FIQH APPROACH TO THE LEGAL PROTECTION OF INTELLECTUAL PROPERTY RIGHTS OF WRITERS IN THE SPECIAL REGION OF YOGYAKARTA

Acc untuk daftar
munaqosyah 11/3/25

Yusdani

Written by:
Aulia Nur Hanifa
21421106

THESIS

Submitted to the Department of Ahwal Syakhshiyah
Faculty of Islamic Studies Universitas Islam Indonesia
Presented as Partial Fulfillment of The Requirements for Obtaining
a Bachelor's Degree in Law

YOGYAKARTA
2025

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2025

STATEMENT LETTER

STATEMENT LETTER

The undersigned below:

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Yogyakarta, March 11, 2025
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Aulia Nur Hanifa

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PENGESAHAN

Tugas Akhir ini telah diujikan dalam Sidang Tugas Akhir Fakultas Ilmu Agama Islam Universitas Islam Indonesia Program Studi Ahwal Al-Syakhshiyyah Program Internasional yang dilaksanakan pada:

Hari	:	Selasa
Tanggal	:	22 April 2025
Judul Tugas Akhir	:	Fiqh Approach to the Legal Protection of Intellectual Property Rights of Writers in the Special Region of Yogyakarta
Disusun oleh	:	AULIA NUR HANIFA
Nomor Mahasiswa	:	21421106

Sehingga dapat diterima sebagai salah satu syarat untuk memperoleh gelar sarjana dari Program Studi Ahwal Al-Syakhshiyyah Program Internasional Fakultas Ilmu Agama Islam Universitas Islam Indonesia Yogyakarta.

TIM PENGUJI:

Ketua/Pembimbing	:	Dr. Yusdani, M.Ag	(.....)
Penguji I	:	Krismono, SHI, MSI	(.....)
Penguji II	:	Dr. Mukhsin Achmad, S.Ag, M.Ag.	(.....)

Yogyakarta, 28 April 2025
Dekan,

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Dr. Drs. Asmuni, MA

INTERNAL MEMO

INTERNAL MEMO

Yogyakarta, March 11, 2025 M
Ramadan 11, 1446 H

Subject : **Thesis**

Dear : Honorable **Dean of the Faculty of Islamic Studies**
Universitas Islam Indonesia
Yogyakarta

Assalamu'alaikum Wr. Wb.

Based on the appointment by the Dean of the Faculty of Islamic Studies, Universitas Islam Indonesia, with letter number: 1609/Dek/60/DAATI/FIAI/XII/2024, on December 6, 2024 AD / Jumada al-Awwal 4, 1446 H, for our duties as supervisor of the thesis:

Name	: Aulia Nur Hanifa
Student Number	: 21421106

The student of the Faculty of Islamic Studies, Universitas Islam Indonesia

Department	: *Ahwal Syakhshiyah* International Program
Academic Year	: 2024/2025
Thesis Title	: FIQH APPROACH TO THE LEGAL PROTECTION OF INTELLECTUAL PROPERTY RIGHTS OF WRITERS IN THE SPECIAL REGION OF YOGYAKARTA

After researching and making necessary improvements, we finally decided that your thesis above fulfills the requirements to be submitted to the Munaqasah Trial of the Faculty of Islamic Studies, Universitas Islam Indonesia.

Thus, hopefully it can be tested soon, and together with us, we will send 4 (four) copies of the thesis in question.

Wassalamu'alaikum Wr. Wb.

Supervisor

Dr. Yusdani, M.Ag.

SUPERVISOR'S APPROVAL

SUPERVISOR'S APPROVAL

The undersigned is the thesis supervisor, certifying that:

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According to the process and the results of supervising over several months, and being made necessary improvements, then the concerned person can register herself to join the Munaqasah Trial of the *Ahwal Syakhsiyyah* International Program Department, Faculty of Islamic Studies, Universitas Islam Indonesia.

Supervisor
Yogyakarta, March 11, 2025

Dr. Yusdani, M.Ag.

ACKNOWLEDGEMENT

To my dearest mother,
and in loving memory of my father.

MOTTO

إِنَّ مَعَ ٱلْعُسْرِ يُسْرًا

"Surely with ˹that˺ hardship comes ˹more˺ ease."[1]

(QS Al-Insyirah: 6)

من سلك طريقًا يلتمس فيه علما سهل الله له به طريقًا إلى الجنة

"Allah makes the way to Jannah easy for him who treads the path in search of knowledge."[2]

(Narrated by Muslim)

[1] "Surah Ash-Sharh - 1-8 - Quran.Com," accessed March 10, 2025, https://quran.com/94?startingVerse=8.

[2] "Riyad As-Salihin 1381 - The Book of Knowledge - كتاب العلم - Sunnah.Com - Sayings and Teachings of Prophet Muhammad (صلى الله عليه و سلم)," accessed March 10, 2025, https://sunnah.com/riyadussalihin:1381.

PEDOMAN TRANSLITERASI ARAB LATIN

KEPUTUSAN BERSAMA
MENTERI AGAMA DAN MENTERI PENDIDIKAN DAN KEBUDAYAAN
REPUBLIK INDONESIA

Nomor: 158 Tahun 1987
Nomor: 0543b//U/1987

Transliterasi dimaksudkan sebagai pengalih-hurufan dari abjad yang satu ke abjad yang lain. Transliterasi Arab-Latin di sini ialah penyalinan huruf-huruf Arab dengan huruf-huruf Latin beserta perangkatnya.

A. Konsonan

Fonem konsonan bahasa Arab yang dalam sistem tulisan Arab dilambangkan dengan huruf. Dalam transliterasi ini sebagian dilambangkan dengan huruf dan sebagian dilambangkan dengan tanda, dan sebagian lagi dilambangkan dengan huruf dan tanda sekaligus.

Berikut ini daftar huruf Arab yang dimaksud dan transliterasinya dengan huruf latin:

Tabel 0.1: Tabel Transliterasi Konsonan

Huruf Arab	Nama	Huruf Latin	Nama
أ	Alif	Tidak dilambangkan	Tidak dilambangkan
ب	Ba	B	Be
ت	Ta	T	Te
ث	Ṡa	ṡ	es (dengan titik di atas)
ج	Jim	J	Je

ح	Ḥa	ḥ	ha (dengan titik di bawah)
خ	Kha	Kh	ka dan ha
د	Dal	d	De
ذ	Żal	ż	Zet (dengan titik di atas)
ر	Ra	r	er
ز	Zai	z	zet
س	Sin	s	es
ش	Syin	sy	es dan ye
ص	Ṣad	ṣ	es (dengan titik di bawah)
ض	Ḍad	ḍ	de (dengan titik di bawah)
ط	Ṭa	ṭ	te (dengan titik di bawah)
ظ	Ẓa	ẓ	zet (dengan titik di bawah)
ع	`ain	`	koma terbalik (di atas)
غ	Gain	g	ge
ف	Fa	f	ef

ق	Qaf	q	ki
ك	Kaf	k	ka
ل	Lam	l	el
م	Mim	m	em
ن	Nun	n	en
و	Wau	w	we
ه	Ha	h	ha
ء	Hamzah	‘	apostrof
ي	Ya	y	ye

B. Vokal

Vokal bahasa Arab, seperti vokal bahasa Indonesia, terdiri dari vokal tunggal atau *monoftong* dan vokal rangkap atau *diftong*.\

1. Vokal Tunggal

Vokal tunggal bahasa Arab yang lambangnya berupa tanda atau harakat, transliterasinya sebagai berikut:

Tabel 0.2: Tabel Transliterasi Vokal Tunggal

Huruf Arab	Nama	Huruf Latin	Nama
ـَ	Fathah	a	a
ـِ	Kasrah	i	i
ـُ	Dammah	u	u

2. Vokal Rangkap

Vokal rangkap bahasa Arab yang lambangnya berupa gabungan antara harakat dan huruf, transliterasinya berupa gabungan huruf sebagai berikut:

Tabel 0.3: Tabel Transliterasi Vokal Rangkap

Huruf Arab	Nama	Huruf Latin	Nama
يْ◌َ◌	Fathah dan ya	ai	a dan u
وْ◌َ◌	Fathah dan wau	au	a dan u

Contoh:

- كَتَبَ kataba
- فَعَلَ fa`ala
- سُئِلَ suila
- كَيْفَ kaifa
- حَوْلَ haula

C. *Maddah*

Maddah atau vokal panjang yang lambangnya berupa harakat dan huruf, transliterasinya berupa huruf dan tanda sebagai berikut:

Tabel 0.4: Tabel Transliterasi *Maddah*

Huruf Arab	Nama	Huruf Latin	Nama
اَ◌ىَ◌	Fathah dan alif atau ya	ā	a dan garis di atas
ى◌ِ◌	Kasrah dan ya	ī	i dan garis di atas
و◌ُ◌	Dammah dan wau	ū	u dan garis di atas

Contoh:

- قَالَ qāla
- رَمَى ramā
- قِيْلَ qīla
- يَقُوْلُ yaqūlu

D. Ta' Marbutah

Transliterasi untuk ta' marbutah ada dua, yaitu:

1. Ta' marbutah hidup

   Ta' marbutah hidup atau yang mendapat harakat fathah, kasrah, dan dammah, transliterasinya adalah "t".
2. Ta' marbutah mati

   Ta' marbutah mati atau yang mendapat harakat sukun, transliterasinya adalah "h".
3. Kalau pada kata terakhir dengan ta' marbutah diikuti oleh kata yang menggunakan kata sandang *al* serta bacaan kedua kata itu terpisah, maka ta' marbutah itu ditransliterasikan dengan "h".

Contoh:

- رَوْضَةُ الأَطْفَالِ raudah al-atfāl/raudahtul atfāl
- الْمَدِيْنَةُ الْمُنَوَّرَةُ al-madīnah al-munawwarah/al-madīnatul munawwarah
- طَلْحَةْ talhah

E. Syaddah (Tasydid)

Syaddah atau tasydid yang dalam tulisan Arab dilambangkan dengan sebuah tanda, tanda syaddah atau tanda tasydid, ditransliterasikan dengan huruf, yaitu huruf yang sama dengan huruf yang diberi tanda syaddah itu.

Contoh:

- نَزَّلَ nazzala

- البِرُّ al-birr

F. Kata Sandang

Kata sandang dalam sistem tulisan Arab dilambangkan dengan huruf, yaitu ال, namun dalam transliterasi ini kata sandang itu dibedakan atas:

1. Kata sandang yang diikuti huruf syamsiyah
   Kata sandang yang diikuti oleh huruf syamsiyah ditransliterasikan sesuai dengan bunyinya, yaitu huruf "l" diganti dengan huruf yang langsung mengikuti kata sandang itu.
2. Kata sandang yang diikuti huruf qamariyah
   Kata sandang yang diikuti oleh huruf qamariyah ditransliterasikan dengan sesuai dengan aturan yang digariskan di depan dan sesuai dengan bunyinya.

Baik diikuti oleh huruf syamsiyah maupun qamariyah, kata sandang ditulis terpisah dari kata yang mengikuti dan dihubungkan dengan tanpa sempang.
Contoh:

- الرَّجُلُ ar-rajulu
- الْقَلَمُ al-qalamu
- الشَّمْسُ asy-syamsu
- الْجَلاَلُ al-jalālu

G. Hamzah

Hamzah ditransliterasikan sebagai apostrof. Namun hal itu hanya berlaku bagi hamzah yang terletak di tengah dan di akhir kata. Sementara hamzah yang terletak di awal kata dilambangkan, karena dalam tulisan Arab berupa alif.
Contoh:

- تَأْخُذُ ta'khużu
- شَيئٌ syai'un

- النَّوْءُ an-nau'u

- إِنَّ inna

H. Penulisan Kata

Pada dasarnya setiap kata, baik fail, isim maupun huruf ditulis terpisah. Hanya kata-kata tertentu yang penulisannya dengan huruf Arab sudah lazim dirangkaikan dengan kata lain karena ada huruf atau harkat yang dihilangkan, maka penulisan kata tersebut dirangkaikan juga dengan kata lain yang mengikutinya.
Contoh:

- وَ إِنَّ اللهَ فَهُوَ خَيْرُ الرَّازِقِيْنَ Wa innallāha lahuwa khair ar-rāziqīn/
  Wa innallāha lahuwa khairurrāziqīn
- بِسْمِ اللهِ مَجْرَاهَا وَ مُرْسَاهَا Bismillāhi majrehā wa mursāhā

I. Huruf Kapital

Meskipun dalam sistem tulisan Arab huruf kapital tidak dikenal, dalam transliterasi ini huruf tersebut digunakan juga. Penggunaan huruf kapital seperti apa yang berlaku dalam EYD, di antaranya: huruf kapital digunakan untuk menuliskan huruf awal nama diri dan permulaan kalimat. Bilamana nama diri itu didahului oleh kata sandang, maka yang ditulis dengan huruf kapital tetap huruf awal nama diri tersebut, bukan huruf awal kata sandangnya.
Contoh:

- الْحَمْدُ للهِ رَبِّ الْعَالَمِيْنَ Alhamdu lillāhi rabbi al-`ālamīn/
  Alhamdu lillāhi rabbil `ālamīn
- الرَّحْمنِ الرَّحِيْمِ Ar-rahmānir rahīm/Ar-rahmān ar-rahīm

Penggunaan huruf awal kapital untuk Allah hanya berlaku bila dalam tulisan Arabnya memang lengkap demikian dan kalau penulisan itu disatukan dengan kata lain sehingga ada huruf atau harakat yang dihilangkan, huruf kapital tidak dipergunakan.
Contoh:

- اللهُ غَفُوْرٌ رَحِيْمٌ Allaāhu gafūrun rahīm

- لِلّٰهِ الأُمُوْرُ جَمِيْعًا Lillāhi al-amru jamī`an/Lillāhil-amru jamī`an

J. Tajwid

Bagi mereka yang menginginkan kefasihan dalam bacaan, pedoman transliterasi ini merupakan bagian yang tak terpisahkan dengan Ilmu Tajwid. Karena itu peresmian pedoman transliterasi ini perlu disertai dengan pedoman tajwid.

ABSTRAK

PENDEKATAN FIKIH TERHADAP PERLINDUNGAN HUKUM HAK KEKAYAAN INTELEKTUAL PENULIS DI DAERAH ISTIMEWA YOGYAKARTA

Aulia Nur Hanifa
21421106

Pembajakan buku merupakan permasalahan serius yang dihadapi oleh industri literasi di Daerah Istimewa Yogyakarta. Meskipun Indonesia telah memiliki regulasi terkait Hak Kekayaan Intelektual (HKI), seperti Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta, pelanggaran terhadap hak cipta masih marak terjadi. Penelitian ini bertujuan untuk mengungkap pandangan penulis dan penerbit terhadap fenomena pembajakan serta menganalisis perlindungan HKI dari perspektif fiqih. Penelitian ini menggunakan metode kualitatif dengan pendekatan normatif-sosiologis. Data dikumpulkan melalui wawancara dengan penulis, penerbit, serta pakar HKI, dan dianalisis secara deskriptif-kualitatif. Hasil penelitian menunjukkan bahwa pembajakan buku dapat merugikan penulis dan penerbit secara ekonomi, serta menurunkan motivasi berkarya. Rendahnya kesadaran masyarakat, budaya permisif terhadap pembajakan, serta lemahnya penegakan hukum menjadi faktor utama yang menyebabkan maraknya pelanggaran HKI. Dari perspektif fiqih, HKI atau *ḥaqq al-ibtikār* diakui keberadaannya sebagai bagian dari hak tidak berwujud yang menurut syariat harus dilindungi serta tidak disalahgunakan secara batil oleh pihak yang tidak berhak. Dalam pendekatan *maqāṣid al-syarī'ah* menurut Jasser Auda, perlindungan HKI merupakan hak individu sekaligus upaya menjaga perkembangan ilmu pengetahuan. Perlindungan HKI menurut Islam merupakan tanggung jawab moral dan sosial untuk kebaikan masyarakat secara luas serta menjaga hak-hak pencipta.

