2012, p. 139; Balci, 2016p. 962).

The Akhi organization adhered to specific rules and principles in its operations, many of which have had a lasting influence on modern life. One such example is the "middle chest," considered a precursor to contemporary banking and insurance systems in the Akhi tradition (Demirci, 2014, p. 389). Similarly, the Akhi organization implemented consumer protection measures comparable to today's practices.

## Focus of the study

This study will not delve into the professional or cultural activities of the Akhi organization. Instead, it will focus on legal practices implemented centuries ago that have informed contemporary systems. The study will examine these practices' relationship with current legal institutions. Research will exclude subfields of public law, such as criminal law and administrative law. Instead, it will concentrate on areas within private law, such as commercial law and consumer law.

## The similarities between the middle fund and today's banking and insurance systems

### Middle chest in general

Middle chests were chests (or middle funds) in every akhi union<sup>1</sup> where a certain amount of money was kept (Orhan, 2011, p. 205). These funds were also referred to as “teavün chests,” “tradesman foundations,” “tradesman chests,” or “tradesman pouches” (Alper, 2012, p. 6; Güzel *et al.*, 2013, p. 23; Korkusuz and Uğur, 2015, p. 40; Tuncay and Ekmekçi, 2016, p. 85; Çağatay and Ahilik, 2010, p. 135). Importantly, middle funds represent the first known systematic examples of social insurance (Orhan, 2011, p. 206; Turan, 2014, p. 16).

Rather than being a single fund for the entire Akhi union, middle chests were established separately for each occupational branch within the union (Encyclopedia of Akhism, Vol. 2, 2010, p. 174; Tuncay and Ekmekçi, 2016, p. 86). The head of the middle chest was the sheikh of the tradesmen, also referred to as the “Akhi Father” (Bayram, 2014, p. 89). Alongside the sheikh, the kethüda and yiğitbaşı were responsible for managing the fund (Encyclopedia of Akhism, Vol. 2, 2010, p. 174; Çağatay, 2010, Ahilik, p. 135; Yılmaz and Köse, 2012, p. 138).

The term “middle chest” was widely recognized among Anatolian Turks. Each craftsman organization maintained at least one middle chest. Although these funds were known by various names, their purpose was unified: to collect money and

distribute it to individuals in need, fostering and expanding a culture of solidarity.

Middle funds have many functions. These functions include the supply of raw materials, ensuring social security, protecting craftsman from loan sharks, providing credit, and (Durak and Yücel, 2015, p. 154; Demirci, 2014, p. 389; Bilgin and Taniyıcı, 2015, p. 138; Turan, 2014, p. 19; Yılmaz and Köse, 2012, p. 142).

These functions aligned closely with the broader objectives of the Akhi organization and were primarily executed through the middle chest (Yılmaz and Köse, 2012, p. 142).

The middle funds also provided income to members in cases of illness, disability, or old age (Dilik, 2013, p. 62; Yılmaz and Köse, 2012, p. 138; Balcı, 2016, p. 960). Furthermore, in the event of a member's death, the middle fund could offer support to their heirs (Mahiroğulları, 2015, p. 147; Dilik, 2013, p. 62; Orhan, 2011, p. 206; Tuncay and Ekmekçi, 2016, p. 86).

As these examples illustrate, the middle chest served important social functions by aiming to ensure income security against various social risks (Turan and Gümüş, 2014, p. 602; Dilik, 2013, p. 62; Orhan, 2011, p. 206).

## Incomes and expenses of middle funds

### Income of the middle fund

The middle funds, established to fulfill similar functions in each Akhi organization, relied on various income sources. These revenues were collected in the middle chests and subsequently distributed to the relevant individuals and causes.

One of the primary sources of income for the middle funds was membership fees. Tradesmen and craftsmen operating within the Akhi organization contributed a portion of their earnings to these funds. However, their entire income was not directed to the middle chests, ensuring that members retained sufficient resources for their personal and professional needs. Another significant source of income for the middle funds was the promotion fees paid by individuals who advanced within the

1 Akhi union; They are organized unions that have been formed similar to today's understanding of cooperatives and that have adopted the principle of cooperation and solidarity (Serinikli: 681; Turan/Gümüş: 600/MAKhiroğulları: 151). Units called Akhi association are the name given to the Akhi organization in each settlement where the Akhi organization is located. Akhi union could be in a town, for example, or it could be in a city (Akhism Encyclopedia, C. 2: 174).

Akhi organization. Members moving to higher ranks, such as from apprentice to journeyman or from journeyman to master, were required to pay these promotion fees, contributing to the middle chest's income (Mahiroğulları, 2015, p. 148; Dilik, 2013, pp. 62–63; Çağatay, Ahilik, 2010, p. 135).

The Akhi organization also had the ability to acquire property, and the income generated from these assets was another important revenue stream for the middle funds. For instance, rental income from land owned by the organization was deposited into the middle chest (Çağatay, Ahilik, 2020, p. 136). Additionally, utensils such as bowls, cauldrons, and pots owned by the middle chest were rented out for events like weddings, generating further rental income (Çağatay, Ahilik, 2020, p. 136).

