

Justice-Based Regulation: A New Paradigm in Copyright Protection

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Abstract

Copyright, as a special right of creators, develops automatically under the declarative value once a work is happened in a physical form, with certain limitations as prescribed by law. This study investigates the current limitations in legal protection for copyright owners and proposes a justice-based regulatory framework. The research is structured around three central questions: 1) Why does the existing legal framework for copyright protection fail to deliver justice for copyright owners? 2) What are the essential shortcomings in the current regulations? 3) How can these values be restored to safeguard justice-based protection? Engaging a constructivist paradigm and a sociological legal method, this research utilizes socio-legal methods, including expressive analysis of both primary and secondary data. Data collection was conducted through literature reviews and field studies, with qualitative methods applied to analyse the findings. The study reveals substantial gaps in the current legal framework, particularly within Articles 1, 8, and 9 of the Copyright Law, which ineffectively safeguard the rights of copyright owners. These deficiencies are exacerbated by the widespread misuse of artificial intelligence technologies that modify original works, undermining the economic rights of creators. The analysis finds three main areas of weakness: legal substance, legal structure, and legal culture. The current legal provisions are ineffective in practice, implementation mechanisms are flawed, and societal attitudes towards copyright are driven by pragmatism, leading to frequent violations and unfair royalty distribution. To address these issues, the study recommends a comprehensive modernization of the legal framework, focusing on value and normative modernizations. Key proposals include amendments to the Copyright Law No. 28 of 2014 and Government Regulation No. 56 of 2021 to establish a more equitable and justice-oriented system for copyright protection.

Keywords: Copyright; Justice; Modernization; Regulation; Royalties.

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1. INTRODUCTION

Globalization is nothing but capitalism in its most recent form [1]. Intellectual Property Rights (IPR) protection in Indonesia is an integral part of the legal system [2].

Intellectual property [3] plays a critical role in modern economies, serving as a key driver of innovation and creativity. Among the various forms of intellectual property, copyright stands out as a fundamental tool that grants creators special rights over their original works, including literary, musical, artistic, and other creative expressions [4]. Copyright [5] protection ensures that

¹ Anis Mashdurrohatun et.al (2018), The Urgency of Legal Protection to the Trademarks in the Global Era, *Jurnal Pembaharuan Hukum*, Volume 5 Issue 3, pp.259-275.

² Nugraha Pranadita et.al (2020), Resepsi Dan Harmonisasi Kaidah Syariah Islam Dalam Perlindungan HKI Pada Sistem Hukum Indonesia, Deepublish, page. 1.

³ Anis Mashdurohatun (2021), Concept Of Appraisal Institutions In Assessing The Valuation Of Intangible Assets On Small Medium Enterprises Intellectual

Property As Object Of Credit Guarantee To Improve ... *Jurnal Pembaharuan Hukum*, Volume 8 Issue.3. Semarang, pp. 485-502

⁴ Article 9 of Law Number 28 of 2014 concerning Copyright jo. Article 2 paragraph (1) Government Regulation Number 56 of 2021 concerning Management of Song and/or Music Copyright Royalties

⁵ Anis Mashdurohatun (2018), Hak Cipta Atas Buku Model Fair Use/Fair Dealing, PT RajaGrafindo Persada, Depok, pp.110.

creators can control the use of their works and derive economic benefits from their intellectual efforts. However, the legal framework governing copyright must strike a delicate balance between protecting the rights of creators and serving the broader interests of society, including access to knowledge and cultural development.

In Indonesia, copyright is regulated under Law No. 28 of 2014 on Copyright, which provides the legal basis for protecting creators' rights. According to this law, copyright arises automatically once a work is expressed in a tangible form, granting the creator special rights to reproduce, distribute, perform, and communicate the work to the public [6]. These rights are essential for enabling creators to monetize their work, thereby incentivizing continued innovation and cultural production. However, despite the legal protections afforded by the Copyright Law, many creators in Indonesia face significant challenges in enforcing their rights and receiving fair compensation for the use of their works [7].