Kata kunci: *Hak Kekayaan Intelektual, Penulis, Fikih*

ABSTRACT

FIQH APPROACH TO THE LEGAL PROTECTION OF INTELLECTUAL PROPERTY RIGHTS OF WRITERS IN THE SPECIAL REGION OF YOGYAKARTA

Aulia Nur Hanifa
21421106

Book piracy is a serious issue faced by the literary industry in the Special Region of Yogyakarta. Although Indonesia has established regulations concerning Intellectual Property Rights (IPR), such as Law Number 28 of 2014 on Copyright, copyright infringement remains widespread. This study aims to explore the perspectives of writers and publishers on the phenomenon of piracy and analyze IPR protection from a fiqh perspective. This research employs a qualitative method with a normative-sociological approach. Data were collected through interviews with writers, publishers, and IPR experts and analyzed using a descriptive-qualitative approach. The findings indicate that book piracy causes economic losses for writers and publishers and decreases their motivation to create. Low public awareness, a permissive culture toward piracy, and weak law enforcement are the main factors contributing to the prevalence of IPR violations. From a fiqh perspective, IPR, or *ḥaqq al-ibtikār,* is recognized as an intangible right that, according to Islamic law, must be protected and not unlawfully exploited by unauthorized parties. In the *maqāṣid al-syarī'ah* approach introduced by Jasser Auda, IPR protection is both an individual right and an effort to safeguard the development of knowledge. In Islam, IPR protection is a moral and social responsibility aimed at ensuring the well-being of society while safeguarding the rights of creators.

Keywords: *Intellectual Property Right, Writer, Fiqh*

PREFACE

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيْمِ

اَلْحَمْدُ لله الَّذِيْ أَرْسَلَ رَسُوْلَهُ بِالْهُدَى وَدِيْنِ الْحَقِّ، لِيُظْهِرَهُ عَلَى الدِّيْنِ كُلِّهِ وَكَفَى بِاللهِ شَهِيْدًا، أَشْهَدُ أَنْ لاَ إِلَهَ

إِلاَّ اللهُ وَأَشْهَدُ أَنَّ مُحَمَّدًا رَسُوْلُ اللهِ، اَللَّهُمَّ صَلِّ عَلَى سَيِّدِنَا مُحَمَّدٍ وَعَلَى آلِهِ وَصَحْبِهِ اَجْمَعِيْنَ أَمَّا بَعْدُ

Praise be to Allah, the Lord of the Worlds, for His boundless mercy and blessings, which have enabled the author to complete this thesis with ease and success. Shalawat and salam may remain abundant to our role model, the Prophet Muhammad SAW, to his family, his companions, and all his followers until the end of time.

This thesis is prepared to complete undergraduate studies and as a requirement to obtain a Bachelor of Laws degree at the Faculty of Islamic Studies, Family Law Study Program (Ahwal Syakhshiyah), Universitas Islam Indonesia. The process of writing this thesis entitled “Fiqh Approach to the Legal Protection of Intellectual Property Rights of Writers in the Special Region of Yogyakarta”, has been made possible through the support of numerous individuals. Therefore, the author would like to express the deepest appreciation and gratitude to:

1. Prof. Fathul Wahid, S.T., M.Sc., Ph.D., as the Rector of Universitas Islam Indonesia
2. Dr. Drs. Asmuni, M.A, as the Dean of the Faculty of Islamic Studies, Universitas Islam Indonesia

3. Dr. Anton Priyo Nugroho, S.E., M.M., as the Head of the Department Islamic Studies Faculty of Islamic Studies, Universitas Islam Indonesia
4. Krismono, SHI., MSI., as the Head of Islamic Family Law (Ahwal Syakhṣiyah) Study Program
5. Muhammad Miqdam Makfi, Lc., MIRKH., as study program secretary Ahwal Syakhshiyah International Program, who always provides direction and support.
6. Dr. Yusdani, M.Ag., as the thesis supervisor who has spent a lot of time guiding this process, has been essential in helping me complete this thesis successfully.
7. As the academic supervisor, Muhammad Najib Asyrof, S.Pd.I., Lc., M.Ag., has guided and advised me in my educational journey in this department.
8. All lecturers of the Family Law (Ahwal Syakhshiyah) Study Program at the Faculty of Islamic Studies, Universitas Islam Indonesia and the academic community of the Faculty of Islamic Studies who have provided useful knowledge. Where the author gets a lot of constructive inspiration in scientific development.
9. My beloved parents, my mother Yani Heryani, whose her endless love, prayers, and support have been a source of strength and guidance throughout my life. I am eternally grateful for always being my home. And to my father, Alm. Entang Dimyati, whose wisdom, love, and

sacrifices continue to shape my life and inspire me every day. May Jannah be upon you.

10. To my dear two sisters, Siti Maulida and Putri Sani, who have always stood by my side with encouragement and affection, I owe my deepest gratitude for your ever-present care and confidence in me.
11. My cherished friends and besties, especially my classmates in AS-IP 21, who have been my constant companions through all the ups and downs of this academic journey.
12. A special shoutout to Rofiequlmukhtaar and MANPK Ciamis Family region Yogyakarta for the boundless inspiration, support, and priceless moments of joy.
13. The UAM Family, thank you for the transformative experiences that provided opportunities for learning, growth, and meaningful reflection. Equally grateful to Marcomm FIAI and el-Markazi, which have been invaluable platforms for collaboration, allowing me to develop both creatively and intellectually. I sincerely value the lessons and memories you all have shared with me.
14. All parties who cannot be mentioned individually but have played a significant role in completing this thesis, your contributions, no matter how small they may seem, have been invaluable to me. Your kindness, encouragement, and assistance have not gone unnoticed. Thank you for being part of this journey.

Last, it is most appropriate to close this introduction with the hope that this modest work may offer valuable insights and benefits to all who engage with it. The author extends sincere apologies to those who may have been inconvenienced or impacted by this research, as well as to those who may identify any shortcomings or errors within this thesis. Constructive critiques and suggestions are greatly welcomed, as they will contribute to the improvement of this study. The author humbly seeks further guidance and feedback to enhance the quality of this work.

Yogyakarta,
The Author.

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CHAPTER I

INTRODUCTION

A. Background

Books are often referred to as "windows to the world," which illustrates how great the role of books as a medium to open human insight in the search for knowledge. Books are a source of information and education that can enrich people's knowledge for the advancement of human civilization. With the development of technology, books now come in printed form as well as in digital form. The existence of books in both forms has now become a necessity in fulfilling the intellectual needs of society. However, behind the important role of books, there is a serious problem that threatens the sustainability of the book industry and the rights of writers, namely piracy. Book piracy is an act of reproduction, distribution or sale of written works by printing, photocopying or other means without obtaining written permission from the author and publisher of the corresponding book.[3]

There are many forms of book piracy that occur in the community, including by duplicating books through photocopying, even though the book clearly states the prohibition of unauthorized duplication of books. Furthermore, there is also piracy obtained through leaked e-books, which are then commercialized directly in the form of soft files or printed in the form of hard files without a license from the owner of the work. For example, if we

[3] Rinitami Njatrijani, "Pembajakan Karya Literasi (Buku) Di Masa Covid 19," *Law, Development & Justice Review* 3 (2020), https://doi.org/10.14710/ldjr.v3i2.9527.

visit printing shops around campuses and schools, it is not rare for them to sell pirated academic reference books. If this is not the case, at least there will be services that accept unauthorized copies of written works, and the buyer will only have to pay for the printing costs. Or if you visit an e-commerce app and want to find a book you want, there are always stores that sell books as e-books at unbelievably low prices. Even worse than that, there are still websites on the internet that provide books that have been scanned without permission and can be downloaded for free. There is no exact data on how many books are pirated in Indonesia. However, given the number of pirated books sold both offline and online in the country, it can be concluded that book piracy in Indonesia has reached a worrying level.

Even in the Special Region of Yogyakarta, as one of the centers of education and culture in Indonesia, cases of book piracy are still happening. In fact, based on data released by the Indonesian Publishers Association (IKAPI), the Special Region of Yogyakarta occupies the first position as the province with the largest number of pirated bookstores in Indonesia, especially those that sell their books freely and online.[4] Moreover, it is also known that in 2019, twelve publishers in Yogyakarta who are members of the Jogja Publishers Consortium (KPJ) have officially reported cases of book piracy allegedly committed by a number of parties. The pirated books are

[4] Salsabila Hanifah, "IKAPI Rilis Daftar Toko Buku Bajakan, Yogyakarta Mendominasi," *Https://Data.Goodstats.Id/Statistic/Ikapi-Rilis-Daftar-Toko-Buku-Bajakan-Yogyakarta-Mendominasi-IiOum*, June 27, 2024.

scattered and have been sold openly at book stalls in the Yogyakarta Shopping Center.[5]

Nowadays, book piracy seems so commonplace that it is considered a normal thing, making it seem that copyright has no important value anymore. Many people prioritize personal economic gain without considering the long-term impact of rampant copyright infringement. Book piracy, which is detrimental to many parties, especially the creators of works, continues to increase along with the rapid development of technology, especially in the field of mass printing. This technological advancement makes it easier for anyone to commit copyright infringement. Such actions on the one hand ignore the legal rights of the writers, and on the other hand can also hurt the tribute to the hard work and creativity of a person. Therefore, it becomes evident that there are still many people who do not really understand the importance of respecting Intellectual Property Rights.

Intellectual Property Rights (IPR) are a very crucial component in the context of protecting the author's work. IPR are rights that relate to the problem of invention and creativity of a person or several people related to the protection of reputation issues in the commercial field and actions or services in the commercial field.[6] These rights include copyrights, patents, trademarks, and other proprietary rights. These are rights that provide legal

[5] Retno Hemawati, "Konsorsium Penerbit Yogyakarta Lawan Pembajakan Buku," *Media Indonesia*, 2019, https://mediaindonesia.com/weekend/255472/konsorsium-penerbit-yogyakarta-lawan-pembajakan-buku.

[6] "Hak Kekayaan Intelektual Serta Dasar Hukumnya," accessed September 24, 2024, https://www.hukumonline.com/berita/a/hak-kekayaan-intelektual-serta-dasar-hukumnya-lt623304dc7749d/?page=1.

protection to a person's intellectual creations, including written works in the form of books. In Indonesia, legal protection of IPR is regulated in various laws, one of them is Law Number 28 of 2014 concerning Copyright. This law provides a legal basis for authors to protect their copyrighted works from piracy and other violations. Copyright as part of IPR gives authors the exclusive right to publish, reproduce, and give permission to other parties to use their work. In addition, the law also regulates the moral and economic rights of authors, which include the right to be recognized for authorship and the right to benefit economically from their work.

Moral rights are rights that are eternally attached to the creator, cannot be separated from the creator because they are personal and eternal, which means that the rights are adhered to during the creator's life even after his death. As for economic rights, it is the exclusive right of the creator to obtain material benefits from his/her creation, such as from book sales, royalties, or licensing.[7] But sadly, even though legal protection has been clearly regulated in the law, violations of IPR in Indonesia are still a serious problem. Moreover, data from the Political and Economic Risk Consultancy (PERC) shows that Indonesia is among the countries with the worst IPR protection.

Seeing the phenomenon of the rampant violation of IPR, it is also necessary to review the legal protection of IPR through the perspective of Islamic law. Researchers feel the need to explore more comprehensively from

[7] Nanda Dwi et al., *HAK KEKAYAAN INTELEKTUAL SUATU PENGANTAR* (Widina Bhakti Persada Bandung, 2022), www.penerbitwidina.com.

the point of view of fiqh because at this time Muslims need to always ensure that every right and law they apply is in accordance with the principles of justice, and the respect that exists in Islamic teachings, including the protection of intellectual work. In addition, understanding the concept of copyright protection from an Islamic perspective is one way to increase public awareness, encourage appreciation of intellectual work, and provide solutions in accordance with sharia in facing challenges in the modern era.

Therefore, based on the above background related to violations of IPR in the form of book piracy in Indonesia, especially in the Special Region of Yogyakarta Province, the researcher intends to conduct a study entitled "Fiqh Approach to the Legal Protection of Intellectual Property Rights of Writers in the Special Region of Yogyakarta".

B. Research Focus

Referring to the background of writing the thesis above, the author provides limitations on the "Fiqh Approach to the Legal Protection of Intellectual Property Rights of Writers in the Special Region of Yogyakarta." The author's questions are as follows:

1. How do writers and stakeholders in the literary industry in Special Region of Yogyakarta perceive and respond to book piracy?
2. How is the fiqh perspective on the protection of Intellectual Property Rights, and how extent does Islam recognize the concept?

C. Research Objectives and Benefits

1. Objectives

   The objectives of this thesis research are in accordance with the background above, as follows:

   a. To find out the views of writers and key stakeholders in the literary industry in Special Region of Yogyakarta regarding book piracy.
   b. To analyze the fiqh perspective related to the protection of Intellectual Property Rights and the extent to which the concept is recognized in Islamic teachings.

2. Benefits

   The benefits to be achieved in this research are:

   a. Theoretical Benefits
      1) This research is expected to be a reference and provide additional scientific literature to improve insights in the field of law on IPR and the field of Islamic studies regarding IPR in the perspective of fiqh in particular.
      2) This research is expected to make a theoretical contribution in understanding how fiqh and applicable positive law regulate and protect IPR, as well as how these two legal systems can collaborate.
   b. Practical Benefits
      1) This research is expected to be used to increase public awareness, regarding the importance of respecting IPR and the negative impact of piracy on written works.

2) This research can be a consideration for policy makers, law enforcement, and related organizations to be more serious in enforcing the rules on copyright protection, especially in tackling book piracy.

D. Discussion Systematics

In order to make this research easy to be observed, a coherent systematic discussion is needed. In this case, the author has formulated the discussion of this research into five chapters and several sub-chapters that are interconnected between one chapter and another. The arrangement is as follows:

The first chapter is an introduction to the research that leads to the direction and orientation desired by the author in compiling this research. In general, this chapter is divided into five sections, namely: background, formulation of the problem, objectives, research benefits, and systematic research discussion.

The second chapter, to deliver to the discussion, this chapter describes the previous study, which contains previous research, the author's name, then writes the conclusions of each study. This chapter will present the theoretical basis that supports research that will be used as a guide in analyzing the problems encountered.

The third chapter, since this research is field research, this section of this chapter will describe the types of research and approaches, places or locations of research, research informants, data collection techniques, and data analysis techniques.

The fourth chapter, is the content of the thesis which will explain the results of the research and discussion which includes a general description of "Fiqh Approach to the Legal Protection of Intellectual Property Rights of Writers in the Special Region of Yogyakarta."

The last chapter, namely fifth chapter is closing which consists of conclusions, suggestions and bibliography. In addition, this section also includes important attachments to be included as results or evidence from this study.

CHAPTER II

THEORETICAL FRAMEWORK

A. Literature Review

This study discusses "Fiqh Approach to the Legal Protection of Intellectual Property Rights of Writers in the Special Region of Yogyakarta." Based on the results of searching for sources, the researcher has not found studies that specifically address this title. However, there are several sources of books and research results that are relevant to this research:

1. "Hukum Hak Cipta Indonesia: Teori dan analisis harmonisasi ketentuan world trade organization (WTO)-TRIPs agreement" by Suyud Margono in 2010. This book examines the assumptions made by the legal provisions of Intellectual Property Rights, especially the Copyright Act under global trade. However, there are still many piracy of copyrighted works globally, including Indonesia by analyzing the juridical aspects of implementing the TRIPs Agreement for law enforcement and dispute resolution.[8]
2. A book entitled "Hukum HKI Hak Kekayaan Intelektual". This book is an introductory lecture book written by Khoirul Hidayah. The material of this book has been adapted to the needs in trade practice and by the IPR course syllabus which includes the History of IPR, IPR arrangements based on legislation and international agreements, explanation of IPR branches (copyright, trademark, geographical indication, patent, trade secret,

[8] Suyud Margono, *Hukum Hak Cipta Indonesia : Teori Dan Analisis Harmonisasi Ketentuan World Trade Organization (WTO)-Trips Agreement*, 1st ed. (Bogor: Ghalia Indonesia, 2010).

industrial design, DTLST and plant variety protection). In addition, this book is also equipped with a study of IPR from an Islamic perspective.[9]

3. The book entitled "Hak Kekayaan Intelektual: Memahami Prinsip Dasar, Cakupan, dan Undang-Undang yang Berlaku" was written in 2010 by Sudaryat, Sudjana, and Rika Ratna Permata. This book explores the topic of Intellectual Property Rights (IPR) as an important part of the protection of human creativity. The book combines theory and practice related to IPR and covers various aspects of IPR consisting of copyrights, trademarks, patents, industrial designs, trade secrets, and plant varieties. In addition, this book presents real cases, related international conventions, as well as administrative and legal processes in resolving IPR disputes in Indonesia.[10]
4. An article in the Journal of Islamic Studies Published by State Islamic University Mataram entitled "Dynamics Responses of Indonesian Islamic Law to the Protection of Intellectual Property Rights". This article was written by Asmuni, Yusdani, and Januariansyah Arfaizar in 2023. This study discusses the protection of Intellectual Property Rights from the perspective of Islamic law using *maqāṣid al-syarī'ah* theory, which states that IPR is *haq al-ibtikar* which protects the economic and moral rights of the creator. This research utilizes the literature review method by identifying various sources, including books, journal articles, and other

[9] Khoirul Hidayah, *Hukum Hak Kekayaan Intelektual* (Malang: Setara Press, 2017).