The organization also collected aid to support the families of journeymen or masters conscripted into the army. These contributions, though specifically allocated for the welfare of the soldier's wife and children, were another form of revenue for the middle fund (Orhan, 2020, p. 206; Çağatay, Ahilik, 2020, p. 136).

Furthermore, middle funds were open to all kinds of donations (Bayram, 2020, p. 88). Such contributions were used to help the middle chest fulfill its social and professional objectives. Consequently, donations became a vital source of income for sustaining the operations and mission of the middle funds.

## Expenses of the middle fund

The middle fund not only included revenues but also a variety of expenses. While some expenses were compulsory, others were payments made to fulfill the fund's functions and responsibilities. The expenses of the middle fund can be categorized as follows:

First, it is important to note that all expenditures required to sustain the activities of the Akhi organization were covered by the middle fund. These expenditures included salaries for those in charge of the Akhi organization, fees for meetings involving craftsmen and tradesmen, and the costs of repairing the organization's properties.

Another significant expense of the middle fund was loans (Yüksel, 2020, p. 20; Turan, 2020, p. 19;

Çağatay, 2020, p. 136; Yılmaz and Köse, 2020, p. 142). Loans were granted when there was surplus money in the middle fund after compulsory expenses had been paid (Bayram, 2020, p. 88; Tuncay and Ekmekçi, 2020, p. 86; Yılmaz and Köse, 2020, p. 142). Loans to tradesmen and craftsmen within the Akhi association could be medium or long-term. This practice aimed to maintain social order by preventing tradesmen and craftsmen from borrowing money from moneylenders (Bayram, 2020, p. 89; Turan, 2020, p. 19; Yılmaz and Köse, 2020, p. 142). Additionally, interest was charged on loans granted from the middle fund (Çağatay, 2020, p. 135; Tuncay and Ekmekçi, 2020, p. 86; Yılmaz and Köse, 2020, p. 142) It can be said that the relatively low interest rate helped ensure that tradesmen did not need to rely on moneylenders.<sup>2</sup>

Vulnerable individuals, infirm, and sick individuals who were in poor financial condition would receive aid from the middle fund (Çağatay, 2020, p. 135; Orhan, 2020, p. 206; Dilik, 2020, p. 62; Yılmaz and Köse, 2020, p. 138). Similarly, people facing temporary financial hardship were also provided with loans from the middle fund provided aid and loans on various occasions (Dilik, 2020, p. 62). These payments can also be categorized as an expense item of the middle fund.

Another form of assistance for the weak involved financial support from the middle fund for tradesmen and craftsmen whose businesses had been damaged in some way (Çağatay, 2020, p. 135; Demirci, 2020, p. 389; Orhan, 2020, p. 207; Dilik, 2020, p. 62; Yılmaz and Köse, 2020, p. 138). For example, repair costs for businesses damaged by fire would be covered by the middle fund. Similarly, individuals starting a business for the first time would receive aid from the middle fund (Tuncay

2 Çağatay states that the interest rate was 1% and that this amount was lent to tradesmen or used for charity (For detailed information, see Çağatay, Akhism 135). Similarly, Tuncay and Ekmekçi also state that loans were granted from the middle fund and low interest rates were charged for these loans.

and Ekmekçi, 2020, p. 86; Yılmaz and Köse, 2020, p. 138).

The cost of acquiring properties to strengthen the organization is also considered an expense of the middle fund. Additionally, the middle fund covered the provision of raw materials needed by craftsmen (Yüksel, 2020, p. 20). The cost of these raw materials was later collected from the craftsmen. It can be argued that the purpose of procuring raw materials and distributing them to craftsmen was to prevent the emergence of a black market (Ekinci, 2020, p. 46-47).

## The credit provision function of the middle fund and a comparison with today's banking system

If there was surplus money in the middle fund after covering its expenses, assistance was provided to tradesmen and craftsmen. However, this aid was not given as a one-way grant; it was to be repaid (Yüksel, 2020, p. 20). As mentioned in the previous section, interest was charged in return for this aid. In both its repayment and the interest charged, the assistance provided to tradesmen and craftsmen can be compared to the loans offered in today's banking system (Bilgin and Tanıyıcı, 2008, p. 138; Çağatay, 1997, p. 135).

Although the word "credit" is derived from the Latin phrase *credere* (to trust) (Güney, 2020, p. 75; Şakar, 2020, p. 2; Bulut, 2020, p. 1; Kapağan, 2020, p. 21), it is rooted in the same principle as the money given to craftsmen in the Akhi organizations, which was expected to be repaid with interest. In fact, the two systems share many similarities, which are fundamental to their basic characteristics. The comparison between the middle fund and today's banking system can be explained as follows:

First, it is important to note the underlying trust in both systems: the belief that the money provided will be repaid. This trust exists in the aid given to tradesmen and craftsmen from the middle fund in the Akhi system, as well as in the loans granted by modern banks (Ertan, 2020, p. 1665; Çevik, 2020, p. 326). Based on this trust, aid or

credit is extended to the other party. In both systems, funds are not given to individuals who do not provide sufficient trust.<sup>3</sup>

Another indicator that the middle fund's activities resemble those of today's banking system is the practice of earning interest on the repayment of aid provided to tradesmen and craftsmen (Tuncay and Ekmekçi, 2020, p. 86). The interest received in return for the money provided by the middle fund is called "Akça Nema" (Çağatay, 2020, p. 49). This interest appears as an income item in provided by the middle fund was used exclusively for charitable purposes, unlike the interest in today's banking system (Çağatay, Faiz, 1952).

