

The Intellectual Property Rights in Sharia Economic Law and the Fatwa of the Indonesian Ulema Council (MUI)

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INDEXING	ABSTRACT
Keywords: Keyword 1; Intellectual Property Rights Keyword 2; Fatwa Keyword 3; Sharia Economic Law Keyword 4; MUI	Intellectual Property Rights (IPR) hold global importance as ownership rights. A wealth of research on Intellectual Property Rights (IPR) has been conducted from both positive legal and economic perspectives. This study employs normative juridical research with a legislative approach. In the context of Sharia economics, intellectual property rights (IPR) are seen as individual rights that must be protected and used in accordance with Sharia principles, as they are regarded as gifts from Allah, the ultimate rights owner. During the VII MUI National Conference from July 19-22, 2005, the Indonesian Ulema Council issued Fatwa No. 1/MUNAS VII/MUI/5/2005 to address the rise in Intellectual Property Rights (IPR) violations. . In Islam, intellectual property rights are considered property (mal) that must be safeguarded. Taking such rights without permission is deemed haram (forbidden).

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INTRODUCTION

Intellectual Property Rights (IPR) hold global importance as ownership rights. They are essential for the development of the creative industry on both national and international scales. Identified as economically valuable innovations (Gupta, 2024), IPR requires protection. The government encourages the public, especially those in the creative sector, to understand the significance of IPR (Townley et al., 2019; Farina & Jinan, 2023).

A wealth of research on Intellectual Property Rights (IPR) has been conducted from both positive legal and economic perspectives, with notable contributions by Kahn and Wu (2020), Chen (2022), and Le et al. (2023). Accordingly, this study aims to examine IPR through the lens of Sharia economic law and its relationship to the current state of digitalization. The advanced development of digitalization facilitates the use of technology for diverse activities, which in turn presents opportunities for the misuse of IPR.

LITERATURE REVIEW

In the context of Sharia economics, intellectual property rights (IPR) are seen as individual rights that must be protected and used in accordance with Sharia principles, as they are regarded as gifts from Allah, the ultimate rights owner, as mentioned by Ratnawati and Al Farizi (2023). The main goal of IPR is to provide optimal economic benefits to rights holders and society, ensuring distributive justice, legal compliance, public benefit, and transparency in their use (Braga et al., 2000). In

practice, applying IPR within the Sharia economy must reflect Sharia economic principles, following a fair and ethical framework to maximize economic benefits for rights holders and society, as described by Marwal et al. (2024).

Violations of Intellectual Property Rights (IPR) can lead to disruptions in economic relationships and trigger political tensions between nations. IPR is a unique production factor due to its intangible nature (non-competitive) and is only recognized where laws permit. However, these laws are territorial rather than global. Consequently, a country is not obligated to extend patent protection to foreign inventors, as studied by Palangkaraya et al. (2017) and Gmeiner and Gmeiner (2021).

RESEARCH METHOD

This study employs normative juridical research with a legislative approach. This approach aims to identify legal regulations derived from the legal materials prevalent and evolving in Indonesia, particularly Islamic law, which has been integrated into the national legal system and has become established as positive law in the realm of Intellectual Property Rights. The methodology follows the works of Halim et al. (2019) and Hamzani et al. (2023).

RESULT AND DISCUSSION

Intellectual Property Rights in Sharia Economic Law

Islam allows individuals to create and express ideas to meet their needs and maximize benefits and usage (Wahid et al.; Ahyani & Slamet, 2021; Adrian & Junanah, 2023). This illustrates that Islam encompasses universal, global, and comprehensive values for all. These principles are reflected in the Qur'an, Surah Ar-Rum, verse 22, which signifies (Ramdani et al., 2024):

"And among the signs of his dominion are the creation of the heavens and the earth, the multitude of your tongues and the colors of your skin. Indeed, in such things, there are signs of His dominion for those who know."

In Islam, property is defined as the control or ownership of something, allowing an individual to legally act upon it through buying, selling, renting, waqfing, or lending it to others (Asmuni et al., 2023). This notion leads to the understanding that Islam does not recognize absolute mastery over possessions, particularly in the realm of knowledge. Instead, Islam encourages the dissemination and sharing of knowledge, as all things are ultimately owned by Allah, as mentioned in the Quran, Surah Al-Baqarah, verse 189 (Zaman, 2015).

"To God belongs the kingdom of heaven and earth, and God is Almighty."

In summary, everything in the universe is owned by God, and humans were created in a state of weakness and ignorance, lacking in ability and strength. However, Allah has endowed humans with reason and intellect, enabling them to create and discover. This ability is granted by Allah's will and love. Consequently, the right to intellectual property, which represents human capability, must be protected and shared for humanity's benefit. Conversely, humans cannot use another's intellectual property without the owner's consent, as it is a right bestowed by Allah. Hence, protection is crucial. In Islam, intellectual property rights, known as *Iftikhar*, encompass both economic value (the right to obtain economic benefits) and moral rights (rights inherent to the creator) and should not be underestimated (Farina & Jinan, 2023).

One of these guidelines is contained in the Qur'an Surat An Nisa verse 29, which reads (Aslami et al., 2021) :

"O you who believe, do not falsely enneighbor's neighbor's treasure, except by a mutually beneficial trade between you, and do not kill yourselves. Indeed, Allah is Most

Merciful to you."

This is further emphasized by the theory of maqashid asy-sharia, which states that Islamic sharia aims to benefit humanity by preserving religion, soul, intellect, honor, and property. In light of this, the Indonesian Ulema Council (MUI) issued Fatwa Number 5 in 2005, which prohibits violations of others' intellectual property rights (Ma'ruf Ma'ruf, 2023).

Intellectual Property Rights in the Fatwa of the Indonesian Ulema Council

During the VII MUI National Conference from July 19-22, 2005, the Indonesian Ulema Council issued Fatwa No. 1/MUNAS VII/MUI/5/2005 to address the rise in Intellectual Property Rights (IPR) violations. The Anti-Counterfeiting Society (MIAP) had requested this fatwa to clarify the Islamic legal stance on IPR. Based on the Qur'an, hadith, and scholarly opinions, this fatwa classifies IPR into categories such as plant varieties, trade secrets, industrial design rights, integrated circuit layout design rights, patents, trademarks, and copyrights (Al Khanis & Adly, 2024).

In 2005, the MUI issued a fatwa that explicitly prohibited these violations. According to an online legal article, this fatwa is deemed stricter than positive law, as it addresses not only those who copy and distribute works but also those who use such infringements. Interestingly, the fatwa stipulates that IPR can be considered contractual objects and can be donated or inherited (Hasyim, 2016). Although the fatwa from the Indonesian Ulema Council does not have the same binding authority as laws and regulations, it offers moral guidance and a strong religious foundation for many Muslim businesspeople and consumers (Wardhani, 2023).

CONCLUSION

Intellectual Property Rights (IPR) have contributed significantly to the economy in the context of globalization and technological advancement. It is important to monitor and address the illegal or unlawful use of others' IPR. Therefore, creating a mechanism to enforce existing provisions is essential for providing maximum protection to IPR owners. In Islam, intellectual property rights are considered property (mal) that must be safeguarded. Taking such rights without permission is deemed haram (forbidden). Efforts to enhance understanding and awareness of the importance of Intellectual Property Rights should be accompanied by the development of an IPR protection system that adheres to Sharia principles. Additionally, there is a need to foster cooperation among Muslim countries to protect and utilize Global Intellectual Property Rights effectively.

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