One of the critical issues identified in the current legal framework is the lack of a justice-based approach to copyright protection. Although the law provides mechanisms for protecting copyright owners, it often falls short in ensuring that these protections are applied equitably and justly. For instance, the widespread misuse of copyrighted works, particularly in the digital realm, has led to numerous violations of creators' economic rights. These violations include unauthorized reproductions, distributions, and public performances of copyrighted works, often without the knowledge or consent of the copyright owners. The lack of adequate enforcement and the limited public awareness of copyright laws further exacerbate this problem, leaving many creators vulnerable to exploitation.

A notable example of the challenges faced by copyright owners in Indonesia is the case involving the YouTube channel Gen Halilintar, owned by Halilintar Anofial Asmid and Lenggogeni Umar Faruk. This case, which was adjudicated in Case No. 82/Pdt.Sus-HKI/Cintellectual propertyta/2019/PN Niaga Jkt.Pst, highlights the difficulties that creators encounter in enforcing their economic rights. The defendants in this case were sued by PT. Nagaswara Publisierhindo, Yogi Adi Setyawan, and Pian Daryono for using their copyrighted music without permission and failing to pay the required royalties [8]. The court's decision

underscored the defendants' violation of the plaintiffs' economic rights by reproducing, distributing, and publicly performing the copyrighted music without proper authorization. Despite the legal framework in place, this case illustrates the ongoing struggles of creators to protect their rights and secure fair compensation for the use of their works.

The shortcomings of the current copyright regime in Indonesia can be attributed to several factors, including weaknesses in the legal substance, structure, and culture surrounding copyright protection [9]. The legal provisions, while comprehensive on paper, often fail to function effectively in practice. Enforcement mechanisms are plagued by inefficiencies, and the societal understanding of copyright issues is limited, leading to widespread disregard for the rights of creators. Moreover, the rapid advancement of technology, particularly in the field of artificial intelligence, has further complicated the landscape of copyright protection. New technologies have enabled the modification and replication of copyrighted works on an unprecedented scale, posing new challenges for both creators and legal authorities.

Given these challenges, there is an urgent need for a paradigm shift in the regulation of copyright protection in Indonesia [10]. A justice-based approach to copyright regulation would prioritize fairness and equity in the application of copyright laws, ensuring that creators' rights are not only protected in theory but also enforced in practice. This approach would require a comprehensive modernization of the existing legal framework, addressing the weaknesses in the current system and adapting to the new realities of the digital age [11].

The proposed modernization would involve both normative and value-based modernizations, aimed at creating a more just and equitable system for copyright protection. This includes revising key provisions of the Copyright Law, such as Articles 8 and 9, and strengthening the enforcement mechanisms to ensure that copyright owners receive fair compensation for the use of their works. Additionally, increased public awareness and education on copyright issues are essential for fostering a culture of respect for intellectual property rights. The current copyright regime in Indonesia requires significant modernization to align

⁶ Raharjo, T. (2006). Kebijakan Legislatif Dalam Pengaturan Hak Kekayaan Intelektual Dengan Sarana Penal. *Yogyakarta: Penerbit Kantor Hukum Trisno Raharjo*.

⁷ Saidin, O. K. (2010). Aspek hukum hak kekayaan intelektual:(intellectual property rights).

⁸ Samosir, A. D. V., & Kansil, C. S. (2023). Perlindungan Hukum Youtuber Atas Publikasi Video yang Telah Dimonetisasi Pendistribusian Royalti oleh Lembaga

Manajemen Kolektif. *UNES Law Review*, 6(2), 7424-7429.

⁹ Djaja, E. (2009). *Hukum Hak Kekayaan Intelektual*. Sinar grafika.

¹⁰ Hidayah, K. (2017). *Hukum hak kekayaan intelektual*. Setara Press, Malang.

¹¹ Carl Joachim Friedrich (2004) *Filsafat Hukum Perspektif Historis*, Nuansa dan Nusamedia, Bandung.

with the values of justice and fairness [12]. By adopting a justice-based regulatory approach, Indonesia can create a new paradigm in copyright protection that not only safeguards the rights of creators but also promotes cultural and economic development in a way that is equitable for all stake owners [13].