Donations made to tradesmen and craftsmen affiliated with the Akhi organization from the middle fund could be in the form of cash or in-kind assistance (Bayram, 1988; Mahiroğulları, 2017). In-kind aid refers to assistance other than cash or money. For example, providing raw material support to tradesmen, utilizing properties belonging to the Akhi union, or offering various services constitutes in-kind assistance. Similarly, in-kind loans are also possible in today's banking system. The in-kind credit facility, commonly found in agricultural banking and agricultural credit cooperatives, is widely practiced today. In-kind loans are typically repaid in cash.

It is a historical fact that the middle funds of the Akhi organization could borrow from each other

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3 Aid given to people whose financial situation is insufficient from their middle funds should be excluded from this classification. Because the aid given to the needy was made unilaterally and not to be taken back. However, it was sought to provide the necessary confidence in order to make the payments given to the tradesmen and craftsmen, which had similar features with today's loans. Because, in order to pay these money to tradesmen and craftsmen, it was not necessary for them to be in poor financial condition or to be destitute. Tradesmen or craftsmen who wanted to expand their business, move their business to another place or buy new goods could get help to pay back to their middle funds.

(Bayram, 1988). In these respects, middle funds are similar to today's banking system, as banks can borrow or borrow from each other. Additionally, banks can establish legal relationships with one another through counter-guarantees (Tekinalp, 2005) or by using letters of credit (Tekinalp, 2005).

## **Insurance function of the middle fund and comparison with today's social insurance system**

There were two types of membership in Akhi unions (Ekinici, Ahilik, 2020, p. 26). The first group, the "Internals," consisted of individuals who were actively working. This group included apprentices, journeymen, and masters (Ekinici, Ahilik, 2020, p. 26; Early, 2020, p. 97; Serinikli, 2020, p. 685). On the other hand, retirees, the weak, the crippled, and the sick belonged to the "Externals" class (Ekinici, Ahilik, 2020, p. 26; Erken, 2020, p. 97; Serinikli, 2020, p. 685). Various aids were provided to people in both classes from the middle fund in the Akhi organization (Durak and Yücel, 2020, p. 160; Yüksel, 2020, p. 20). Another mission of the middle funds, established in each business line, was to provide social security to its members (Durak and Yücel, 2020, p. 153).

The Akhi system aimed to ensure the social unity, welfare, and development of Turkish society during its active years. The Akhi unions pursued these goals in various ways. In this context, financial aid was provided to tradesmen and craftsmen who suffered material damage from the middle fund. The aforementioned donations could be given to tradesmen and craftsmen in cases of illness, disability, or old age (Durak and Yücel, 2020, p. 160), or to their heirs in the event of a member's death (Mahiroğulları, 2020, p. 147). All these features show that the middle fund in the Akhi tradition shares similarities with today's social insurance system (Korkusuz and Uğur, 2020, p. 40; Alper, 2020, p. 6; Güzel *et al.*, 2020, p. 23; Yüksel, 2020, p. 21).

The middle funds form the foundation of today's social insurance system (Demirci, 2020, p. 389) and represent early examples of social security (Alper, 2020, p. 6; Yüksel, 2020, p. 21). The state did not

contribute to the middle funds (Güzel *et al.*, 2020, p. 23). As a result, meticulous efforts were necessary to ensure the system operated flawlessly and that no one was disadvantaged. In fact, it was essential for the middle fund to have income in order to provide these donations. The middle funds relied on their regular incomes while providing social assistance to both their internal and external members.

It can be said that the money paid by members into the middle fund constituted the primary source of the resources required for aid (Güzel *et al.*, 2020, p. 23). The money paid to the middle fund on a weekly or monthly basis is essentially a "premium" (Alper, 2020, p. 6; Güzel *et al.*, 2020, p. 23; Korkusuz and Uğur, 2020, p. 40; Tuncay and Ekmekçi, 2020, p. 86). Additionally, the compulsory fees paid when transitioning from apprenticeship to journeyman or mastership also played a key role in fulfilling this social security function. Both the regular payment of premiums and the compulsory promotion fees further indicate that the middle fund is quite similar to today's social insurance system.

Finally, it should be noted that Law No. 6824, which was adopted on February 23, 2017, came into effect. With the 9th article of this law, an amendment was made to the Unemployment Insurance Law No. 4447. This amendment established a "Tradesman Akhi Fund" within the Turkish Employment Agency. The Tradesmen Akhi Fund operates within a social insurance system (Tuncay and Ekmekçi, 2020, p. 86). Through this fund, allowances are provided to shopkeepers who have gone bankrupt or whose workplaces have been closed, and these individuals are supported in finding new jobs. In this regard, it can be stated that the practices of the Tradesman Akhi Fund closely resemble those of the middle fund (Tuncay and Ekmekçi, 2020, p. 86).