[10] Sudjana, Sudaryat, and Rika Ratna Permata, *Hak Kekayaan Intelektual: Memahami Prinsip Dasar, Cakupan, Dan Undang-Undang Yang Berlaku* (Jakarta: Oase Media, 2009).

sources. The result was found that Islamic Law views IPR as *al-mal* (treasure) which is valuable and must be protected. So that for anyone who violates it, it is deemed a criminal act. In addition, this study also shows that a dynamic contemporary fiqh approach can respond to IPR protection with a moral and economic approach.[11]

5. "Perlindungan Hukum terhadap Hak Cipta Buku yang Dicetak Secara Ilegal dan Diperjual-Belikan Secara Massal", an article in the Tambusai Education Journal in 2024 written by Fanny Liu, et al. This research uses a normative legal approach with a conceptual method. The analysis is conducted in a descriptive-qualitative manner to explore the effectiveness of regulations in facing the challenges of digital technology. The authors found that Law No. 28 of 2014 concerning Copyright in Indonesia protects the economic and moral rights of creators. Book creators have the exclusive right to control the use of their work. In addition, Indonesia as a member of the Bern Convention follows international standards in copyright protection. Law enforcement is also supported by international cooperation, technology, and public education to raise awareness of the importance of respecting copyright.[12]
6. A thesis authored by Meganauli Magdalena in 2023, titled "Perlindungan Hukum Terhadap Pembajakan Buku Ditinjau dari Undang-Undang Nomor

[11] Asmuni, Yusdani, and Januariansyah Arfaizar, "DYNAMICS RESPONSE OF INDONESIAN ISLAMIC LAW TO THE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS," *Ulumuna* 27, no. 2 (December 1, 2023): 876–904, doi:10.20414/ujis.v27i2.749.

[12] Fanny Liu et al., "Perlindungan Hukum Terhadap Hak Cipta Buku Yang Dicetak Secara Illegal Dan Diperjual-Belikan Secara Massal," n.d.

28 Tahun 2014 Tentang Hak Cipta (Studi di Jakarta Pusat)," examines the implementation of Law No. 28 of 2014 on Copyright as a legal measure to protect against book piracy in the Senen area, Central Jakarta. The study further explores efforts that various stakeholders can undertake to combat the circulation and sale of pirated books. Employing a qualitative research method with an empirical juridical approach, the findings reveal that the enforcement of Law No. 28 of 2014 on Copyright has not been fully effective in safeguarding intellectual property. This shortfall is attributed to the normalization of copyright infringement within society, which impedes copyright holders from fully exercising their economic rights. Moreover, the reliance on complaint-based offenses under this law is considered less effective, as it often imposes a burden on copyright holders.[13]

7. The article "Juridical Analysis of Piracy of Books Traded through the Marketplace in the Perspective of Copyright Protection in Indonesia" by Zainul Arifin, Sri Walny Rahayu, and Iman Jauhari (2022) aims to analyze the legal protection against book piracy conducted through marketplace platforms. It also examines the legal remedies available to aggrieved parties and the challenges encountered in enforcing laws related to book piracy on these platforms. The study employs a normative juridical method, utilizing statutory and comparative approaches. The findings reveal that

[13] Meganauli Magdalena, "Perlindungan Hukum Terhadap Pembajakan Buku Ditinjau Dari Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta (Studi Di Jakarta Pusat)" (Universitas Diponegoro, 2023).

legal protection against book piracy on marketplaces, as stipulated under Law No. 28 of 2014 on Copyright, can be both repressive and preventive.[14]

8. The article titled "Perlindungan Hukum Bagi Pencipta Terhadap Buku Bajakan yang Dijual Melalui Media Online", authored by Anggia Maharani, Anak Agung Sagung Laksmi Dewi, and Ni Made Puspasutari Ujianti and published in Jurnal Interpretasi Hukum in 2022, explores the legal safeguards available to creators and the legal implications of selling pirated books via online platforms. Employing a normative research method with a literature review and legislative approach, the study examines the legal framework governing copyright protection. The findings emphasize that protection against book piracy is designed to uphold both the moral and economic rights of creators. This ensures that only the creators themselves can derive economic benefits from their works, thereby safeguarding their intellectual property from unauthorized exploitation.[15]
9. The next work is by Sulis Tiawati and Hadi Pura, published in the Jurnal Ajudikasi in 2020, titled "Analisa Hukum Perlindungan Hak Cipta Terhadap Pembelian Buku Elektronik Secara Ilegal." This study examines copyright protection concerning illegally purchased electronic books. The

[14] Zainul Arifin, Walny Rahayu, and Iman Jauhari, "Juridical Analysis of Piracy of Books Traded through the Marketplace in the Perspective of Copyright Protection in Indonesia," *International Journal of Law* 8, no. 6 (December 2022): 259–66, www.lawjournals.org.

[15] Anggia Maharani Putri, Anak Agung Sagung Laksmi Dewi, and Ni Made Puspasutari Ujianti, "Perlindungan Hukum Bagi Pencipta Terhadap Buku Bajakan Yang Dijual Melalui Media Online," *Jurnal Interpretasi Hukum* 3, no. 1 (March 2, 2022): 31–36, doi:10.22225/juinhum.3.1.4634.31-36.

objective of the research is to analyze the extent to which legal protections for electronic book copyrights are enforced, particularly under Law No. 28 of 2014 on Copyright. The findings reveal that legal protections for electronic book copyrights are stipulated in Articles 99 and 113 of Law No. 28 of 2014. However, law enforcement remains weak, especially concerning consumers of illegal electronic books, who are yet to face sanctions. Survey results indicate that economic factors are the primary reason consumers purchase illegal electronic books, followed by a lack of awareness about copyright and limited book availability.[16]

10. An article entitled, "Protection of Intellectual Property Rights in the Perspective of Islamic Law" in Jurnal Millah by Erna Tri Rusmala Ratnawati and Rizqi Samera Al Farizi in 2023. This research analyzes how the protection of IPR from an Islamic perspective, by analyzing the concepts of wealth, rights, and ownership in Islamic law. The method used in this research is normative with conceptual and statutory approaches. The findings reveal that most scholars have classified IPR as a form of wealth, therefore they have the same legal treatment and consequences as other forms of wealth. Furthermore, IPR fall under the category of movable property that can be utilized and retain value despite exploitation, even though it does not have a fixed market unit. Hence, these rights can be traded for profit as well as protected through the assessment of losses that

[16] Analisa Hukum Perlindungan Hak Cipta Terhadap Pembelian Buku Elektronik Secara Ilegal, Sulis Tiawati, and Margo Hadi Pura, "ANALISA HUKUM PERLINDUNGAN HAK CIPTA TERHADAP PEMBELIAN BUKU ELEKTRONIK SECARA ILEGAL," *AJUDIKASI : Jurnal Ilmu Hukum* 4, no. 2 (December 2020).

may arise. In the view of Islamic law, IPR acquired by lawful means are recognized as rights that can be owned. However, its ownership remains restricted by the rules and principles of Sharia.[17]

11. "Realize Halal Copyright Principles Through Protection of Copyright Holders' Economic Rights" an article in a journal written by Setiyowati in 2023. The document examines how copyright laws in Indonesia, particularly under Law No. 28 of 2014, align with both legal justice and Islamic principles of halal. The main objective of the research is to explore how legal frameworks, particularly Law No. 28 of 2014, can protect the economic rights of copyright holders and how these protections can be viewed through the lens of Islamic (halal) principles. The study adopts a sociological-juridical approach, examining both the legal provisions and their implementation in society. The findings reveal that copyright protection, both in terms of economic and moral rights, remains ineffective in Indonesia. There are widespread copyright infringements, which harm creators due to low public awareness and weak law enforcement. From an Islamic perspective, copyright violations contradict halal principles, which emphasize respect for intellectual work as a form of protected wealth. The study highlights the need for improved public education and stronger law enforcement to safeguard the economic rights of creators.[18]

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[17] Erna Tri Rusmala Ratnawati and Rizqi Samera Al Farizi, "Protection of Intellectual Property Rights in the Perspective of Islamic Law," *Millah: Journal of Religious Studies* 22, no. 2 (August 1, 2023): 377–408, doi:10.20885/millah.vol22.iss2.art4.

[18] Setiyowati, "Realize Halal Copyright Principles Through Protection of Copyright Holders' Economic Rights," in *Proceedings of the 5th Legal International Conference and Studies (LICS 2022)*, 2023, 19–29, doi:10.2991/978-2-38476-074-9_4.

12. “Intellectual Property Rights and Monopoly in the Perspective of Islamic Jurisprudence.” A 2021 study by Meirison and Zerly Nazar in Journal al-Ahkam. This study aims to explore the fiqh perspective on IPR and its relation to monopolies that could harm humanity. There are two views in contemporary fiqh regarding IPR. The first, presented by Ahmad al-Ḥujjī al-Kurdī, argues that IPR is part of worship, should not be hidden, and must not be monopolized or exploited by anyone. The second view, supported by Mustafa Zarqa, Muḥammad Fatḥi ad-Durayni, and Muhammad Sa'id Ramadan al-Buṭi, favors the protection of IPR. Through literature review and descriptive analysis, this paper concludes that if IPR results in harm to society and the state, particularly through the exploitation of material rights, it leads to harmful and forbidden monopolies. Each country has its own policies, and thus, IPR protection is implemented as long as it does not harm society or the state.[19]
13. “Kaidah al-Maṣlaḥah al-Mursalah dalam Hukum Islam dan Aktualisasinya terhadap Hak Atas Kekayaan Intelektual” An article written by Muhammad Yusran, Iskandar, Azwar, and Muhammad Najib in Bustanul Fuqaha: Jurnal Bidang Hukum Islam 2022. This article discusses the application of the rule of *maṣlahah mursalah* in Islamic law and its relevance to IPR. The article's main objective is to understand how *maṣlahah mursalah* operates within Islamic law and how it can be applied

[19] Meirison and Zerly Nazar, “Intellectual Property Rights and Monopoly in the Perspective of Islamic Jurisprudence,” *Al-Ahkam* 31, no. 1 (April 1, 2021): 49–68, doi:10.21580/ahkam.2021.31.1.6656.

to IPR. This is a qualitative descriptive study based on library research. It uses a normative juridical and philosophical approach to explore Islamic legal sources such as Al-Qur'an, Hadith, and scholars' opinions. The result shows that ownership of intellectual property, which resembles tangible property and requires protection as prescribed in Islamic law. Moreover, intellectual property benefits society at large, contributing to cultural, scientific, and economic growth. This aligns with the principles of safeguarding life, intellect, and wealth in Islamic law.[20]

14. An article from the Journal Contemporary Social Science Research in 2021 entitled “The Concept of Intellectual Property and Ownership Right According to Islamic Jurisprudence” by Zanirah Mustafa, Nurul Hidayah, Mik Muniyanti Nik Din, Nurul Izzah, Mohd. Khairul Anuar Ismail, and Intan Nurul’ Ain. The main objective of this study was to explore the concept of intellectual property within the framework of fiqh. In addition, it examined the status and significance of IPR in Islamic law. As a result, intellectual property should be afforded the same level of protection as traditional forms of property, such as land or goods. Through a literature review and a descriptive analysis approach, the study concluded that when intellectual property rights harm society or the state—particularly through

[20] Muhammad Yusram et al., “Kaidah Al-Maṣlaḥah al-Mursalah Dalam Hukum Islam Dan Aktualisasinya Terhadap Hak Atas Kekayaan Intelektual,” *BUSTANUL FUQAHA: Jurnal Bidang Hukum Islam* 3, no. 1 (April 1, 2022): 1–17, doi:10.36701/bustanul.v3i1.521.

the exploitation of material rights—they can lead to monopolies, which are both harmful and forbidden in Islam.[21]

15. "An Introduction of Intellectual Property Rights in Islamic Law" by Rehana Anjum in 2019. This article offers an overview of Intellectual Property Rights from the perspective of Islamic law. It takes a traditional approach in its analysis, specifically focusing on the legal principles that form the foundation for recognizing IPR within Islamic jurisprudence. The article also addresses the reasons behind the lack of sufficient protection for IPR, despite Islamic law being the final and comprehensive legal system. It concludes by arguing that, while Sharia may not explicitly define IPR in modern terms, it safeguards these rights through principles and norms comparable to contemporary legal frameworks. This serves to dispel the misconception that Sharia is incompatible with IPR. However, the article acknowledges that challenges to IPR protection arise due to religious beliefs, societal traditions, cultural factors, lower levels of economic development, and widespread poverty. Furthermore, the expansion of IPR, coupled with the complexities introduced by new innovations, makes legal protection more challenging in the modern era.[22]

In conclusion, despite the existence of substantial research and literature on the legal and Islamic perspectives regarding IPR, no previous study has

[21] Zanirah Mustafa et al., "THE CONCEPT OF INTELLECTUAL PROPERTY AND OWNERSHIP RIGHT ACCORDING TO ISLAMIC JURISPRUDENCE," *Journal of Contemporary Social Science Research*, vol. 5, 2021.

[22] Rehana Anjum, "An Introduction of Intellectual Property Rights in Islamic Law," June 2019.

specifically examined the topic of this research, namely, the "Fiqh Approach to the Legal Protection of Intellectual Property Rights of Writers in the Special Region of Yogyakarta." While the sources reviewed provide valuable insights into aspects such as copyright law, the application of *maqāṣid al-syarī'ah*, and the broader Islamic legal framework on IPR, they do not address the unique combination of geographic, sociocultural, and legal considerations explored in this study.

B. Theoretical Framework

1. Legal Protection

In societal life, law serves as an instrument aimed at creating order, tranquility, and justice, while also ensuring a balance of interests among its members. Its function is to establish boundaries and act as a tool for social control, preventing conflicts and deviations that may disrupt the harmony of communal life. In a more specific context, the law protects individual rights and regulates the obligations that must be fulfilled by everyone, thereby fostering the order that underpins social interactions.

Fundamentally, there exists a relationship between legal subjects and legal objects protected by the law. This relationship gives rise to rights and obligations. Consequently, the existence of these rights and obligations necessitates legal protection, ensuring that individuals feel secure in pursuing their interests.

In terminology, legal protection refers to protective efforts made by the government or authorities with a number of existing regulations or

norms.[23] Meanwhile, Satjipto Rahardjo, in his book, Ilmu Hukum, explained that legal protection is an effort to protect human rights that are harmed by others and that protection is given to ensure that the community can enjoy all the rights that have been given by law.[24] C.S.T. Kansil argued that legal protection is a variety of legal efforts that must be provided by law enforcement officials to the community in order to provide a sense of security, both physically and non-physically from disturbances and various threats from any party.[25]

Furthermore, according to Setiono, legal protection is an effort to protect the public from any arbitrary actions of the authorities which are not in line with the rule of law, in order to create order and tranquility to enable humans in enjoying their dignity as human beings.[26] According to Soerjono Soekanto, legal protection is basically an attempt to protect legal subjects through existing legal instruments. In addition to the direct role of law enforcers, Soekanto explained that there are five important factors influencing the process of enforcing and providing legal protection:

a. Legislative Factors

   Laws serve as the fundamental guidelines for all members of society and act as the primary reference in law enforcement.

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[23] "Perlindungan Hukum: Pengertian, Unsur, Dan Contohnya," *Hukum Online*, August 2023, https://www.hukumonline.com/berita/a/perlindungan-hukum-lt61a8a59ce8062/.

[24] Satjipto Rahardjo, *Ilmu Hukum*, 8th ed. (Bandung: PT Citra Aditya Bakti, 2014).

[25] C.S.T. Kansil, *Pengantar Ilmu Hukum Indonesia* (Jakarta: Rineka Cipta, 2011).