2. RESEARCH METHODS

This study adopts a constructivist paradigm, which views legal science as primarily concerned with the interpretation and application of legislation [14]. Within this framework, the focus is on the law as a set of rules to be applied, often without critically examining its fairness or societal impact [15]. However, this study seeks to challenge this traditional perspective by emphasizing the need for a justice-based approach in copyright regulation. The research methodology employed is descriptive analytical legal research. This method involves a thorough examination of literature (secondary data) to explore the current state of copyright law and its enforcement, particularly in the context of fairness and justice for copyright owners [16]. The legal analysis is complemented by a descriptive approach, which allows for a detailed exploration of the issues at hand, leading to a comprehensive understanding of the regulatory shortcomings [17]. A sociological legal research approach, also known as socio-legal research, is used to bridge the gap between legal theory and practice [18]. This approach conceptualizes law as an observable empirical phenomenon that impacts and is influenced by real-life situations. By examining how copyright law operates within society, this study aims to identify the practical challenges faced by copyright owners and assess the effectiveness of the current legal framework in protecting their rights [19]. Data collection involves both primary and secondary sources. Primary data is gathered from field research, including case studies and interviews

with key stake owners, to gain insights into the practical enforcement of copyright law [20]. Secondary data, comprising legal texts, academic literature, and case law, provides the theoretical foundation for the analysis [21]. Together, these data sources underpin the study's investigation into the need for a justice-based regulatory framework in copyright protection.

3. RESULTS AND DISCUSSION

3.1. Philosophical Foundations of Copyright Protection in Indonesia

The philosophical foundations of copyright protection in Indonesia are deeply rooted in the nation's guiding values, particularly Pancasila, and the 1945 Constitution [22]. These foundations emphasize the importance of aligning legal regulations with the values and ideals that reflect the Indonesian way of life, ensuring that the law serves not only as a set of rules but as a framework for promoting justice, fairness, and the well-being of all citizens.

Pancasila, as the source of all state law, plays a crucial role in shaping Indonesia's legal landscape. It serves as a filter through which all legal development must pass, ensuring that new regulations are harmonized with the core values of the nation [23]. These values include belief in the One and Only God, just and civilized humanity, Indonesian unity, democracy guided by wisdom in representative deliberations, and social justice for all Indonesians. These values guide the formulation of laws that protect individual rights, including intellectual property rights, while also prioritizing the common good.

Intellectual property [24], particularly copyright, is recognized as a vital component of national development [25]. The law views science and technology

¹² Raharjo, T. (2006). Kebijakan Legislatif Dalam Pengaturan Hak Kekayaan Intelektual Dengan Sarana Penal. Yogyakarta: Penerbit Kantor Hukum Trisno Raharjo.

¹³ Rachmadi, U. (2003). Hukum Hak Atas Kekayaan Intelektual: Perlindungan dan Dimensi Hukumnya di Indonesia. Alumni: Bandung.

¹⁴ Ali Mudhofir (1996) *Kamus Teori dan Aliran dalam Filsafat dan Teologi*, Gajahmada University Press, Yogyakarta.

¹⁵ Achmad Ali (2012) *Menguak Teori Hukum dan Teori Peradilan*, Cet IV, Prenada Media Goup, Jakarta.

¹⁶ Yusuf, A. M. (2016). *Metode penelitian kuantitatif, kualitatif & penelitian gabungan*. Prenada Media.

¹⁷ Ali, Z. (2021). *Metode penelitian hukum*. Sinar Grafika.

¹⁸ Soekanto, S. (2007). *Penelitian hukum normatif: Suatu tinjauan singkat*.

¹⁹ McLeod, I. (2020). *Legal method*. Bloomsbury Publishing.

²⁰ Mazhar, S. A., Anjum, R., Anwar, A. I., & Khan, A. A. (2021). *Methods of data collection: A fundamental*

tool of research. *Journal of Integrated Community Health (ISSN 2319-9113)*, 10(1), 6-10.