## **Consumer protection function of the Akhi Organization**

### **Consumer concept in akhism and today**

Today, a considerable amount of research has been conducted on the concept of "consumer," and it

has become the subject of legal regulation. First, it should be stated that Article 172 of the Constitution mandates that the state is obligated to make necessary regulations concerning consumer protection. In this context, many regulations regarding consumer protection have been incorporated into Law No. 6502 on the Protection of Consumers (PCL), which is currently in force.

The concept of “consumer” is legally defined in the “k” clause of Article 3 of the PCL as follows: “A real or legal person acting for non-commercial or non-professional purposes.” Meanwhile, the “l” clause of the same article defines the concept of “Consumer Transaction” as: “Including works, transportation, brokerage, insurance, power of attorney, banking, and similar agreements between consumers and real or legal persons acting for commercial or professional purposes, including public legal entities in the goods or service markets, or acting on behalf of or on behalf of them, all kinds of contracts and legal proceedings.”

At the core of the concept of “consumer” are the providers of goods or services acting for professional or commercial purposes, and the consumers who purchase these goods or services for non-commercial purposes (Kara, 2020, p. 67). If the purpose of the buyer of goods or services is commercial, i.e., if they acquire goods or services for resale, to use as raw materials, or to make them part of a new production, that individual cannot be considered a consumer and is acting commercially. According to the Turkish Commercial Code No. 6102, Article 12 *et al.*, a person who does not have the title of consumer but acquires goods or services for commercial purposes is considered a “Merchant.” On the other hand, according to Article 3 of the same law, matters regulated in the Turkish Commercial Code and all transactions and actions concerning a commercial enterprise are referred to as “Commercial Business.”

As with every commercial relationship chain, there were customers with whom tradesmen and craftsmen operating under the Akhi organization often interacted. These customers align closely with the concept of “consumer” in today’s

understanding. On the one hand, tradesmen or craftsmen affiliated with the Akhi Organization act with professional or commercial motives, while on the other hand, customers do not act commercially and purchase goods or services for personal use. To meet the needs of these customers, they required the goods or services provided by the artisans or craftsmen who were members of the Akhi organization. For this reason, a “Consumer Relationship” was established between tradesmen, craftsmen, and customers. Within the scope of the Akhi organization, customers were regarded as “benefactors” (Gündüz *et al.*, 2020, p. 48; Mahiroğulları, 2020, p. 149-150; Öziyici, 2020, p. 204; Yılmaz and Köse, 2020, p. 140). Consequently, many regulations and practices were implemented to protect customers, or consumers. Quality control of goods or services was conducted, tradesmen and craftsmen were frequently inspected, and customers’ demands were taken into consideration (Tatliloğlu, 2020, p. 155; Durak and Yücel, 2020, p. 160; Gündüz *et al.*, 2020, p. 40). Craftsmen also prioritized customer satisfaction as much as possible. In fact, sanctions such as warnings, penalization, and expulsion from the Akhi organization were imposed on Akhis who failed to meet certain quality standards (Erden, 2020, p. 390-391; Yılmaz and Köse, 2020, p. 140).

Furthermore, it should be emphasized that the concepts of “Trader” and “Commercial Business,” as understood in today’s legal system, are difficult to find within the Akhi organization. This is because, in the sources discussing Akhism, there is no mention of a group of people who acquire goods or services for commercial purposes in the modern sense. Therefore, even if goods or services are acquired from tradesmen or craftsmen registered with the Akhi organization for commercial purposes, it is not possible to speak of a commercial business similar to what exists today. Individuals who acted for commercial purposes, i.e., those who intend to use the goods or services they purchase in other commercial activities—must also hold the title of customer and consumer within the Akhi organization. The same provisions apply to other consumers in terms of the regulations they are subject to.

## Comparison between Akhism and modern consumer protection practices

Although regulations and practices for consumer protection are found both in Islamic law and within the scope of Akhism, it is undoubtedly a recent development to introduce the concept into legal literature (Öziyici, 2020, p. 1). Today, the main legal regulation applied for the protection of individuals classified as consumers is PCL. The first article of this law clearly states that its purpose is the protection of consumers<sup>4</sup>. Additionally, a general directorate named the “General Directorate of Consumer Protection and Market Surveillance” within the Ministry of Trade continues its activities effectively.

There are a number of rights available to consumers in terms of protection. Examples of these rights include the right to file a complaint, seek compensation for damages, or choose one of these options. While these rights also exist within the Akhi system, it can be argued that the primary source of these rights is Islamic law (Öziyici and *et al.* 2020, p. 69). Similarly, certain regulations and practices were implemented to protect consumers within the Akhi system. These regulations were typically outlined in documents known as “Fütüvvetname”<sup>5</sup> (Koşum, 2020, p. 366; Durak and Yücel,

2020, p. 160; Şimşek, 2020, p. 36). It can be said that it is necessary to prioritize the protection of consumers both in Akhism and today, and to implement regulations in this regard. Consumers are in a vulnerable position when dealing with goods or service providers, and therefore, they require protection (Gündüz *et al.*, 2020, p. 45; Kapağan, 2020, p. 13).