[26] Setiono, *Rule of Law (Supremasi Hukum)* (Surakarta: Magister Ilmu Hukum Program Pascasarjana Universitas Sebelas Maret, 2004).

b. Law Enforcement Factors

These include individuals and entities responsible for upholding the law, both directly (such as police officers, prosecutors, and judges) and indirectly. They play a central role in ensuring the effectiveness of law enforcement.

c. Infrastructure and Facility Factors

Adequate support systems are crucial for the legal process, including skilled personnel, competent human resources, and essential facilities such as technology and infrastructure.

d. Community Factors

The community serves as the environment where laws are applied. Public participation and legal awareness form the foundation for establishing order and social harmony.

e. Cultural Factors.

Encompassing values, attitudes, and norms formed within society, culture influences how individuals and groups perceive the law and determines the extent to which they internalize legal norms as part of the social order.[27]

In conclusion, legal protection is a fundamental element in fostering order, justice, and security within society. This concept encompasses efforts to safeguard individual rights and prevent abuses of

[27] Soerjono Soekanto, *Faktor-Faktor Yang Memperngaruhi Penegakan Hukum* (Jakarta: Rajawali Pers, 2004).

authority, and also involves the synergy of various factors, such as legal frameworks, law enforcement personnel, infrastructure, community participation, and legal culture. An effective understanding and implementation of legal protection serve as the foundation for a harmonious social order, where individuals can exercise their rights and fulfill their obligations with a sense of safety and respect for their dignity as human beings.

2. Intellectual Property Rights (IPR)

a. An Overview of Intellectual Property Rights

Intellectual Property Rights (IPR) are rights that arise from human intellectual capabilities. This definition highlights that IPR pertains to creations originating from human thought processes. These include intellectual capabilities in the fields of science, literature and arts, or technology, where the results are derived through creativity, intuition, and innovation. Intellectual creations must be distinguished from other forms of wealth owned by individuals that are not products of intellectual effort, making it easier to understand intellectual property, as distinct from real property.[28]

The two terms Intellectual Property (IP) and Intellectual Property Rights (IPR) are often used interchangeably. However, there is a slightly different substance between IP and IPR. Intellectual

[28] Yulia, *HUKUM HAK KEKAYAAN INTELEKTUAL*, 1st ed. (Sefa Bumi Persada, 2021), www.sefabumipersada.com.

Property is defined as the economic rights granted by law to a creator of a work of human intellectual capability. An international organization under the UN that focuses on IPR issues, WIPO (World Intellectual Property Organization), defines IP as *"Intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce."* [29] Meanwhile, David I Bainbridge, a scientist from Cambridge argues Intellectual Property or Intellectual Property Rights as the right to wealth created from human intellectual work, namely rights that come from creative results or human thinking power expressed in various forms of work, that are useful to support daily life.[30]

In light of the above, it is clear that Intellectual Property Rights are a form of appreciation and legal protection for creativity and innovation produced by the human mind. Apart from being a legal instrument, the existence of IPR is also a form of recognition of the value and benefits of intellectual work for the development of science, culture and the economy.

b. Theory of Intellectual Property Rights

The philosophical foundation of the award obtained by the creator or inventor for his intellectual work that is beneficial to others

[29] "What Is Intellectual Property?," *WIPO*, accessed November 5, 2024, https://www.wipo.int/about-ip/en/.

[30] Rahmi Jened Parinduri Nasution, *Interface Hukum Kekayaan Intelektual Dan Hukum Persaingan (Penyalahgunaan HKI)* (Jakarta: Raja Grafindo Persada, 2013).

is based on the legal view that IPR is a form of ownership system (property). In this regard, the author takes three theories that are quite influential, namely the theories of John Locke, Frederich Hegel and Jeremy Bentham.

1) John Locke

According to Locke, ownership is part of human rights which is reflected in the concept of "life, liberty, and property". He emphasized that every individual has a natural right to ownership without any positive law authorized to regulate that right. In this view, human beings are naturally equal (status naturalis), where each has obligations towards others as well as rights. Each person is obliged not to harm others and has the right not to be harmed, except in urgent situations. These rights are considered part of natural law, where an individual cannot sue another individual as long as he or she does not inflict harm on society.[31]

2) Frederich Hegel

Frederich Hegel introduced the concept of "Right, Ethic, and State." Hegel highlighted the importance of the existence of personality and the freedom to self-actualize. In his view, individual well-being is achieved when one owns property, as this ownership provides the first foundation for self-existence.

[31] Hidayah, *Hukum Hak Kekayaan Intelektual*.

According to Hegel, property can be private in certain situations, but in a broader context, private ownership can develop into a universal institution. Property is transferable at the owner's will, both in physical form and as an intellectual asset that stimulates new creativity.[32]

3) Jeremy Bentham

Furthermore, the utilitarian theory pioneered by Jeremy Bentham. According to him, IPRs are considered as instruments that provide maximum benefits to the wider community. Utilitarianism believes that a good action or policy is one that produces the greatest happiness for the greatest number of people. IPR, by giving exclusive rights to creators or inventors for their intellectual work, encourages them to continue to produce innovations that benefit society. By providing awards and legal protection, in addition to recognizing individual efforts, IPRs also encourage the development of science.[33]

By understanding the theory underlying the protection of IPR as described above, it can be understood that how this system functions as a legal instrument that protects individual rights, as well as a mechanism that is oriented towards the common good, as exemplified in utilitarian theory. The protection of intellectual works

[32] Hidayah, Hukum Hak Kekayaan Intelektual.
[33] Yulia, *HUKUM HAK KEKAYAAN INTELEKTUAL*.

that grant exclusive rights to creators, ultimately aims to advance innovation and science for the welfare of society at large. Therefore, an understanding of IPR cannot be separated from the scope and branches of IPR that are regulated both within the framework of international law and legislation in force in Indonesia.

For example, the regulation of IPR at the international level provides a framework that is recognized by many countries, one of them is Indonesia, which has ratified the TRIPs Agreement specifically regarding the branches of Intellectual Property. So from there, a law was born to regulate the branches of IPR, one of those is Law Number 19 of 2002 concerning Copyright, which was later updated with Law Number 28 of 2014.

b. Copyright

Copyright is a part of IPR that provides legal protection to creators for their creations in the fields of science, art, and literature. Article 1 of the Copyright Law states that copyright is the exclusive right of the creator that arises automatically based on the declarative principle once a creation is embodied in a tangible form, without diminishing any limitations in accordance with the provisions of applicable regulations.

This exclusive right includes two types of rights: moral and economic rights. Moral rights involve the right to be recognized as the creator, to maintain the integrity of the creation, and to prevent

modifications that could harm the creator's reputation. Meanwhile, economic rights refer to the right to derive economic benefits from the creation through licensing, sales, or other commercial uses, including the right to prohibit reproduction, distribution, and publication. Works protected under the Copyright Law include:

1) Written works, such as books, pamphlets, and articles.
2) Computer programs.
3) Artistic works, such as music, dance, visual arts, and films.
4) Works of photography and architecture.
5) Lectures and speeches.

This law provides a clear definition of the duration of protection for each work; for works created by individuals, protection lasts for the creator's lifetime plus 70 years after their death. For anonymous works or those owned by legal entities, protection lasts for 50 years from the date of first publication. Furthermore, in protecting the rights of the work’s owner, the Copyright Law imposes sanctions on copyright infringers, with penalties of up to 4 years in prison or a fine of up to IDR 1 billion. In cases of piracy, penalties can reach up to 10 years in prison or a fine of up to IDR 4 billion.

Thus, through this extensive protection, Copyright not only guarantees the creator’s rights over their work, but also serves to foster the growth of the creative industry and support innovation for the welfare of society.

3. Fiqh

a. Definition of Fiqh

As a branch of Islamic law, fiqh plays an important role in providing ethical and legal guidance for Muslims, both in spiritual and physical aspects of life. Fiqh etymologically comes from the Arabic word *"alfahm,"* which means understanding. This meaning aligns with the definition of fiqh in a hadith narrated by Imam Bukhari:

مَنْ يُرِدِ اللَّهُ بِهِ خَيْرًا يُفَقِّهْهُ فِي الدِّينِ

"Whoever Allah intends to do good for, He grants him understanding (in-depth knowledge) of religion".[34]

Initially, fiqh in terminology referred to religious knowledge that encompasses all teachings of Islam, including beliefs, ethics, and practices (worship), which is the same as the meaning of *Islamic Shari'ah*.[35] However, in subsequent developments, according to the jurists (fuqaha), fiqh came to be understood as the science of the legal rulings of sharia that relate to human actions, based on detailed evidence.

It is undeniable that human life includes various interrelated aspects, and to achieve happiness, all these aspects require planned and well-organized attention. In this case, Islamic fiqh comes as a

[34] H.A. Jadzuli, *Ilmu Fiqh : Penggalian, Perkembangan, Dan Penerapan Hukum Islam*, 7th ed. (Jakarta: Kencana, 2010).

[35] Rahmat Syafei, *Fiqih Muamalah* (Bandung: Pustaka Setia, 2004).

guideline that Allah has prescribed for His servants intending to safeguard their welfare while preventing various forms of damage in society. By addressing all needs, fiqh can provide rules that are in line with the demands of life.

Fiqh has a noble basis and purpose, which is to provide a comprehensive guide to life for mankind in practicing Sharia. Therefore, as part of sharia, fiqh is based on the revelation of Allah SWT. in the Qur'an and the Sunnah of the Prophet Muhammad SAW., which functions as a primary source of law. In addition, fiqh also uses the *ijtihad* method through *qiyas*, and *ijma*' of the scholars to answer contemporary issues that are not explicitly mentioned in the revelation text. Fiqh covers various aspects which aim to regulate human life based on sharia law. Fiqh serves to apply sharia law to human deeds, both in actions and words, and to distinguish between valid and invalid, halal and haram. This includes aspects of worship, *muamalah, munakahat, siyasah, jinayah,* and *as-siyar.*[36]

In addition, fiqh through its various methods of law-making also plays a role in realizing and protecting the interests of mankind, by promoting sharia principles that bring goodness to oneself and society. In other words, to bring benefit *(maṣlahah)* and prevent damage *(mafsadah),* which is rooted in universal principles known as *maqāṣid al-syarī'ah.*

[36] Abuddin Natta, *Masail Al-Fiqhiyah*, 5th ed. (Jakarta: Kencana, 2015).

b. *Maqāṣid al-Syarī'ah* as a Legal Methodology

Maqāṣid al-syarī'ah is fundamentally a relatively new method in the study of *Ushul Fiqh*. This method only began to develop in the contemporary era with a more holistic goal, namely to achieve true welfare by establishing laws for human beings. A classical scholar, Wahbah Zuhaili, defines *maqāṣid al-syarī'ah* as the meanings and objectives that are preserved by Shari'ah in all or most of its laws, or the ultimate goals of *syarī'ah* and the secrets that are embedded in each of its laws.[37] He further categorized *maqāṣid al-syarī'ah* into three levels of needs: *First, ḍaruriyat,* which refers to primary needs. These are essential for human life, both in the hereafter and in this world. In this regard, there are five fundamental principles of protection known as *uṣul al-khamsah*. These include *ḥifẓ ad-dīn*, which focuses on the protection and maintenance of religion; *ḥifẓ al-'aql,* which ensures the safeguarding and preservation of intellect; and *ḥifẓ an-nafs*, which prioritizes the protection and preservation of life. Additionally, *ḥifẓ al-māl* addresses the safeguarding and preservation of property, while *ḥifẓ al-'irḍ* concentrates on the protection and maintenance of lineage or human dignity.[38] Together, these principles aim to create a balanced framework for both individual and societal

[37] Wahbah Zuhaili, *Ushul Al-Fiqh al-Islami* (Beirut: Dar al-Fikri, 1986).

[38] Baiq Ratna Mulhimmah and Ridwan Olagunju, "EFFECTIVENESS OF ISLAMIC LAW IN PROTECTING THE COPYRIGHT OF INDIGENOUS PEOPLES OF INDONESIA IN THE FORM OF TRADITIONAL KNOWLEDGE & TRADITIONAL CULTURAL EXPRESSIONS," *Jurnal IUS Kajian Hukum Dan Keadilan* 10, no. 3 (December 1, 2022): 581–94, doi:10.29303/ius.v10i3.1141.

welfare. The second level is *hajjiyat*, which refers to secondary needs. These are necessary for humans to make life easier. While third level is *tahsiniyat*, which refers to moral needs, intended for the sake of goodness and honor.

Furthermore, in this more contemporary era, a new understanding of *maqāṣid al-syarī'ah* has emerged through a systems approach. An expert from Egypt, Jasser Auda, offers a *maqāṣid* derived from the sources of Shariah by studying the values and principles of the texts. There are six features of the systems approach used by Auda, which include cognitive, wholeness, openness, hierarchy, multidimensionality, and meaningfulness.[39] Jasser Auda's theory of *maqāṣid* clearly represents an evolution of classical *maqāṣid* thought. While classical *maqāṣid* focuses on the protection or preservation of religion, life, intellect, lineage, honor, and property, Auda's contemporary *maqāṣid* is more developed and moves towards a more universal direction. He reformed the *maqāṣid*, which originally emphasized protection and preservation, into a focus on development and the promotion of human rights.

Therefore, Auda's *maqāṣid* recognizes the right to religious freedom, the protection of human dignity, the development of

[39] Soni Zakaria, "The Contextualization Of The Māqāṣid Āl-Šyāriāh Jasser Auda Theory In The Concept And Practice Of Islamic Family Law," *Al-'Adl: Jurnal Studi Ilmu Hukum Islam Dan Pranata Sosial* 14, no. 2 (2021).

scientific thought, social welfare, justice, and so on.[40] The systems approach to *maqāṣid al-syarī'ah* has led to new understandings and interpretations of Islamic law, making it more progressive in addressing the developments and challenges of an increasingly complex era.[41] As a result, this method is now widely used as an analytical tool in various fields such as education, economics, law, da'wah, social affairs, politics, and more.

[40] Muhammad Solikhudin, *Good Governance: Mengurai Penyelenggaraan Negara Yang Bersih Dengan Maqāṣid al-Sharī'ah*, 1st ed. (Yogyakarta: CV. Bintang Semesta Media, 2022).

[41] Ahmad Faris and A Washil, "MEMAHAMI MAQASHID SYARIAH JASER AUDA," *Jurnal Pemikiran Dan Ilmu Keislaman* 2, no. 1 (September 2019): 19–42.

CHAPTER III

RESEARCH METHOD

A. Type of Research and Approach

This research is field research which typically is qualitative descriptive research. Field research refers to research conducted in a natural setting or environment, where the researcher collects data directly from the source rather than relying on secondary sources or a controlled setting. This type of research focuses on firsthand observation, interviews, or experiments in real-world situations to gain a deeper understanding of the subject.[42] Qualitative descriptive research aims to describe a phenomenon or participants' experiences in a specific context without manipulating variables or seeking to establish cause-effect relationships. It focuses on providing a comprehensive summary of events as they naturally occur, often using open-ended questions to gather in-depth insights into participants' perspectives and experiences.[43]

This qualitative research is descriptive in nature, aiming to explain the legal protection available to writers in the Special Region of Yogyakarta, as well as the fiqh perspective on the protection of IPR and the extent to which this concept is recognized in Islamic teachings. A thorough literature review is necessary to strengthen the analysis of this issue.

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[42] James P Sampson, "A Guide to Quantitative and Qualitative Dissertation Research (Second Edition)," 2017.

[43] Edward Barroga and Glafera Janet Matanguihan, "A Practical Guide to Writing Quantitative and Qualitative Research Questions and Hypotheses in Scholarly Articles," *Journal of Korean Medical Science* 37, no. 16 (2022), doi:10.3346/jkms.2022.37.e121.

Accordingly, the data presented in this study will combine both primary and secondary sources. The primary resources mean that data gathered firsthand by the researcher through surveys, observations, experiments, and interviews. While secondary resources are data that other sources, such as websites, books, journal articles, or internal records have already collected.[44] In this case, secondary data will be taken from the Qur'an, hadith, yellow books, journals, books, and other literature related to IPR and Islamic jurisprudence.