²¹ Johnston, M. P. (2014). Secondary data analysis: A method of which the time has come. *Qualitative and quantitative methods in libraries*, 3(3), 619-626.

²² Darji Darmodiharjo (1996) *Penjabaran Nilai-Nilai Pancasila dalam Sistem Hukum Indonesia*, Rajawali Pers, Jakarta.

²³ Tommy Leonard (2013) Disertasi, *Pembaharuan Sanksi Pidana Berdasarkan Falsafah Pancasila dalam Sistem Pidana di Indonesia*, Program Doktor Ilmu Hukum Pascasarjana Universitas Jayabaya, Jakarta.

²⁴ Anis Mashdurohatur (2013), *Hak Kekayaan Intelektual Dalam Perspektif Sejarah di Indonesia*, Madina, Semarang, pp.59. see too Budi Ahus Riswandi, dkk, 2017, *Pembatasan Dan Pengecualian Hak Cipta Di Era Digital*, PT Citra Aditya Bakti, Jakarta.

²⁵ Hukum, K. (2020). *Hak Asasi Manusia Direktorat Jenderal Kekayaan Intelektual. Modul Kekayaan Intelektual Tingkat Dasar Bidang Hak Cipta*. Jakarta: Kementerian Hukum dan Hak Asasi Manusia Direktorat Jenderal Kekayaan Intelektual.

as divine gifts that must be developed and preserved for the benefit of society. This perspective mandates the recognition, promotion, and protection of intellectual property as a means of advancing national progress and ensuring that creators are justly rewarded for their contributions.

However, the enforcement of copyright laws in Indonesia faces significant challenges, particularly in the context of globalization. The rapid advancement of technology and the increasing interconnectedness of the global economy have complicated the task of protecting intellectual property rights. The law must not only address these challenges but also ensure that it does so in a way that is fair and just, balancing the rights of individual creators with the broader needs of society.

In this context, the role of the state is to diligently protect the arts and inventions, ensuring that intellectual property rights are upheld and that the fruits of human genius are safeguarded. This responsibility is not only a legal obligation but also a moral one, rooted in the philosophical foundations of the nation. By ensuring that copyright protection aligns with these values, Indonesia can create a legal framework that is both effective and just, fostering an environment where creativity and innovation can thrive while contributing to the nation's overall development and prosperity.

3.2. Comparative Analysis of Copyright Enforcement Mechanisms

The comparative analysis of copyright enforcement mechanisms reveals significant differences in how various countries approach the protection of intellectual property rights, reflecting diverse legal philosophies and economic priorities.

a. United States: Strategic Enforcement of Intellectual Property Rights

The United States has developed a comprehensive and aggressive approach to protecting its intellectual property, both domestically and internationally. The establishment of the United States Trade Representative highlights the country's commitment to safeguarding its economic interests in the global market. The United States Trade Representative is

responsible for coordinating trade policies and enforcing intellectual property rights through various mechanisms, including the Special 301 provision, which categorizes countries based on their level of compliance with United States intellectual property standards [26]. Countries that fail to protect United States intellectual property rights adequately may face trade sanctions or other penalties [27]. This approach underscores the United States prioritization of intellectual property protection as a critical component of its economic strategy, ensuring that its innovations and products are shielded from unfair competition and piracy [28].

b. Singapore: Intellectual Property as Collateral in Financial Systems

Singapore offers a unique approach to intellectual property protection by integrating intellectual property rights into its financial systems [29]. The country has developed a framework that allows businesses to use their intellectual property, such as patents, trademarks, and copyrights, as collateral for loans. This innovative system not only protects intellectual property rights but also promotes economic growth by enabling companies to leverage their intellectual assets for business expansion [30]. The Intellectual Property Office of Singapore plays a key role in this process, ensuring that intellectual property rights are registered, valued, and recognized as legitimate collateral by financial institutions. This approach demonstrates how intellectual property can be both protected and utilized as an economic tool, reflecting Singapore's forward-thinking strategy in the global intellectual property landscape [31].