The regulations and practices for consumer protection in the Akhi system share many similarities with those in place today. Most of the rules established within the Akhi organization were aimed at protecting the consumer (Koşum, 2020, p. 367; Erbaşı and Ersöz, 2020, p. 361). Numerous rules were created for this purpose, and tradesmen and craftsmen who did not comply with these rules were subject to sanctions, including dismissal (Gündüz *et al.*, 2020, p. 38; Erbaşı and Ersöz, 2020, p. 362; Erden, 2020, p. 392).

One of the duties performed in Akhism for the protection of consumers was price determination (Koşum, 2020, p. 376; Ekinci, 2020, p. 48; Öziyici, 2020, p. 202; Yılmaz and Köse, 2020, p. 140). Selling products at exorbitant prices above the normal price was referred to as “gabn,” which was prohibited within the Akhi organization (Koşum, 2020, p. 376). A committee, consisting of representatives from various professions and public officials, would come together to determine the price of goods or services, considering the cost and profit margin (Gündüz *et al.*, 2020, p. 47). This practice helped prevent the sale of goods or services at inflated

4 The full text of Article 1 of the PCL is as follows: “The purpose of this Law is to take measures to protect the health, safety and economic interests of consumers in accordance with the public interest, to their damages, to protect them from environmental hazards, to enlighten and raise awareness of consumers, to encourage self-protective initiatives of consumers and to regulate the issues related to encouraging voluntary organizations in the formulation of policies on these issues.”

5 In the emergence and effectiveness of the Akhism tradition in Anatolian lands; The concept of “fütüvvet”, which emerged in the religion of Islam and was accepted as a common understanding, created by young tradesmen and craftsmen, and which was also revealed in the Anatolian

lands, contributed to a great extent. The concept of Fütüvvet, on the other hand, means good-natured characteristics such as hospitality, bravery and generosity expected from Muslim Turks during the transition from tribal life to settled life with the influence of Islam (<https://islaman-cyclopedisi.org.tr>). With the establishment of the “Fütüvvet” understanding, the foundations of the intellectual environment necessary for the establishment and spread of the Akhi organization were laid, and this understanding also played a major role in shaping the moral structure of the Akhism.

prices and protected consumers by ensuring the quality standards of goods and services (Gündüz *et al.*, 2020, p. 42; Öziyici, 2020, p. 202; Erden, 2020, p. 390-391; Erbaşı and Ersöz, 2020, p. 361; Yılmaz and Köse, 2020, p. 140). Today, although public authorities determine quality standards, there is no attempt to regulate the prices of goods or services in the same way as in the Akhi system. This order is referred to as a free-market economy.

In cases where goods purchased from a tradesman or craftsman who was a member of the Akhi organization were faulty, or became obsolete before the normal durability period, the consumer could apply to the tradesman or craftsman and request that the goods be replaced with a new one (Mahiroğulları, 2020, p. 149; Durak and Yücel, 2020, p. 158). Today, consumers have certain rights in the event that goods purchased are defective. These rights are outlined in Article 11 of the PCL. They include rights such as rescinding the contract, requesting a discount on the sale price, repairing the goods, replacing them with similar, defect-free goods, and seeking compensation.

In the event of any defect in goods purchased from a tradesman or craftsman affiliated with the Akhi organization, consumers had the right to follow a complaint procedure if they did not achieve the desired outcome after contacting the tradesman or craftsman (Öziyici, 2020, p. 203). Consumers who claimed that the goods or services were defective could escalate their complaints up to the highest level to remedy the situation (Öziyici, 2020, p. 203; Durak and Yücel, 2020, p. 158). Complaints were initially made to the head of the Akhi branch, and if no resolution was reached, they could be escalated to the affiliated Akhi union. Ultimately, if no satisfactory result was achieved, the consumer had the right to apply to the Akhi sheikh to whom all Akhi unions were affiliated (Öziyici, 2020, p. 203; Durak and Yücel, 2020, p. 158). Today, Consumer Arbitration Committees are established in provincial and district centers, where consumers can apply (Article 66 *et al.* of the PCL). The decisions of these committees may appeal to consumer courts, which fall under judicial jurisdiction (Article 70/3 of the PCL). The decision of the consumer court is final. (Article 70/5 of the PCL).

Another optional right, valid both in Akhism and today, is compensation for damages. A consumer who suffered a loss due to a defect in goods or services could demand compensation from the Akhi craftsmen who caused the loss (Öziyici, 2020, p. 203). Similarly, it can be deduced from Article 1 of the Turkish Consumer Protection Law (PCL) that the consumer may claim damages from the goods or service provider.