This research adopts a normative-sociological approach. The normative-sociological approach combines the analysis of legal principles and regulations with examining how these laws operate and are perceived in society. This study examines the legal framework for protecting IPR, particularly regarding book piracy cases in Yogyakarta, while also analyzing how these laws are understood, implemented, and enforced in practice. Additionally, this research also uses the *maqāṣid al-syarī'ah* approach, which aims to understand and interpret IPR protection based on the basic principles of sharia. This approach allows for an in-depth analysis of how Islamic law recognizes and gives legitimacy to copyright protection as part of efforts to safeguard the moral and economic rights of writers within the framework of sharia.

[44] Victor Oluwatosin Ajayi, "A Review on Primary Sources of Data and Secondary Sources of Data," vol. 2, 2023, www.ej-edu.orgDOI:http://dx.doi.org/19810.21091/.

B. **Research Locations**

This research will be conducted in the Special Province of Yogyakarta. The reason why the researcher took the sample in Yogyakarta Special Region Province is because based on research, Yogyakarta Special Region is one of the provinces with the highest number of pirated bookstores in Indonesia.

C. **Research Informant**

Research informants are people who can help provide information related to existing problems. The informants in this research include writers who live in Yogyakarta, publishers, and an IPR expert.

D. **Informant Determination Techniques**

Researchers use purposive sampling approaches, which pick samples according to predetermined criteria, to choose informants. This methodology seeks to assist researchers in assembling theories founded in field data by considering local circumstances and particular values. Purposive sampling is based on specific goals and factors pertinent to the research rather than social class, position, formal guidelines, or geographic location. The researcher's chosen informants are:

1. The writers as the key informants, namely those who have personally witnessed infringements on their works' IPR. Because these informants have firsthand knowledge of IPR infringement, they are able to offer a genuine viewpoint on the consequences of these violations.
2. IPR expert as the main informants, specifically lecturer with in-depth knowledge of Indonesian IPR law protection. This IPR expert will offer

legal and theoretical viewpoints on protection of writers' rights and penalties for IPR infringement.

3. Publisher as supporting informants, representing the institutions responsible for publishing and distributing written works. Publishers provide insights into the processes of publication, the challenges of ensuring copyright protection, and their role in preventing and addressing piracy.

E. Data Collection Techniques

In conducting this research, the researcher employed two data collection techniques:

1. Interviews

   An interview is a meeting between two individuals to exchange information and ideas through a question-and-answer session, allowing meaning to be constructed from specific data.[45] Interviews were conducted with key informants and main informants. The researcher conducted verbal interviews with both, supported by recordings that were later transcribed into text and incorporated into this study. Interviews can be conducted in a structured manner, either face-to-face or via telephone. In this study, the researcher utilized a semi-structured interview technique.

2. Literature Review

   A literature review is a data collection method involving the exploration, reading, and analysis of various written works related to the

[45] Beni Ahmad Saebani, *Metode Penelitian* (Bandung: CV Pustaka Seta, 2015).

research subject. This method aims to gather a theoretical foundation, expert perspectives, and findings from previous research. Sources may include articles, books, scholarly journals, documents, and other references. Literature data are used to broaden knowledge and compare it with field data collected through interviews.

F. **Data Analysis Technique**

Data analysis technique is a process carried out to systematically select and organize data obtained from interviews, field notes, and documentation, which consists of primary, secondary, and tertiary data. In this study, primary data was obtained through interviews with resource persons, namely writers, publishers, and experts on IPR in Yogyakarta. Secondary data is in the form of official documents such as books, journals, and articles relevant to IPR protection, while tertiary data or complementary data is taken from other reading sources, such as e-journals, reports, and supporting documents. According to Miles & Huberman, data analysis involves three main activities that take place simultaneously, namely: data reduction, data presentation, and conclusion drawing/verification.

The data analysis technique in this research is also carried out within the framework of *maqāṣid al-syarī'ah* developed by Jasser Auda. The data that has been reduced and presented is analyzed through six progressive *maqāṣid al-syarī'ah* principles, namely: 1) Conducting initial analysis to understand informants' perceptions of IPR violations and their implications (cognitive), 2) Considering various interrelated dimensions, including aspects

of positive law, Islamic values, and their impact (wholeness), 3) Assessing the flexibility of Islamic law in responding to contemporary issues related to IPR, including a study of the ijtihad method used to support the protection of the author's moral and economic rights (openness), 4) Prioritizing (hierarchy), and 5) Connecting IPR protection with the *maqāṣid al-syarī'ah* goal of creating benefits (meaningfulness).

Thus, using Miles & Huberman's data analysis theory combined with the *maqāṣid al-syarī'ah* approach, IPR protection in Special Region of Yogyakarta can be analyzed and described more comprehensively and in greater depth.

CHAPTER IV

FINDINGS AND DISCUSSION

A. Impacts and Challenges of IPR Protection for Writers

IPR protection for written works is a crucial aspect in supporting the development of creativity and innovation in the field of literacy. However, the reality in Indonesia shows that the implementation of IPR protection, especially copyright, still faces various challenges. This is evidenced by the United States Trade Representative (USTR) which reports that Indonesia in 2024 is still classified as a country on the Priority Watch List.[46] The USTR 2024 report highlights that copyright protection in Indonesia still faces various challenges, including rampant piracy, counterfeiting, and weak law enforcement against IPR violations, both in physical and digital markets. Despite efforts to strengthen law enforcement such as cooperation between the Ministry of Communication and Information Technology and the Directorate General of Intellectual Property to combat online piracy, along with the expansion of the IPR Enforcement Task Force, challenges remain.

In the Special Province of Yogyakarta, the rampant circulation of pirated books is one of the clear evidences of weak copyright protection. Shops selling pirated books can be found easily, both in conventional markets and through online platforms. In addition, writers in this area also often face cases of piracy of their works, with varying levels and scales. Kurniawan Gunadi, an active writer in Yogyakarta, revealed that the practice of book

[46] Office of the United States Trade Representative, 2024 Special 301 Report.

piracy in Indonesia, especially in Yogyakarta, is still rampant, especially in kiosks around campus and online marketplace platforms. He also stated that he had been a victim of copyright infringement in the form of piracy, "In the marketplace, if you want to try to find my old book, published in 2015-2016, it was pirated and there were many buyers."[47]

In addition to book piracy in physical form, copyright infringement also occurs in the form of rewriting written works in online media without permission. Iqbal Aji Daryono, a writer and active contributor on digital platforms, stated that until now his book has not been known to be pirated. However, he revealed that many of his writings have been copied without attribution. "But in terms of habituation, the lack of respect for copyright, my writings in online media have been repeatedly hijacked. Hijacked in the sense that there are people copying without mentioning the source."[48] In line with this, Mell Shaliha also said that although she has not experienced book piracy directly, she has found some parts of her work used by other parties without credit.[49] This shows that although violations in the form of book piracy do not always occur to all writers, the practice of using works without attribution is still an issue that requires further attention.

The rise of book piracy and copyright infringement is certainly not without consequences. Various parties, especially writers and publishers, feel the negative impact of this phenomenon, both economically and in terms of

[47] Interview with Kurniawan Gunadi, January 20 2025
[48] Interview with Iqbal Aji Daryono, Januari 14 2025
[49] Interview with Mell Shaliha, February 8 2025

respect for their intellectual rights. One of the most obvious impacts is the economic loss suffered by writers and publishers.

The economic impact of piracy was also highlighted by Daryono. According to him, losses due to book piracy do not necessarily make writers lose money directly, but rather the loss of potential income they should receive. "Yes, they are disadvantaged. But the loss does not mean that he loses money, but rather that the money that should have gone to him does not come in," he said.[50] He emphasized that piracy reduces the writer's opportunity to profit from his work because readers prefer to buy cheaper pirated versions. Thus, economic rights that should belong to writers and publishers are instead transferred to parties who do not have rights to the work.

This is also reinforced by the statement of Deepublish Publisher. Supriyana, as the Financial Administration Manager emphasizes that book piracy is very financially detrimental, both for publishers and writers. "What is clear is very detrimental financially. Be it for the publisher, let alone the writer. Because if the revenue doesn't go to the publisher, how will the publisher convey their royalty rights?"[51] In the publishing system, writers generally only get royalties of around 10-15% of the book's selling price, which means their income is highly dependent on the number of original books sold. The more books sold, the more income. Vice versa, if pirated

[50] Daryono, Interview.
[51] Interview with Supriyana, February 6 2025.

books are more widely circulated in the market, the publisher's revenue automatically decreases and the writer's royalty rights are hampered.

Furthermore, the scale of this problem can be seen from a survey conducted by the Indonesian Publishers Association (IKAPI) in 2021. The survey involved more than 130 publishers and found that around 75 percent of publishers experienced piracy of their published books, which were then sold in various markets. Losses due to piracy are estimated to reach hundreds of billions of rupiah.[52] Thus, this data shows that not only does piracy harm individual writers, it also contributes to the weakening of the publishing industry as a whole.

Beyond the economic aspect, piracy also negatively impacts writers' enthusiasm and motivation to create. The lack of assurance in copyright protection discourages many writers from continuing to write, as their efforts are not appreciated financially or morally. As Gunadi stated, "Piracy makes people not value creative work. It discourages people from becoming creators because their benefits are stolen by those pirates." He also said that when the process of valuing creative works is established properly, people will actually be encouraged to produce more works and read more books.[53]

Similarly, Supriyana also noted, "Writers feel discouraged if they write books but do not receive royalties, or if pirated versions sell more. This will ultimately lower writers' motivation to continue writing."[54] Additionally,

[52] Sekretariat, "Pembajakan Buku Membunuh Kreativitas," May 20, 2023, https://www.ikapi.org/pembajakan-buku-membunuh-kreativitas/.

[53] Gunadi, Interview.

[54] Supriyana, interview.

piracy reflects a lack of appreciation for the creative process that writers undergo. Shaliha pointed out that many pirates do not consider the challenges faced by writers in composing a book, from dealing with rejections to working hard to produce quality works for readers.[55] As a result, when works that have undergone a lengthy process are easily copied and sold without permission, it can demotivate writers and even weaken their enthusiasm for continuing to create. Furthermore, if this situation persists, the literary industry may lose talented writers who are reluctant to continue their careers because they feel that their hard work is not properly rewarded. Moreover, the decline in creativity is also related to the declining interest of the younger generation to pursue a career as a writer. If piracy continues without effective action, the writing profession may lose its appeal as it does not promise stable economic sustainability. As a result, the number of new writers emerging may decrease, which in turn can hinder the development of the national literacy world.

Thus, these findings show that IPR violations in the form of piracy have real impacts on writers. Apart from harming them economically, this phenomenon also erodes appreciation of written works as the result of a long and deep intellectual process. When a work can be easily copied and traded without permission, it creates the perception that intellectual products are not valuable or worthy of protection. In fact, behind every published book, there is a long process involving research, editing, and various other stages of

[55] Shaliha, interview.

production that requires diligence and dedication from the writer and publisher. This problem can cause writers to lose motivation to work because they feel that their hard work does not get the appreciation and protection it deserves. If piracy continues without effective law enforcement, writers who depend on royalties as their main source of income may reconsider their profession. This situation affects the individual as well as the sustainability of the publishing industry. In the long run, the lack of guaranteed copyright protection may reduce the number of quality works produced, as well as hinder the development of literacy in society. Thus, IPR protection efforts in Indonesia are still facing complex challenges. Although regulations are available, implementation and law enforcement have not been fully effective in suppressing these violations. Based on the data obtained by the author, the following are the challenges in the protection of the writer's IPR:

1. Lack of Public Understanding

   Protection of IPR does not simply depend on the existence of regulations and institutions, because there needs to be another element that can help optimally enforce the law in the form of public awareness. According to Alfaqiih as an IPR expert, in Indonesia itself, IPR protection has been present and accommodated in various regulations that are continuously updated to be in line with the development of the creative industry and digital economy. The Copyright, Patent and Trademark Laws have undergone several revisions to increase the effectiveness of protection. In addition, from the institutional side, institutions such as the Directorate

General of Intellectual Property (DJKI) have been assigned to manage IPR registration, while law enforcement against IPR violations is under the authority of the police. However, although regulations and institutions are in place, the implementation of IPR protection still faces challenges, especially in terms of public awareness.[56]

As a writer, Shaliha also realizes that people are still unaware of the respect for copyright, "Public knowledge about copyright is still minimal because because people tend to think that books that have been published and widely read belong to the public, so copyright is not considered important. Lack of knowledge about the law also affects public perception of the importance of copyright." [57] The lack of public understanding of copyright is one of the main challenges in the protection of IPR in Indonesia. Many people are unaware of the importance of respecting and safeguarding intellectual works. Without adequate awareness, the public tends to view copyright infringement as something commonplace or may not even realize that such actions constitute a legal violation.

2. Permissive Cultural Norms

Copyright infringement is often considered more acceptable than stealing someone’s physical property. However, in principle, copyright violation remains a form of theft. The main issue lies in public perception, which

[56] Interview with Abdurrahman Alfaqiih, February 14 2025
[57] Shaliha, Interview.

tends to disregard or even justify such violations, especially when they occur collectively. “These are habits that form a pattern, and that pattern is perceived as something right. But in reality, the truth is not determined by how many people engage in a certain behavior."[58] If this pattern continues, copyright infringement will become more ingrained and normalized, fostering a permissive environment toward such actions. In the long run, this will further complicate copyright enforcement efforts and weaken collective awareness of the importance of respecting intellectual work. As a result, creators and copyright holders will continue to suffer losses, while copyright infringement becomes increasingly accepted as a common and unproblematic practice.

3. Lack of Awareness Among Owners

Awareness of the importance of IPR remains a challenge among business owners and creators themselves. In fact, many business owners still do not understand that IP can add value to their enterprises, both in terms of legal protection and potential economic benefits. This is evident from surveys indicating that only a small percentage of business owners recognize or acknowledge IP's role in their business sustainability.[59] Furthermore, in the publishing industry, a lack of IP awareness is also prevalent among writers. Even though registering IP can protect their

[58] Gunadi, interview.
[59] Alfaqiih, interview.

work from piracy or ownership claims by others, many writers have not yet made it a priority.[60]

4. Ineffective Law Enforcement

Although Indonesia has well-established regulations governing IP protection, their implementation still faces numerous challenges. The primary issue does not lie in the legal framework itself but in the effectiveness of enforcement in the field.

"The problem isn't with the law itself but with its enforcement. If we look at the legal framework, the regulations are quite clear, piracy is illegal. The issue is with the control system and how the law is enforced."

He further explained that law enforcement against book piracy faces complex challenges, particularly because many small vendors openly sell pirated books without strict action being taken. There is also concern that crackdowns could spark social controversy or procedural errors that might lead to further disputes.[61]

This situation complicates efforts to protect copyright, especially for writers and publishers who suffer losses due to piracy. The uncertainty in law enforcement allows violators to continue their practices without fear of consequences, while copyright holders often struggle to obtain the protection they deserve. Without a more effective control mechanism and

[60] Supriyana, Interview; Interview with Yulianti, January 22 2025
[61] Daryono, Interview.

consistent enforcement measures, copyright protection efforts will continue to face significant obstacles.

B. Efforts and Strategies for IP Protection

IP protection in Indonesia is regulated under Law Number 28 of 2014 on Copyright. This law provides protection for both the moral and economic rights of authors. Moral rights include the right to be recognized as the creator and the right to object to any modifications that may harm the author's reputation. Meanwhile, economic rights grant authors the ability to financially benefit from their works. Despite the clarity of these regulations, challenges in law enforcement and public awareness regarding the importance of IP protection remain significant obstacles.

Various efforts have been made by stakeholders, including writers and publishers, to protect their works from violations that could cause financial and reputational harm. In the Yogyakarta Province, some of the measures taken by writers and publishers to safeguard copyrights over literary works include:

1. Memorandum of Understanding (MoU) Agreements

   MoU agreements in this context refer to contracts made between publishers and printing partners. Ajeng Yulianti, as a Head of UII Press stated that they have implemented MoU system with printing partners to ensure that the number of printed copies aligns with the agreed quantity and to prevent unauthorized duplication. "We have something like a Work Agreement Letter or MoU with printing partners. Essentially, the printing

partners are only allowed and obligated to reproduce copies in accordance with the MoU provided by UII Press."[62] This preventive measure serves as a form of protection against illegal reprinting by unauthorized parties.

Additionally, MoUs are also established between writers and publishers. Shaliha stated that to protect her works, she collaborates with publishers and follows their guidance in handling copyright violations. "Once my book is published, all related matters must go through the publisher as per the MoU." [63] This demonstrates that both writers and publishers are actively taking preventive steps to protect their IPR, highlighting the importance of legal agreements in safeguarding copyrighted works.