c. China: Evolution and Harmonization of Patent Laws

China's approach to intellectual property protection has evolved significantly over the past few decades, particularly following its accession to the World Trade Organization in 2001 [32]. China's patent law, first enacted in 1984, has undergone several amendments to align with international standards, such as those outlined in the Trade-Related Aspects of Intellectual Property Rights agreement. The Chinese government has expanded the scope of patent protection, increased the duration of patent rights, and tightened enforcement measures against infringement. Despite these efforts,

²⁶ USTR. (n.d.). Intellectual Property. Retrieved from United States Trade Representative <http://www.ustr.gov/trade-topics/intellectual-property>

²⁷ Howell, H. A. (1942). *The Copyright Law: An Analysis of the Law of the United States Governing Registration and Protection of Copyright Works, Including Prints and Labels*. Washington, DC: Bureau of National Affairs.

²⁸ Goldstein, P., Lillick, S. W., & Lillick, I. S. (1989). *Copyright: principles, law, and practice* (Vol. 1). Boston, MA: Little, Brown.

²⁹ Peters, J. W. (1985). Toward negotiating a remedy to copyright piracy in Singapore. *Nw. J. Int'l L. & Bus.*, 7, 561.

³⁰ The Intellectual Property Office of Singapore (IPOS). Copyright Infopack. 2021.

³¹ Ginsburg, J. C. (1996). Extraterritoriality and Multiterritoriality in Copyright Infringement. *Va. J. Int'l L.*, 37, 587.

³² David Hill dan Judith Evans. (n.d.-b). Chinese Patent Law: Recent Changes Align China More Closely with Modern International Practice, No Title. *George Washington Journal of International Law and Economics*, Vol.27, 361–362.

challenges remain, particularly in curbing widespread piracy and ensuring that foreign intellectual property rights are adequately protected [33]. China's ongoing legal reforms highlight the complexities of balancing domestic economic interests with the need to adhere to global intellectual property standards.

d. Global Challenges in Intellectual Property Protection

Each of these countries faces unique challenges in enforcing copyright laws and protecting intellectual property. In the US, the challenge lies in maintaining stringent intellectual property protections while navigating international trade relations intellectual property. In Singapore, the integration of intellectual property into financial systems requires continuous innovation and regulatory oversight to ensure that intellectual property remains a viable and valuable asset. In China, the primary challenge is enforcing intellectual property laws in a way that curtails piracy while fostering an environment conducive to foreign investment and technology transfer.

This comparative analysis reveals that while the United States, Singapore, and China have developed different strategies for protecting intellectual property, each approach is deeply rooted in the nation's broader economic and legal context. A justice-based regulatory framework for copyright protection must consider these diverse approaches, ensuring that intellectual property laws are not only enforced but also aligned with the principle of fairness, economic growth, and global cooperation. By learning from these varied enforcement mechanisms, policymakers can develop more effective and equitable copyright regulations that protect the rights of creators while fostering innovation and economic development on a global scale.

3.3. Legal Framework for Copyright Protection in Indonesia

The legal framework for copyright protection in Indonesia is grounded in the recognition of intellectual property as an intangible asset that results from human intellectual activity [34]. Copyright, a key component of intellectual property rights, is granted automatically to creators based on the declarative principle, once their creation is materialized in a tangible form [35]. This automatic protection underscores the importance of safeguarding the economic and moral rights of creators, ensuring that their works are not exploited without their consent.

In Indonesia, Law No. 28 of 2014 on Copyright serves as the primary legal instrument for protecting the rights of creators and copyright owners. This law provides a comprehensive framework that guarantees legal protection and certainty for individuals or groups who produce creative works. It ensures that the rights of these creators are not infringed upon by others who may attempt to use their works for commercial purposes without proper authorization. Specifically, Article 9, paragraph 3 of the Copyright Law clearly outlines the legal recourse available to creators when their works are copied, distributed, or publicly announced without their consent, particularly for commercial gain.