Another similarity between Akhism and today's practices in consumer protection is found in Quality Management System (QMS). QMS is a management philosophy that advises businesses to prioritize customer satisfaction above all else (Şimşek, 2020, p. 79; Karatop and Kubat, 2020, p. 353; Durak and Yücel, 2020, p. 158). In QMS customer satisfaction comes before profit, and actions are taken within the framework of the infrastructure required to realize it (Şimşek, 2020, p. 80; Karatop and Kubat, 2020, p. 359; Durak and Yücel, 2020, p. 158).

Between 1502 and 1507, several *kanunnames* (laws) were prepared in the Ottoman Empire. Among these, the Bursa, İzmir, and Edirne İhtisâb (Municipality) *kanunnames* are of particular importance. These laws are recognized as the world's first standards law, the first consumer protection law, the first environmental regulation, and the first food regulation (Yılmaz and Köse, 2020, p. 140). This feature indicates that quality standards, one of the ways to protect consumers in the Ottoman Empire, were implemented by the state and within the Akhism organization in a manner close to the modern understanding of quality control.

In Akhism, customers were also seen as benefactors, and the goal was to achieve customer satisfaction rather than to make money. Both managers and tradesmen prioritized moral development and building relationships with people. In other words, making money was not a goal in Akhism, but rather a means to become a moral person and to connect with others (Öziyici, 2020, pp. 203-204; Durak and Yücel, 2020, p. 158; Bilgin and Tanyıcı, 2020, p. 138). In this respect, it is clear that there is significant overlap between the view of consumers/customers in the Akhism system and today's QMS practices. Sanctions such as warnings, penalties,

and dismissal from the Akhism were also applied to Akhis who failed to comply with certain moral principles or meet quality standards (Erden, 2020, pp. 390-391; Erbaşı and Ersöz, 2020, p. 363; Horata, 2020, p. 535; Yılmaz and Köse, 2020, p. 140)

## Protection of Intellectual Property Rights in the Akhism Organization

### General organization of intellectual property rights

Intellectual property rights resulting from a person's mental work, use of intelligence, and efforts (Ayhan *et al.*, 2020, p. 294; Suluk *et al.*, 2020, p. 1). Today, intellectual property rights are divided into two main groups, each protected by different legal regulations. The first group consists of "rights over intellectual and artistic works," also known as copyrights. Intellectual and artistic works are divided into four categories: "works of science and literature, works of music, works of fine art, and works of cinema," and are regulated under Law No. 5846 on Intellectual and Artistic Works.

On the other hand, "industrial property rights," which make up the second group of intellectual property rights, include rights such as "trademarks, patents, utility models, designs, and geographical indications." Industrial property rights are protected by Industrial Property Law<sup>6</sup> No. 6769<sup>7</sup>.

Within the Akhi system, a framework for the protection of rights that fall under the category

6 "INDUSTRIAL PROPERTY LAW" No. 6769. Official Gazette: 29944, Date: 10.01.2017.

7 Within the framework of the Industrial Property Law, there is no grouping of rights similar to that of copyrights regarding industrial property values. On the other hand, the law regulates in detail issues such as unfair use of industrial property rights, infringement of industrial property rights, inheritance industrial property values, transfer and license rights.

of copyright today has not been established. The rights specified in the Law on Intellectual and Artistic Works are not obtainable within the Akhi system. However, among the industrial property rights, such as patents and trademarks, can be encountered within the Akhi system (Durak and Yücel, 2020, p. 159).

### Evaluation of patent rights

The creation of new inventions by a tradesman or craftsman, or products produced by a tradesman or craftsman privy to a certain professional secret, is similar to today's patent rights. A patent is the term used for new inventions that solve a technical problem and can be applied to industry (Ayhan *et al.*, 2020, p. 298; Karasu *et al.*, 2020, p. 229; Akay, 2020, p. 42). Of course, the inventions within the Akhi organization cannot be considered patents in today's sense, as the key feature of a patent is its applicability to industry. It is not typical for the inventions of a craftsman or tradesman within the Akhi organization to be applicable to industry. However, it can be said that the innovations made by craftsmen or tradesmen who are members of the Akhi organization are rewarded with monopoly rights, and this monopoly right<sup>8</sup> is similar to the concept of a patent (Şamat, 2020, p. 39)

On the other hand, one view suggests that the gedik system<sup>9</sup> and narh<sup>10</sup> in the Akhi practice are

8 The right of monopoly a kind of permission/ruhsat/inhisar given to the person who makes an invention or introduces an innovation within the organization of akhism in order to have the rights arising from that innovation alone. (For detailed information, see: Şamat: 39 et al.)

9 In the gedik system, only a certain number of craftsmen could practice certain arts. The right in question was called "gedik right" and the tradesmen who had this privilege were called "gedik owner" (For detailed information, see: Akgündüz: 541; Akkuş: 32.)

10 In the practice of narh, which can be called "the obligation of a ceiling price on products", it was possible for some craftsmen, especially in arts

also examples of patent-like practices (Şamat, 2020, p. 39). We agree with this view, as the concept of a patent historically emerged as a privilege granted to certain individuals (letters of patent) (Şamat, 2020, p. 30; Akay, 2020, p. 42; Yazıcı and Şakhin, 2020, p. 816; Suluk *et al.*, 2020, p. 257). Since the *gedik* and *narh* practices in the Akhi tradition were also privileges granted to specific individuals, these practices should be considered as the earliest examples of patent-like practices, even if not in the modern sense.