2. Campaign and Education Through Media

   This initiative is undertaken by both writers and publishers. Daryono stated that as a writer, one of the things he can do is raise awareness through social media campaigns.[64] As a publisher, Deepublish also takes a similar approach by educating the public through social media content. "Yes, for us, Deepublish, we are still at the stage of trying to provide educational content for the general public, as well as for our potential customers."[65] This effort aims to increase public awareness of the importance of respecting copyright.

3. IPR Registration to DJKI

[62] Yulianti, interview.
[63] Shaliha, interview.
[64] Daryono, interview.
[65] Supriyana, interview.

Writers who register their works with the Directorate General of Intellectual Property (DGIP) will have stronger legal protection in cases of copyright infringement. In this regard, Supriyana also stated that Deepublish supports writers by facilitating the copyright registration process.

"For us, even on a small scope, at least we educate our potential writers to register their IPR. We also provide free facilitation for some of them."[66]

By registering a book's copyright, writers have legally recognized ownership, making it easier to claim their rights in case of disputes.

4. Strengthening Institutional and Association Capacities

Beyond individual efforts by writers and publishers, organizations and associations also play a role in copyright protection. The Indonesian Publishers Association (IKAPI) and the Indonesian Association of University Publishers (APPTI) have launched various initiatives to raise awareness and enhance copyright protection. Publishers UII Press and Deepublish stated that they frequently participate in webinars and discussions organized by IKAPI, as copyright issues are a constant topic of discussion within the association. This initiative aims to provide publishers with broader insights into handling copyright infringement cases and strengthening advocacy networks for intellectual property protection.

[66] Supriyana, interview.

Despite various measures above being implemented, a more systematic and comprehensive strategy is still needed to enhance IPR protection, given the widespread violations that continue to occur. Several strategies that can be applied include:

1. Enhancing Education and Public Awareness on IPR

   Education on IPR needs to be intensified to increase public awareness regarding the importance of copyright and the negative impacts of piracy. This awareness campaign can be conducted through seminars, training programs, and collaborations with various institutions and communities. [67] By increasing public awareness, people will better understand the economic and legal value of copyright, which in turn can help minimize practices of piracy.

2. Strengthening Regulations and Law Enforcement

   One of the main challenges in IPR protection is the weak enforcement of laws due to inadequate monitoring systems and the lack of strict penalties for violators. Many cases of copyright infringement go unpunished, which further encourages illegal practices. Furthermore, in law enforcement processes, copyright theft should be treated with the same severity as physical theft of goods or other objects. [68] Thus, the government must ensure that copyright protection is enforced with the same level of strictness as other legal violations.

[67] Alfaqiih, interview.
[68] Gunadi, interview.

3. Collaboration with Marketplaces and Digital Platforms

   Marketplaces and digital platforms play a significant role in the distribution of pirated books, both in print and digital formats. Therefore, a stricter collaboration mechanism between the government, publishers, and digital platforms is needed to ensure that books sold in marketplaces are legitimate products. In this regard, the government is expected to pressure platforms that frequently sell pirated books, such as e-commerce sites, to implement effective filtering systems to block the sale of illegal books.[69] Thus, with a more advanced monitoring system, the distribution of illegal books can be significantly reduced.

4. Strengthening IPR Education in Academic Institutions

   Beyond general public awareness, IPR education should also be instilled in academic environments to ensure that younger generations develop an early awareness of the importance of copyright protection. IPR education needs to be integrated into academic curriculum.[70] Through this initiative, students and academics can gain a better understanding of legal aspects and the consequences of IPR violations, encouraging them to respect and protect IPR in every work they produce.

Through the combination of the above strategies, IPR protection in the literary world is expected to be further strengthened. The author believes that IPR protection efforts should not be the sole responsibility of writers,

[69] Daryono, Interview.
[70] Gunadi, Interview.

publishers, or the government, but rather require active involvement from the entire literacy ecosystem. The public plays an equally important role in fostering awareness of the importance of respecting copyright. The literary world should operate on the principle of mutual cooperation, where various elements and individuals concerned with the sustainability of the knowledge ecosystem contribute to building a healthy literacy culture.

This collective awareness is the key to reducing IPR violations. If society increasingly understands that piracy is not merely a legal issue but also an injustice towards creators and the creative industry, a more conducive environment will be created for writers and publishers to continue producing their works. Therefore, in addition to strengthening regulations and law enforcement, reinforcing the literacy ecosystem which is rooted in awareness and collaboration among stakeholders, is a strategic step that must be continuously pursued.

C. The Concept of IPR in Fiqh

1. The Concept of IPR in Islam

The protection of IPR originated in countries in the Western hemisphere, which later became one of the global phenomena rampant throughout the world, including Islamic countries. For Islamic countries, this phenomenon is new. So, there is a lot of debate related to this IPR system because there is no single source of Islamic Law either from the Qur'an or Hadith which explicitly explains this matter. Many argue that Muslims should not adopt IPR as a system of intellectual property

protection. This is because IPR is considered a monopoly system that is very close to capitalism, while Islam strongly rejects it.

IPR are part of intangible legal objects or immaterial property. Therefore, fiqh classifies them as *ḥuqūq al-ma'nawiyyah*. Although these rights are not related to physical objects, they still hold strong legal standing, just like material rights. As stated by Asmuni et al., the basic principle of rights is property, whether in the form of objects, benefits, or pure rights. This is because rights in the context of property beside to tangible objects, also include intangible benefits.[71]

In fiqh literature, there are various terms related to IPR, including copyright, authorship rights, and other rights associated with inventions. A Syrian fiqh scholar, Mustafa az-Zarqa, named such inventions as *ḥuqūq al-ibtikār*. This term emerged due to its broad scope, encompassing various similar rights related to literary works, including Individual Property Rights.[72] *Ḥaqq al-ibtikār*, etymologically, refers to the right over an idea or a newly created work that is originally produced by an individual. In the context of modern knowledge, this term is often equated with "copyright." Terminologically, *ḥaqq al-ibtikār* appears in contemporary fiqh discussions, including those of Fathi ad-Durayni. According to him, *ibtikār* is the intellectual concept produced by a scholar through their reasoning and analysis. In other words, *ibtikār* results from analysis and

[71] Asmuni, Yusdani, and Januariansyah Arfaizar, *Perlindungan Hak Kekayaan Intelektual Perspektif Fikih*, 1st ed. (Yogyakarta: Diandra Kreatif, 2023).

[72] Tohmar, Haqqu At-Ta'lif, Ḍimna Haqqi Al-Ibtikār Fī Al-Fiqh Al-Islami Al-Muqārān.

creativity that leads to a novel invention or work that has never existed before.[73] However, not all objects can be classified as property. According to Juwaini, at least two conditions must be met for something to be considered property. First, the object or benefit must be usable to fulfill human needs, ultimately providing satisfaction that leads to tranquility in human life. Second, it must be owned by a human being. Meanwhile, according to an article written by Asmuni, from a fiqh perspective, there are two essential elements in determining IPR:[74]

a. A work resulting from a person's intellectual thought before it is written into a book or another tangible form, which remains in the form of an abstract idea.
b. The fulfillment of an element of invention in the intellectual work, meaning that it is not a mere repetition of a pre-existing work.

The concept of intellectual property does draw a parallel to the principles of property ownership. Moreover, Balkawi explained that under Sharia law, the acquisition of ownership for real property is permissible either through contractual agreements or appropriation. The concept of appropriation permits individuals to obtain ownership of unutilized real property by cultivating it and making it productive. Likewise, the ownership of personal property can be established by extracting and

[73] Ade Hidayat, "Konsep HAKI Dalam Hukum Islam Dan Implementasinya Bagi Perlindungan Hak Merek Di Indonesia," *Adliya* 8, no. 1 (2014), doi:https://doi.org/10.15575/adliya.v8i1.8626.

[74] Asmuni Mth, "Hak Milik Intelektual Dalam Perspektif Fiqh Islami," *Al-Mawarid* 9 (2002).

possessing materials sourced from the earth or public lands. This framework is comparable to Locke's labor theory and the *'sweat of the brow'* doctrine as applied in IPR. Consequently, ownership is conferred upon individuals who dedicate their effort to the development of resources, thereby entitling them to the fruits of their labor.[75] In essence, individuals who allocate their time and energy to creating new works—whether tangible or intangible—merit the right to benefit from the value generated by their creations.

Based on the conditions mentioned above, as the fruit of one's thoughts, books are part of *ḥaqq al-ibtikār.* That is because the book is the result of someone's intellectual thinking and has been poured in the form of writing, has originality value, and provides benefits for humans. With the rights and concepts of ownership above, a person is able to get legal protection for his ownership, as a result he can take legal action against the object or property as long as there is no provision from the Sharia that prohibits it.[76] On that basis, intellectual works in the form of books can also be categorized into this.

Thus inherently, Islam acknowledges and upholds the protection of intellectual property ownership. This principle aims to ensure that creators or owners are rightful benefit from their works as a result of their efforts and creativity. However, this principle is increasingly challenged by the

[75] Bashar H Malkawi, "Intellectual Property Protection from a Sharia Perspective," *Southern Cross University Law Review* 16 (2013): 87–121.

[76] Mardani, *Hukum Bisnis Syariah* (Jakarta: Prenada Media, 2014).

widespread occurrence of violations such as piracy, particularly in various forms of works, including literary publications. Piracy, as a form of IPR infringement in the world of literacy, is a serious issue that requires a study of the perspective of Islamic law. In various references and foundations of Islamic law, there are many arguments that can be used as a basis in prohibiting piracy and legitimizing IPR protection. Among them is the Word of Allah SWT in QS al-Baqarah (2): 188

وَلَا تَأْكُلُوْٓا اَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتُدْلُوْا بِهَآ اِلَى الْحُكَّامِ لِتَأْكُلُوْا فَرِيْقًا مِّنْ اَمْوَالِ النَّاسِ بِالْاِثْمِ وَاَنْتُمْ تَعْلَمُوْنَ ع

> "Do not consume one another's wealth unjustly, nor deliberately bribe authorities in order to devour a portion of others' property, knowing that it is a sin."[77]

According to Nawawi al-Bantani, this verse is a warning as well as a threat to people who do wrong to others by eating or controlling their property by false means, such as making false oaths, false testimony, making false reports, or other false methods. Sheikh Nawawi Banten in his interpretation explains that the meaning of the verse is that Allah forbids Muslims to take the property of some others in a way that is forbidden according to Sharia.[78] So, the prohibition of taking other people's property by false means is very relevant in the context of IPR violations. IPR is part of protected property rights, and violating it is tantamount to taking or

[77] "Https://Quran.Com," accessed February 16, 2025, https://quran.com/.

[78] Muḥammad Nawawī al-Jāwī, *At-Tafsīr al-Munīr Li Ma'ālim al-Tanzīl*, vol. 2 (Beirut: Dār al-Fikr, n.d.).

utilizing someone else's work without legal permission. Piracy, whether in the form of unauthorized use or illegal reproduction, therefore falls under the category of taking someone else's property by wrongful means.

In producing their work, writers have sacrificed a lot of money, energy, and thought. Therefore, it is natural for them to expect rewards, both moral and material, as a substitute for their sacrifices as well as to gain profit. Piracy hinders the realization of these expectations and causes great losses to the creators while the pirates gain instant profits. As the author explained earlier, the loss caused by piracy, especially in the case of book piracy, is not only economically detrimental to individual writers, but in the long run it also affects the sustainability of the publishing industry. Authors who use writing as their main source of income will think twice about continuing their profession. Thus, it can reduce the production of quality works and hamper the development of literacy in society. In this regard, Allah has emphasized the prohibition in the Qur'an not to commit harmful acts, as in QS asy-Syu'arā' (26): 183

وَلَا تَبْخَسُوا النَّاسَ اَشْيَآءَهُمْ وَلَا تَعْثَوْا فِى الاَرْضِ مُفْسِدِيْنَ ۚ

> “And do not defraud people of their property. Nor go about spreading corruption in the land.”

In this context, the verse above provides confirmation regarding the prohibition of taking actions that cause harm, both to oneself and others. This verse also prohibits all acts of arbitrariness and damage. Then, the

prohibition of doing harm is also found in the hadith narrated by Ibn Majah from 'Abbas, which reads:

قَالَ رَسُولُ اللَّهِ صلى الله عليه وسلم " لاَ ضَرَ وَلاَ ضِرَارَ "

The Messenger of Allah)ﷺ) said: "There should be neither harming nor reciprocating harm."[79]

This hadits prohibits any act that may cause harm to oneself and others. Piracy of one's work can harm the rights of creators and rights holders, both their economic rights and moral rights. In addition, piracy can also cause more fatal damage by decreasing the passion to produce further works. Even though their works are very much needed for the development of science in a larger scope.

From these arguments, it has been strictly forbidden for believers to utilize, eat, and use other people's property without the permission of the owner. In this context, work piracy is a clear form of action that harms the creator of the work and the wider community. The negative impact of piracy, such as the loss of incentives for creators to continue working, has the potential to harm the development of science and art that should bring great benefits to mankind. Although not explicitly mentioned related to the piracy of intellectual works, but the meaning is sufficiently represented by the generality of the proposition. Thus, copyright is indeed recognized to

[79] Ibn al-Imad al-Hanbali, Syadẓarāt Ad-Dzahab, vol. 8 (Beirut: Dār al-Kutub al-‘Ilmiyyah, 1992).

protect the interests of the creator of the work as well as respect for the rights of a human being.

2. Analysis The Efforts According to Islam

Protection of IPR, especially for writers in the context of copyright, has been pursued through various mechanisms and policies. The Copyright Law, related regulations, as well as initiatives from the literacy community and publishers are the main instruments in safeguarding the rights of writers to their works. However, in its implementation, there are still various challenges that hinder the effectiveness of this protection. The main obstacle that is often faced is the lack of public awareness about the importance of respecting copyright, which has led to the rampant practice of plagiarism, book piracy, and illegal distribution of written works. On the other hand, law enforcement against copyright infringement often faces various obstacles, both in terms of technicalities and weak support in cracking down on infringers

Through information from various stakeholders, including writers, publishers, and IPR experts, the author has obtained various suggestions in addressing this challenge. Among them include increasing public education and awareness about IPR. This strategy can be done through seminars, training, and cooperation with institutions so that people understand the importance of copyright and the negative impact of piracy. This includes IPR education in the academic environment that is integrated into the curriculum to instill early awareness of copyright protection and

intellectual property ethics. Furthermore, regulation and law enforcement also need to be improved. One of the strategic steps proposed is to crack down on copyright theft as strictly as physical asset theft in order to provide a deterrent effect for infringers. In addition, due to the rampant buying and selling of pirated works digitally, there needs to be collaboration with digital platforms and marketplaces. For example, through a strict filtering mechanism to suppress the spread of pirated books and works in the marketplace.

The above efforts and strategies both in line with the principles of copyright protection in positive law and in accordance with Islamic principles that emphasize the importance of eliminating harm and maintaining the common good. In Islam, there are a number of fiqh rules that can be used as a basis in protecting IPR. As is the case with this one rule:

الضرر يزال

"The harm (loss) must be eliminated."[80]

This fiqh principle summarizes the general purpose and spirit of Islamic law that all forms of harm must be eliminated because they will endanger and damage human life. In the context of IPR protection, piracy and unauthorized exploitation of works are forms of harm that have proven detrimental to writers and creative industry players. Therefore, the efforts

[80] ‘Alī Aḥmad al-Nadwī, Al-Qawā‘id al-Fiqhiyyah (Damascus : Dār al-Qalam, 1994), 27.

and strategies implemented such as the creation of MoUs between writers, publishers, and partners, as well as the proposed collaboration with marketplaces in suppressing pirated works have reflected the principles of this rule. Since piracy and unauthorized exploitation of works cause economic losses to writers and can reduce literacy production, measures such as MoUs and strengthening regulations aim to prevent such harm. With a formal agreement between the parties involved, the risk of copyright abuse can be minimized, while monitoring the distribution of works on digital platforms can prevent the spread of pirated goods.

As for the government's efforts and strategies in dealing with violations in this context, it shows the application of the rules:

تصرف الإمام على الرعية منوط بالمصلحة

"Policies towards the people must be based on the benefit."