Based on the previous two points, it can be concluded that the first examples of granting patent-like monopoly rights in Anatolia were seen in the Akhi system (Şamat, 2020, p. 39). Since the 19th century, when the patent right in its modern sense emerged, practices have not changed much (Akay, 2020, p. 43). The conditions for patentability and regulations on non-patentable applications are now detailed in the Industrial Property Law. The principles of industrial property law, the first examples of which were seen in England (Akay, 2020, p. 48; Yazıcı and Şakhin, 2020, p. 816) are in parallel with European practices<sup>11</sup>.

The *Ihtira Berat* Law, which is the first example of regulations in the sense of positive law for today's patent law, entered into force in the second half of the 19th century, when the tradition

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that were difficult to perform, to set special prices, that is, to set a price above the *narh* price (For detailed information, see: Kütükoğlu: 390). These practices are similar to the first examples of patent applications.

11 In the post-Tanzimat period, the French Patent Law dated 1844 was translated and entered into force under the name of *Ihtira Berat* Law. The aforementioned law contains the first examples of the patent-related regulations in the republican period and the patent-related provisions in the Industrial Property Law. The concept of “*Ihtira Beratı*” means “certain privileges granted to inventors” and constitutes the first legal appearance of the patent document in the modern sense. (For detailed information, see: Yazıcı/Şakhin: 816; Şamat: 32; Akay: 170 *et al.*)

of Akhism was about to come to an end. Although the *Ihtira Berat* Law did not find an application area within the Akhism tradition during the period it was in force, patent applications were seen in the Akhism system.

As new inventions were made and the desire of craftsmen to put their own signatures on their products increased, the protection of the rights of these craftsmen emerged as a necessity. The protection of these individuals within the Akhi organization also resulted in the encouragement of new inventions. In environments where there is no protection, people are less likely to engage in new inventions.

The Akhism system was based on many ethical principles that the Akhis had to follow. The protection of inventors or craftsmen who put their signature on their products stemmed from the ethical foundations of Akhism (Ünsür, 2020, p. 96). In other words, the protection of right holders based on moral principles emerged as a necessity in the institution of Akhism. For example, a craftsman who obtained a privilege or similar right could sell his product or service at a higher price than his peers (Kütükoğlu, 2020, p. 390). This would be supervised by the *kadi* in charge of the region, an official designated by the *kadi*, or an official from within the Akhism organization (Kütükoğlu, 2020, p. 390). Violators were subject to sanctions such as warnings, fines, imprisonment, and dismissal from the profession (Kütükoğlu, 2020, p. 3390). Similarly, craftsmen who signed their products could be more recognized than others in the same occupational group.

In Akhism, the standards of products, the identity of the inventors, and the characteristics of the inventions were recorded in the *kadi* registers (Mahiroğulları, 2020, p. 152). Thanks to these registry records, the usurpation of the rights of the right holders was prevented. These records perform similar functions to the registry kept by the Turkish Patent and Trademark Office today.

The protection of inventors within the Akhi organization is similar to the current system. However, naturally, both systems have different aspects. Today, some conditions are required for inventions to be patented, which are more stringent than those

in the Akhi organization. For example, in order to be patented, the invention must be innovative and applicable to industry. However, there is no such requirement in Akhism.

## Evaluation in terms of trademark rights

If the products produced by a tradesman or craftsman are distinguished by the signature of the producer, although they do not have the characteristics of being a new invention or being produced with the knowledge of professional secrets, this can be compared to the concept of a trademark today. The concept of a trademark is an industrial property right, just like a patent. Signs that serve to distinguish the goods or services of an undertaking from those of other undertakings are called trademarks (Suluk *et al.*, 2021). It is also evident that tradesmen or craftsmen who put their signature on the products they produce aim to distinguish them from the products of other tradesmen and craftsmen (Durak and Yücel, 2021). Therefore, it can be argued that the similarities between today's practices and the practices of the Akhism organization are quite significant within the scope of trademark law, as the aim of distinction was also found in the tradesmen operating in the Akhism organization.

The historical development of trademarks parallels that of patent rights. The first examples of trademarks can be traced back to Mesopotamia before Christ (Akay, 2021). The modern sense of trademark applications began in France in the early 19th century (Akay, 2021). In Turkey, trademark regulations under industrial property law follow the regulations of continental Europe (Akay, 2021; Suluk *et al.*, 2021).

Similar to patent-based rights, since modern trademark laws came into effect in the second half of the 19th century, when Akhism was coming to an end<sup>12</sup>, it is not possible to observe trademark

12 For example, the first legal regulation containing penal provisions for counterfeit trademarks is Article 150 of the Ottoman Penal Code, which entered into force in 1858. From these years on-

ward, trademark law regulations in the modern sense started to be implemented in the Ottoman Empire.

law practices and protections in the modern sense within Akhism. However, there were some practices within Akhism that align with the functions attributed to trademarks in modern trademark law.