This rule emphasizes that every policy made by the government or authority must prioritize the benefit of the community. In Islam itself, leaders have the responsibility to protect the people from injustice, including in the economic and intellectual aspects. When IPR are not protected, injustice occurs because certain parties can benefit from the work of others without giving proper rights. Therefore, state intervention in regulating IPR protection is part of the effort to create benefits for the community.

The application of this rule has been concretely reflected through several efforts, such as the existence of regulations that recognize copyright as a legitimate right and the legal protection given to it. Furthermore, IPR policy advocacy efforts are carried out through cooperation with various institutions to improve the effectiveness of regulation. The existence of IPR protection policies normatively has indeed shown the implementation of this rule. However, in its own implementation, there are still challenges in ensuring that this policy actually runs in accordance with the principle of benefit. The challenge lies in the weak law enforcement for violators, so that the protection provided cannot be said to be optimal. Therefore, in order for this rule to be fully realized, it is necessary to evaluate and strengthen the implementation aspect of law enforcement in order to optimize the role of the state in protecting IPR as an effort to realize human benefit.

The issue of intellectual property rights violations or piracy appears to be a challenge in contemporary society. This problem is not explicitly addressed in earlier legal or religious texts that specifically protect intellectual property. However, upon closer examination, the recognition of others' creative works has existed since ancient times. For example, during the period of hadith documentation, there was an obligation to verify the chain of narrators (isnad) in accordance with the principles established in the science of hadith methodology (*'ilm musṭalah al-hadīth*). A more concrete example is the case involving Imam al-Suyuti, who

brought a legal complaint against Imam al-Qastilani before Sheikh Zakariyyah al-Ansari, serving as the judge at the time. The complaint accused Imam al-Qastilani of appropriating scholarly ideas from several of Imam al-Suyuti's works without proper attribution to their source or author.[81] This historical precedent illustrates the enduring principle of respecting intellectual contributions, which aligns with the modern understanding of intellectual property protection.

As for the contemporary era, Fath ad-Durayni, in his book *Ḥaqq al-Ibtikār fī al-Fiqh al-Islāmī al-Muqāran* said that the majority of scholars from among the Malikiyah, Shafi'iyah and Hanabilah consider that copyright on original creations and benefits as valuable property as well as objects that according to Islamic law can also be utilized.[82] The recognition of intellectual property is because intellectual work is classified as property, and what is meant by property is everything of value, so the person who damages it is obliged to bear the burden or the consequences.[83]

This is in line with what Wahbah Zuhaili said. According to him, the author's rights, which included in the new legal category known as moral rights, are protected by Shariah based on the rules of *istiṣlah* or *maṣlaḥah mursalah*, which considerations are in accordance with the actions and

[81] Ibn al-Imad al-Hanbali, *Syadẓarāt Ad-Dzahab*, vol. 8 (Beirut: Dār al-Kutub al-'Ilmiyyah, 1992).

[82] Fatḥ ad-Duraynī, Ḥaqq Al-Ibtikār Fī al-Fiqh al-Islāmī al-Muqāran (Beirut: Mu'assasah ar-Risālah, 1984), 20.

[83] 'Abd al-Wahhāb Khallāf, Ilm Uṣūl Al-Fiqh (Kuwait: Dār al-Qalam, 1978), 90.

objectives of Shariah, but do not have specific evidence stating their recognition or cancellation. Furthermore, if a writer has put a great deal of effort into compiling his work, then he is entitled to get the benefits both in terms of material (material benefits) and non-material (recognition of his work). This right will always be his and then passed on to his heirs.

Therefore, based on these arguments, the act of reprinting a book or copying it is considered a violation of the writer's rights, and can be said to cause punishment in Sharia. Therefore, such acts must be dealt with firmly by confiscating the copies that have been unjustly printed and compensating the author for the non-material losses suffered.[84] The opinions of the scholars above have aligned with what has been pursued by stakeholders in dealing with various kinds of violations. Normatively too, regulations and law enforcement have been designed such as sanctions in the form of criminal penalties, administrative sanctions, fines, or withdrawal of pirated goods in order to provide protection for IPR.

Apart from that, there are other views on this matter. Some scholars argue that in Islamic history, the concept of ownership of intellectual works is not entirely exclusive but rather emphasizes the aspect of affordability of knowledge for the benefit of the people. The benefit referred to here, unlike what the author discussed earlier, refers to the economic aspects of

[84] Fatḥ ad-Duraynī, *Ḥaqq Al-Ibtikār Fī al-Fiqh al-Islāmī al-Muqāran*.

the writer, and the development of scientific culture and respect for the work.

Al-Buti explains in his book that in the past, writers did not prohibit the copying of their books and did not ask for compensation for permission to do so. This was due to the fact that their intention was to gain reward for their intellectual efforts in writing these works, rather than trading them commercially. However, he adds, if the situation at that time is compared to today, the situation will be different. Nowadays, the development of printing technology has advanced so much that copying works no longer requires the same amount of effort, energy or money as in the past.

In connection with this, the knowledge contained in a scientific work is the exclusive property of the writer. Therefore, it is not permissible for anyone to utilize the work, without permission from the owner. The writer has the authority to sell or give permission to others to read his/her work. This right includes the decision to print, distribute, or even withhold publication of his work. The writer also has the right to make personal use of his/her work or give permission to others to make use of the work. However, this right also does not automatically transfer to the buyer of physical media. The buyer only gets the right to use the content of the work, but the intellectual rights remain with the creator.[85]

[85] Muḥammad Tawfīq Ramaḍān al-Būṭī, Al-Buyū‘ al-Syā’i‘ah Wa-Aṡar al-Ḍawābiṭ al-Mabī‘ ‘alā Syar‘iyyatihā, 6th ed. (Damascus: Dār al-Fikr, 2010), 221-222.

The views of scholars and jurists regarding the recognition of copyright and intellectual works reflect an awareness of the importance of protecting the results of the intellectual efforts of writers and other creators of works. The view is certainly based on classical arguments which are then adapted to the context of the times. Based on this study, it can be concluded that the protection of IPR also has a dimension of social justice and public welfare. As scholars assert that copyright is a legitimate right and must be protected based on the rule of *istiṣlah*, so the views of scholars and IPR protection efforts that have been described in this study have a same understanding because both use the principle of *maṣlahah* as the basis.

In Indonesia, the regulation of IPR is not only based on regulations established by the state but has also involved social and religious institutions. One of them can be seen from the attitude of the Indonesian Ulema Council (MUI), which also highlighted the problem of IPR violations. In mid-2005, MUI issued a fatwa related to IPR number 1/MUNASVII/MUI/5/2005. The fatwa is a response to public unrest in witnessing various IPR violations that harm and endanger various parties. The content of the fatwa has similarities with the provisions of the law that cover the protection rights of plant varieties, trade secrets, industrial designs, integrated layouts, patents, rights to brands, and copyrights. However, this fatwa is strengthened with the basis of Islamic law, such as QS al-Baqarah verse 79, QS an-Nisa verse 79, the Sunnah of the Prophet,

and the ijtihad of previous scholars. This MUI fatwa states that IPR is a property right that is protected like other property rights. The property rights protected by Islam are the results of intellectual property that is not contrary to Islam, which can then be exchanged, inherited, and even represented. According to the fatwa, the infringement of IPR is an injustice and haram.

Based on the author's descriptions above, it is clear that the position of IPR protection efforts in terms of Islamic law. This is evidenced by the presence of fatwas of scholars, in accordance with the rules of fiqh related to its protection, which is based on the Qur'an and Sunnah of the Prophet Muhammad and ultimately leads to the same goal, namely *maṣlahah.*

3. IPR according to *Maqāṣid al-Syarī'ah*

If Wahbah Zuhayli uses the principle of *istiṣlah* (public interest) as the basis for recognizing the protection of IPR, then the *Maqāṣid al-Syarī'ah* approach can also be applied to address this issue systematically and contextually. *Maqāṣid al-Syarī'ah*, which represents the primary objectives of Islamic legal legislation, serves as a normative foundation for protecting fundamental human rights, including the right to create works born from intellectual and creative processes.

However, some people, including among Muslims, argue that intellectual works do not require legal protection and should be freely disseminated. They claim that spreading knowledge is an act of worship. Therefore, those who seek to teach knowledge, especially religious

knowledge, should not do so for commercial purposes. According to this view, IPR protection particularly copyright, same with trading the knowledge.[86]

Although this perspective appears noble, it is incomplete when examined from the perspective of *maqāṣid al-syarī'ah*, as formulated by Jasser Auda and classical *maqāṣid* scholars such as Al-Ghazali. The IPR protection aligns with *maqāṣid al-syarī'ah* because it aims to safeguard the rights of individual creators of intellectual works, encourage innovation, and ensure broader public welfare. In this analysis, the author applies the *maqāṣid al-syarī'ah* theory introduced by Jasser Auda through his systems approach. As a contemporary Islamic thinker, Auda offers a progressive *maqāṣid* paradigm, which, while rooted in traditional protection, seeks to adapt *maqāṣid* to the challenges and dynamics of modern times. Auda proposes that *maqāṣid al-syarī'ah* should not be viewed merely as a static principle but rather as a dynamic concept capable of providing solutions to modern issues, including the IPR protection in this context.

Here the author presents a comparison of the progressiveness between the *maqāṣid* proposed by Auda and earlier scholars, such as Al-Ghazali. In one of his works, Al-Ghazali categorizes *maqāṣid* into specific levels: *ḍarūriyyāt* (primary), *ḥājjiyyāt* (secondary), and *taḥsīniyyāt* (tertiary).[87] Auda proposes an alternative approach. He argues that in the

[86] Asmuni, Yusdani, and Arfaizar, *Perlindungan Hak Kekayaan Intelektual Perspektif Fikih*.

[87] Abū Ḥāmid al-Ghazālī, *Syifā' al-Ghalīl Fī Bayān Asy-Syubah Wa al-Mukhīl Wa Masālik at-Ta'līl* (Baghdad: Maṭba'ah al-Irsyād, 1971).

context of Islamic legislation, *maqāṣid* should no longer be understood hierarchically, they hold equal standing within an interconnected system.[88] This view reflects the dynamic nature of human needs, which often cannot be categorized rigidly but require flexibility to adapt to different situations and conditions. Through this non-hierarchical approach, Auda integrates *maqāṣid al-syarī'ah* into a broader system where all elements complement each other and work together to achieve the ultimate objectives of *shariah*. This approach provides a new perspective on understanding *maqāṣid al-syarī'ah* as a dynamic, contextual, and relevant framework for modern issues, including the legal protection of IPR.

Similarly, Asy-Syatibi conceptualized *maqāṣid al-syarī'ah* as consisting of five main elements: *ḥifẓ ad-dīn* (preservation of religion), *ḥifẓ an-nafs* (preservation of life), *ḥifẓ al-'aql* (preservation of intellect), *ḥifẓ al-māl* (preservation of wealth), and *ḥifẓ an-nasl* or *'irdh* (preservation of lineage or honor).[89] Jasser Auda expands upon these *maqāṣid* to address the needs of the modern era. For example, the element of *ḥifẓ al-māl*, which was traditionally understood as the protection of material or physical wealth, is broadened by Auda to encompass the protection of all forms of ownership, including intellectual property. So, according to his interpretation, *ḥifẓ al-māl* is no longer limited to tangible assets but includes intangible assets such as intellectual works, innovations, and

[88] Danial, *Epistemologi Hukum Islam Jasser Auda* (Lhokseumawe, 2021).

[89] Muḥammad 'Abdullāh Darāz, *Al-Muwāfaqāt Fī Uṣūl al-Syarī'ah* (Beirut: Dar al-Kotob al-Ilmiyah, 2004).

creative outputs that significantly contribute to society. Through this development, *maqāṣid al-syarī'ah* becomes more relevant and adaptive to contemporary realities.[90]

More clearly, through his writing *Maqasid Syariah as Philosophy of Islamic Law: A System Approach*, Auda explains that the system approach he proposes aims to integrate various aspects of *maqāṣid al-syarī'ah* with interconnected social, economic, and political structures. This approach emphasizes the importance of the flexibility of Islamic law in addressing contemporary realities without abandoning its core values. With this system approach, Auda formulates six main elements in *maqāṣid al-syarī'ah* as the foundation of analysis: cognition, holism, interrelated, openness, multi-dimensionality, and purposefulness.

This study finds that the IPR protection can be analyzed and integrated into Auda's system approach framework, which consists of five elements: cognition, holism, openness, multi-dimensionality, and purposefulness. These findings highlight that the system approach offers a comprehensive understanding of the relationship between *maqāṣid al-syarī'ah* and legal protection for writers and creators.

a. Cognition

The protection of IPR is the result of human interpretation of the principles of *maqāṣid al-syarī'ah*. This perspective affirms that the

[90] Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A System Approach* (London: The International Institute of Islamic Thought, 2007).

protection of IPR, although not explicitly mentioned in *nash*, can be understood as part of the obligation to safeguard individual rights and encourage creativity. Thus, it acknowledges that laws related to IPRs are part of *ijtihad* that aligns with contemporary needs.

b. Holism and interrelated

The feature of holism in the system approach means viewing something as a whole rather than in isolated parts. In the context of Islamic law, this feature teaches that Islamic regulations should not be understood separately but must be seen as part of the broader objectives of *shariah* as a unified system. For example, the obligation of *zakat* does not stand alone as an act of worship but is part of a broader Islamic system to create economic balance and social solidarity. In this context, the protection of IPR besides safeguards the creator's economic interests also supports the advancement of knowledge and technology for the benefit of society. This demonstrates that Islamic regulations have interconnected and mutually reinforcing objectives for the common good.

c. Openness

The Islamic legal system must be open to changes over time and scientific advancements, including the digital era and globalization. The relatively new concept of IPR can be accommodated due to the openness of Islamic law in addressing contemporary issues. This openness also allows for further recognition of modern innovations,

such as digital works, internet-based technology, and scientific knowledge. Through this openness, *maqāṣid* can remain relevant in facing new challenges.

d. Multi-dimensionality

The multidimensional approach in Islamic law assesses IPR based on a spectrum rather than a binary decision (halal or haram). Likewise, the protection of IPR is considered from various dimensions, such as social benefits, economic impact, justice, sustainability, and accessibility. This ensures that IPR are regulated in a balanced manner to protect individual interests while promoting the distribution of benefits to society at large.

e. Purposefulness

In Auda's approach, the feature that serves as the common link among the previous features demonstrates that Islamic regulations are not merely textual or ritual but must be directed toward achieving the overarching objectives of *shariah*. Every law is designed to provide benefits and prevent harm to society as a whole. Thus, the protection of IPR aligns with *maqāṣid al-syarī'ah*, as its primary goal is to safeguard wealth, rights, and well-being for all.

Referring to the five elements proposed by Jasser Auda above, it can be concluded that the protection of IPR is closely related to *maqāṣid al-syarī'ah* in realizing public welfare. These elements illustrate how Islamic

law can flexibly adapt to the continuously evolving social, technological, and economic dynamics.

Therefore, the system approach formulated by Jasser Auda offers a progressive paradigm that expands the understanding of *maqāṣid al-syarī'ah*, encompassing the protection of both tangible and intangible ownership, including intellectual works. By integrating elements such as cognition, holism, openness, multi-dimensionality, and purposefulness, *maqāṣid al-syarī'ah* transforms into a dynamic and adaptive framework. From Auda's perspective, the protection of IPR is not merely an implementation of the principle of *ḥifẓ al-māl* but more contributes to the preservation of intellect, social justice, and the general welfare of the community. Thus, it remains aligned with the ultimate objectives of *shariah* in maintaining balance and sustainability in human life.

D. Prescriptive Analysis of This Issue

The issue of IPR protection in Indonesia presents a complex challenge, involving legal frameworks, public awareness, enforcement mechanisms, and ethical considerations. Addressing this issue requires a comprehensive approach that involves strengthening regulatory enforcement, enhancing public literacy, and fostering a culture of copyright respect. Additionally, from an Islamic perspective, IPR protection must balance individual rights with the collective benefit of knowledge dissemination, ensuring that copyright enforcement aligns with ethical principles and social justice. This section explores strategic solutions from three key perspectives: the government's

role in regulatory reform, the writer's proactive measures in safeguarding their rights, and the Islamic framework that upholds the protection of intellectual property while promoting fairness and accessibility.

1. For the Government

Normatively, IPR protection in Indonesia has been regulated under Law Number 28 of 2014 on Copyright.[91] This law covers recognized forms of IPR, the legal basis for recognizing the economic and moral rights of writers, as well as the sanctions imposed on copyright violations. Although this regulation is quite comprehensive, IPR violations in the form of piracy remain an unresolved issue. This phenomenon reflects the complexity of issues related to legal aspects, public awareness, and the enforcement mechanisms that are not yet optimal. In this context, as emphasized by Alfaqiih, the effectiveness of a legal regulation does not only depend on its existence in the legal system but also on public compliance and the role of institutions in enforcing it.[92] Therefore, strategic steps are needed from the government to strengthen IPR protection and reduce the level of piracy in society.

a. Regulatory Reform and Law Enforcement

One of the main obstacles in enforcing IPR in Indonesia is that IPR violations are classified as a general offense, meaning that law enforcement officials can only act if there is a report. This prevents

[91] Undang-Undang Republik Indonesia Nomor 28 Tahun 2014 Tentang Hak Cipta
[92] Alfaqiih, interview.

them from taking proactive action without a formal complaint.[93] Therefore, a review of existing regulations is necessary so that IPR violations can be proactively addressed by law enforcement agencies without relying on victim reports. Additionally, law enforcement mechanisms need to be strengthened by forming a special task force focused on monitoring and cracking down on IPR violations. This task force can collaborate with the Directorate General of Intellectual Property (DGIP), the police, and other relevant institutions to oversee the circulation of pirated books, both in conventional markets and on digital platforms. This task force should also be supported by a technology-based monitoring system that enables early detection of IPR violations in public spaces and on the internet.

b. Strengthening Public Literacy and Awareness

The government must also increase public awareness of the importance of respecting copyright and the negative impact of piracy on the creative industry. One strategy that can be implemented is a massive and continuous educational campaign through social media, television, and various digital platforms frequently accessed by the public. This campaign should explain that piracy harms individual writers and also hampers the overall development of the publishing industry. Beyond public campaigns, IPR education should also be

[93] "Usaha DJKI Perangi Pelanggaran Kekayaan Intelektual di Indonesia," Direktorat Jenderal Kekayaan Intelektual (DJKI), https://www.dgip.go.id/artikel/detail-artikel-berita/usaha-djki-perangi-pelanggaran-kekayaan-intelektual-di-indonesia?kategori=liputan-penyidikan-ki

integrated into the formal education curriculum. Topics on copyright, the importance of IPR protection, and the legal consequences of copyright violations should be introduced early, especially in subjects related to law, economics, and entrepreneurship. This way, a culture of legal awareness can be fostered among younger generations.

c. Optimization of Reporting and Monitoring Mechanisms

The reporting and monitoring mechanisms for IPR violations need to be improved to be more accessible to the public. The government can develop a dedicated digital platform that allows people to report piracy cases quickly and efficiently. For example, by providing an IPR complaint hotline or a mobile reporting application that enables users to upload evidence of violations directly. Additionally, social media can be utilized as a strategy to enhance monitoring effectiveness. Law enforcement agencies can use official social media channels to receive public reports and provide updates on actions taken to address IPR violations. With a more transparent and responsive system, public participation in monitoring copyright violations is expected to increase.

Based on the above analysis, it can be concluded that the government plays a central role in creating a more effective IPR protection ecosystem in Indonesia. Efforts should include regulatory reform and law enforcement mechanisms, strengthening public literacy and awareness, optimizing reporting and monitoring systems, and building

an ecosystem that supports copyright compliance. With a more systematic and comprehensive approach, the level of IPR violations, particularly in the book publishing industry, can be effectively minimized, ensuring better protection of writers' and publishers' rights.

2. For Writers

   a. IPR Registration as a Legal and Economic Protection Instrument

      The fundamental step that every writer must take is to officially register their work with the Directorate General of Intellectual Property (DGIP). This registration provides a strong legal basis for writers to claim ownership of their work and take legal action in case of infringement. Additionally, the copyright legalization process serves as formal recognition that strengthens the writer's position in the creative industry. From an economic perspective, registered copyrights offer advantages in terms of exclusive licensing and distribution, allowing writers to receive royalties[94] and engage in commercial collaborations with publishers or digital platforms. Therefore, copyright registration functions not only as legal protection but also as an instrument to ensure the writer's economic sustainability.

   b. Educational Campaigns and Advocacy

[94] "Keuntungan Mencatat Hak Cipta," *Payung Paten*, accessed February 26 2025, https://www.payungpaten.com/keuntungan-mencatat-hak-cipta/.

To raise public awareness, writers also have a responsibility to campaign for the importance of respecting copyright. These campaigns can be conducted through various mediums, such as social media, academic seminars, and collaborations with literacy communities. Collaboration with media and digital platforms can also be utilized to spread the narrative of supporting original products. Therefore, the public is expected to better understand the urgency of copyright respect and be encouraged to change their behavior in accessing intellectual works.

c. Utilizing Writer Communities

One of the main challenges faced by writers, especially independent writers, is limited access to legal advocacy when dealing with copyright infringements. To address this challenge, joining a writer's community or association can be a strategic solution to strengthen IPR protection. One example is the Forum Lingkar Pena (FLP), which serves as a platform for writers to enhance their skills in the writing world. Through these communities, writers can gain legal support, access information on IPR policies, and share experiences in dealing with copyright violations. Additionally, these communities can also act as a voice for writers in advocating for stronger IPR protection policies from the government and related institutions.

From the writer's perspective, IPR protection must be accompanied by strategic initiatives covering legal, economic, educational, and

advocacy aspects. By consistently applying these strategies, besides defending their rights the writers can also contribute to build a more sustainable literacy culture in Indonesia.

3. The Spirit of Islam in This Issue

As previously explained, Islam fundamentally offers a solution for IPR protection based on the principle of public benefit *(maṣlahah)*. This principle implies that IPR are protected to maintain a balance between individual interests and the broader public good. Yusuf al-Qaradawi states that Islam recognizes economic freedom, including economic rights, as long as they do not contradict Sharia and do not violate the principle of justice. Therefore, IPR protection in Islam must consider the public interest and should not become a tool for economic exploitation that benefits only a few.

In most Islamic literature, *ḥifẓ al-māl* (protection of wealth), introduced by Al-Ghazali, serves as the foundation for legitimizing IPR protection. According to this concept, Islam views economic protection as a crucial element for ensuring individual well-being. However, the challenge lies in balancing the exclusive rights of IPR owners with the public's need for access to knowledge. Excessively strict regulations might hinder knowledge distribution to society, while weak protection could disadvantage creators by disregarding their rights. Hence, IPR regulations aligned with Islam should seek a balance between exclusive ownership and public access to knowledge. A policy based on flexibility may serve as a

solution to ensure IPR protection remains in harmony with the principle of *maṣlahah*.

Moreover, Islam prohibits the wrongful exploitation of others' rights, as emphasized in Surah Al-Baqarah: 188: "And do not consume one another's wealth unjustly." However, the widespread occurrence of IPR violations indicates that public awareness of the importance of respecting IPR remains low. This phenomenon suggests that legal regulations alone are insufficient to guarantee IPR protection, as Indonesia has already enacted relevant laws. The problem may stem from weak law enforcement against copyright violations and a lack of socialization regarding the urgency of IPR from an Islamic perspective.

As a country with a Muslim-majority population, Indonesia should adopt preventive approaches, one of which is integrating Islamic values into education to emphasize the importance of trust *(amanah)* and honesty while fostering an understanding of intellectual property ethics.

From a policy perspective, Islam allows the state to regulate IPR protection, granting the government the authority to establish regulations based on public welfare, as explained in the principle "Policy regarding the people must be based on public benefit." Ibn Taymiyyah argues that the state serves as an instrument for achieving social justice and is responsible for preventing all forms of oppression. According to Ibn Taymiyyah, the state must intervene to enforce justice and protect individuals from any threats or losses. This includes ensuring IPR

protection for creators. However, it is important to note that state regulations should consider the principle of balance to prevent economic disparities in intellectual property ownership. A fairer royalty distribution system and greater appreciation for independent creators can serve as solutions to ensure that the benefits of IPR are equitably shared among all involved parties.

By considering these critical aspects, IPR protection infused with the spirit of Islam acknowledges the necessity of positive legal norms. However, moral awareness and the balance of interests must also be taken into account. In essence, IPR protection in Islam demands social justice so that both individual rights and collective societal interests can coexist harmoniously. Therefore, synergy between the government, Islamic-based educators, and society plays a key role in establishing an IPR protection system that aligns with Islamic values.

CHAPTER V

CONCLUSION

A. Conclusion

1. This research shows that writers and key stakeholders in the literacy industry in the Special Region of Yogyakarta views book piracy as a serious threat to the literacy ecosystem. The author revealed that piracy is financially detrimental and demotivates writers to continue producing works. From the publisher's perspective, piracy can cause significant economic losses and hamper a fair royalty distribution mechanism for writers. Although Indonesia has recognized the protection of IPR, one of which is through Law Number 28 of 2014 on Copyright, and writers and publishers have made various efforts to protect their works, the reality is that respect for copyright still faces challenges. This can be seen from the low level of public awareness, permissive attitudes toward piracy, and ineffective law enforcement, which allow IPR violations to persist. Therefore, stakeholders emphasize the need for synergy between writers, publishers, government, and society in raising awareness about the importance of copyright protection, tightening regulations, and creating a firmer and more effective legal protection system to protect the literacy ecosystem in Indonesia.
2. From a fiqh perspective, IPR is equated with the term *ḥaqq al-ibtikār*. The protection of IPR is recognized as part of *ḥuqūq al-ma'nawiyyah*, which is an intangible right that still has ownership value in Islam. In classical *maqāṣid al-sharī'ah,* this concept is supported by the principle of *ḥifẓ al-māl*, which asserts that a person's wealth, including copyrights on intellectual works, should be protected and should not be unlawfully seized. Some Qur'anic verses, such as QS Al-Baqarah: 188 and QS Asy-Syu'arā': 183, as well as the hadith about the

prohibition of unjustly taking the rights of others, are the basis for this prohibition. Moreover, through the systems approach in *maqāṣid al-syarī'ah*, as developed by Jasser Auda, IPR protection is not only understood as an individual right. Based on Auda's theory, the protection of IPR is an effort to maintain a balance between the interests of the creator and the public good to maintain the sustainability of innovation, creativity, and the development of science in society. Through Auda's principles, Islam encourages a balance between the protection of individual rights and society's fair access to knowledge. Therefore, IPR protection in Islam extends beyond legal recognition. It is a moral and social responsibility that must be upheld to foster a healthy ecosystem while safeguarding the rights of creators.

B. Suggestion

1. The government needs to strengthen supervision and law enforcement policies against IPR violations, including tightening supervision in conventional and digital markets. Law enforcers are expected to take firm action against piracy perpetrators with sanctions that provide a deterrent effect.
2. The public is expected to raise awareness of the importance of respecting copyright by choosing original books and reporting piracy practices. Education through schools, literacy communities, and digital media should be promoted so that people understand the negative impact of piracy on the national literacy industry.
3. This study still has limitations in terms of coverage area and number of informants interviewed, which mainly focuses on writers and stakeholders in the literacy industry. Therefore, it is hoped that future research can explore deeper into the perpetrators of piracy by examining the motives, factors, and also effectiveness of IPR regulations in suppressing the number of violations. Thus,

future research can provide more concrete and applicable policy recommendations in an effort to combat IPR infringement in Indonesia.

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APPENDIX

Appendix I. Interview Question List

Questions for Writer

1. How long have you been working as a writer?
2. Have you ever experienced copyright infringement, such as book piracy? If so, how did it impact you?
3. How do you protect your work from copyright infringement?
4. Do you think the existing laws in Indonesia are sufficient to protect writers' rights? Why or why not?
5. In your opinion, does copyright protection affect the dissemination of your ideas to a wider audience?
6. To what extent do you think society understands the importance of respecting writers' copyrights?
7. As a writer, what is your perspective on copyright infringement from an ethical and social/cultural values standpoint?
8. What are your expectations for the government, relevant institutions, and society in raising awareness about copyright protection?

Questions for Publisher

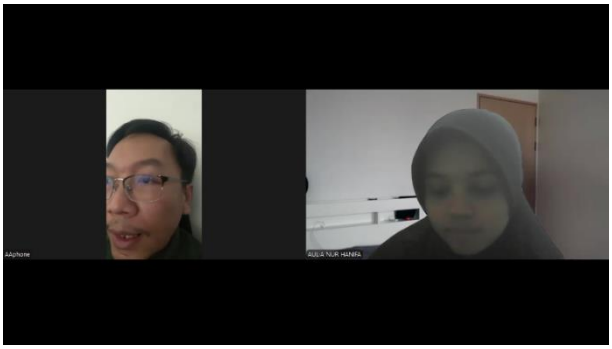
1. What challenges do publishers typically face in publishing books concerning Intellectual Property Rights protection?
2. What steps do publishers usually take to protect the copyright of the books they publish?
3. How do publishers respond to book piracy cases, both offline and online?

4. Is there any collaboration with legal institutions to handle book piracy cases?
5. What impact does piracy have on the publishing business?
6. In your opinion, can stronger Intellectual Property Rights protection enhance the quality and productivity of the publishing industry?
7. How can publishers contribute to raising public awareness about the importance of respecting copyright?

Questions for IPR Expert

1. What is your view on the current implementation of Intellectual Property Rights (IPR) protection laws in Indonesia?
2. In your opinion, has Law No. 28 of 2014 on Copyright been effective in protecting the moral and economic rights of writers?
3. What are the main weaknesses in the regulations or law enforcement regarding copyright protection in Indonesia?
4. How can the legal system be improved to protect copyright better?
5. What are the social and economic impacts of book piracy on writers and the publishing industry?
6. How can society and the government collaborate to enhance IPR protection?

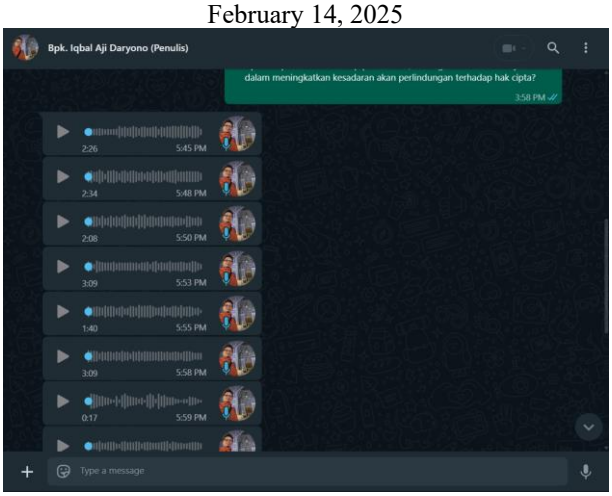
Appendix II. Interview Documentation



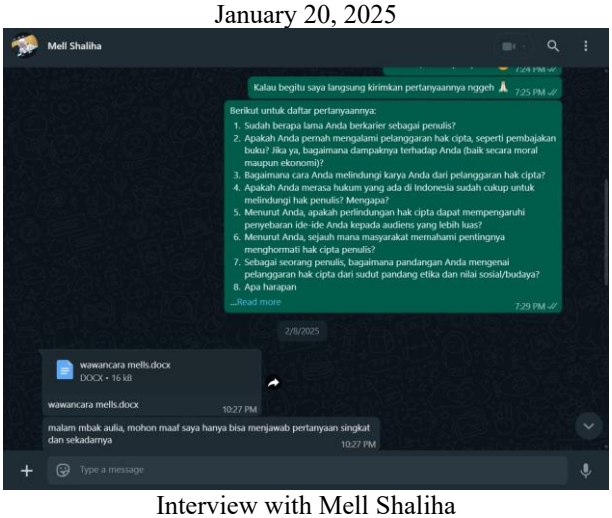
Interview with Abdurrahman Alfaqiih, SH., MA., LL.M.
(Expert at IPR Study Center FH UII)
February 14, 2025



Interview with Kurniawan Gunadi
(Writer)
January 20, 2025



Interview with Iqbal Aji Daryono
(Writer)
January 14, 2025



Interview with Mell Shaliha
(Writer)
February 8, 2025



Interview with Ajeng Yulianti, S.T., M.T.
(Head of UII Press)
January 22, 2025



Interview with Supriyana
(Deepublish Financial Administration Manager)
February 6, 2025

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Organizational Experience

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- Secretary of MARCOMM FIAI (2023–2024)
- Treasurer of el-Markazi (2023–2024)
- Public Relations Expert Staff at UII Ayo Mengajar (2023–2024)