Trademark practices within the Akhi tradition can generally be understood through many of the functions of a trademark. For example, the distinctive function is one such example. The distinctive function of a trademark remains a widely accepted principle today (Suluk *et al.*, 2021). Akhi craftsmen used methods such as stamping, marking, and signing to fulfill this function. This method not only aimed to distinguish the products of one tradesman from those of others, but also helped differentiate the products of local tradesmen from those of foreign tradesmen (Akay, 2021). An incident recorded in the Akhi records illustrates this: a moxibustion product made in a pharmacy was authorized to be marked by the pharmacist to prevent imitation by other pharmacists or tradesmen and to distinguish it from other similar products<sup>13</sup>. In this way, the product-owner pharmacist stamped their trademark on the goods, thereby creating a trademark with a distinct function.

Another important trademark practice in the Akhi tradition is the indication of origin or source. Like the distinctiveness function, the indication of origin function is a well-accepted principle today (Suluk *et al.*, 2021). A case study regarding origin indication follows: Goldsmith tradesmen in Istanbul united and requested that their products be stamped with their own marks through chamberlains, obtaining approval from the sultan<sup>14</sup>. The aim of the jewelry craftsmen here was

wards, trademark law regulations in the modern sense started to be implemented in the Ottoman Empire.

13 Presidential State Archives Presidency, Hatt-ı Hümayun, File No: 493, Gömlek No: 24207, 29 Zilhicce 1250. (<https://devletarsivleri.gov.tr/> Access Date: 23.05.2024).

14 Presidential State Archives Presidency, Cevdet İktisad, File No5, Gömlek No238, 21 Zilkade 1210. Access Date: 23.05.2024).

to distinguish between the products offered by the craftsmen in Istanbul and those brought from abroad, as well as to ensure that the origin of the products produced in Istanbul was reported. Even though there was no legal regulation on trademarks, this practice demonstrates that modern trademark practices and functions were present within the Akhi tradition of Akhism.

Another function of a trademark is the guaranteed function, which refers to the expectation that the goods or services associated with the trademark will offer a certain quality (Suluk *et al.*, 186). An example of an Akhism practice that provided a guaranteed function is as follows: Due to a decline in the quality of the tiles used in buildings, the production of tiles was required to meet certain quality standards, and a stamp containing the names of the production places was required to be stamped on the products. This practice reveals that the modern trademark function was also utilized within the Akhism system.

In Akhism, it was not acceptable for others to offer products that were exclusive to certain craftsmen or tradesmen to the customers. The rights of other tradesmen or craftsmen were respected by the members of the Akhi organization. This was because the concepts of work ethics, mutual respect and compassion, as well as social peace and prosperity, were foundational to the Akhi organization (Tatliloğlu, 155). Sanctions such as warnings, penalties, and dismissal from the Akhi organization were also applied to Akhi tradesmen who deviated from this framework of love and respect and did not meet the required quality standards (Erden, 390-391).

## Conclusions

Although the Akhi organization was seen as an organization of tradesmen and craftsmen, it was essentially a community that aimed to guide society. Many of the principles of the Akhi organization were based on the Qur'an and Sunnah, focusing on good morals, protecting the weak and the poor, respecting others, and ensuring unity and solidarity. While these were the primary objectives, legal practices such as professional development, supervision,

the healthy continuation of commercial life, and the prevention and punishment of rights violations were also inevitable. This study identifies these similarities and also highlights the differences.

The middle fund practices in the Akhi system are similar to today's banking system and social insurance system. The loan-like money and in-kind assistance given to the members of the Akhi organization from the middle chest reflect this similarity. Additionally, the lending of money between different middle funds is similar to the lending of money between banks. With the compulsory payment of premiums to the middle funds, practices such as making payments from these funds to the needy and those in need of financial assistance overlap with today's social insurance system.

The consumer concept within the framework of Law No. 6502 on the Protection of Consumers, which is currently in force, and the consumer concept encountered in the Akhism system, completely overlap. The provisions and practices introduced for the protection of the consumer are also similar in many respects. In the Akhi organization, the fact that the customer is seen as a benefactor and the customer-oriented understanding is dominant means the protection of the consumer (Öziyici, 203-204; Erbaşı and Ersöz, 362; Yılmaz and Köse, 140). Today, there are many legal regulations aiming to protect the consumer. Issues such as the existence of a number of remedies for the consumer, which were also applied in the Akhi system, and the protection of the rights of the consumer through legal regulations, overlap with today's consumer protection practices.

Finally, it should be noted that in the Akhism organization, there were rights similar to today's intellectual property rights. By registering some rights in the kadi registers, it was ensured that others would not violate these rights. This practice overlaps with today's practices. Similarly, it was possible for some craftsmen to sign their products (Durak and Yücel, 158). This practice is similar to today's trademark law. On the other hand, it is not possible to find similar intellectual property rights to those of today in the Akhism system.

As can be seen, there were numerous practices and regulations for the protection the interests

of the members and customers. There is no doubt that these practices and regulations served the purpose of maintaining a healthy commercial life. Additionally, they are comprehensive enough to shed light on the present day and influence current practices.

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