Despite the legal provisions in place, there are significant challenges in the enforcement and socialization of copyright law in Indonesia. One of the primary issues is the lack of public awareness about the legal rights associated with copyright. Several factors contribute to this, including the fact that written regulations are often developed by a small group of individuals, leading to a lack of widespread understanding. Additionally, there is a low level of public interest in engaging with legal texts, which further worsens the problem. The government's efforts in educating the public about these laws have been minimal, resulting in a general lack of awareness about the economic rights that creators, such as musicians or producers, hold over their works.

This lack of socialization has significant implications for the protection of copyright in Indonesia. Many people, including businesses and individuals, are unaware that using a copyrighted work for commercial purposes without the permission of the copyright holder is illegal. This ignorance leads to widespread violations, with many creators being deprived of their rightful economic benefits. The economic rights associated with copyright are crucial, as they allow creators to exploit their works for financial gain, which is a fundamental aspect of intellectual property protection. These rights include the special ability to reproduce, distribute, and publicly perform the work, all of which can generate significant income for the copyright holder.

The concept of justice is central to the discussion of copyright protection. Justice, in its most basic form, is understood as fair and impartial treatment [36]. In the context of copyright law, justice involves ensuring that creators receive what they are rightfully

³³ Margared, R. (2009). Upaya amerika serikat dalam mengatasi masalah pelanggaran hak cipta produk amerika serikat oleh china (periode 2001-2007) (Tesis Program Pascasarjana Hubungan Internasional, Universitas Indonesia, 2009). Retrieved from <http://lib.ui.ac.id/opac/ui/http://www.international.ucla.edu/eas/documents/pr-cons.htm>, diakses pada tanggal 6 Juni 2024

³⁴ Nurjannah, Kekayaan Intelektual, diambil pada 14/08/2021 from <http://nurjannah.staff.gunadarma.ac.id/>

³⁵ Hermono, B. (2018). Implications Of Article 16 Section (3) Of 28 Year 2014 On Copyright As A Fidusia Guarantee Object. *Jurnal Dinamika Hukum*, 18(3), 337-341.

³⁶ John Rawls, *A Theory of Justice*, London: Oxford University Press (1973) translation in Bahasa Indonesia

due, both in terms of recognition and economic benefit. The philosophical foundation of justice is based on two key values: first, that no one should be harmed, and second, that each person should receive what is rightfully theirs [37]. When applied to copyright protection, these values imply that the legal system should work to prevent the exploitation of creators' works without their consent and ensure that they are adequately compensated for their contributions.

However, achieving justice in the enforcement of copyright law is often challenging. The judicial process in Indonesia has been criticized for being overly procedural, formalistic, and slow [38]. These characteristics can hinder the effective realization of justice, particularly in cases involving copyright infringement. Judges, who are expected to interpret the law in a way that reflects the spirit of justice, sometimes struggle with the rigidity of procedural norms, which can prevent them from fully addressing the underlying issues in copyright disputes.

Doctrine plays a crucial role in shaping the legal interpretation of copyright laws. While doctrine is generally understood as a widely accepted legal values, it also encompasses a broader understanding, including the teachings of legal scholars who systematize and interpret the law. Doctrine is not value-free; it reflects the values and assumptions of the legal system and the society it serves. In the context of copyright law, doctrine helps guide the interpretation and application of the law, ensuring that it aligns with broader values of justice [39].

The modernization of the legal framework for copyright protection in Indonesia, as discussed in this text, aims to ensure that the regulations are not only effective in protecting the rights of creators but are also grounded in values of justice. This approach requires a shift from a purely procedural application of the law to one that considers the broader implications of justice, ensuring that copyright protection is fair, equitable, and reflective of the values of Indonesian society.

3.4. Strategic Importance of Copyright in National Development

Copyright is a critical component of intellectual property in the fields of science, art, and literature,

playing a strategic role in supporting national development and enhancing the general welfare, as mandated by the Constitution of the Republic of Indonesia of 1945. The rapid advancements in these fields demand increased protection and legal certainty for creators, copyright owners, and related rights owners.

Indonesia's commitment to various international copyright agreements necessitates further integration of these values into the national legal system to ensure that local creators and rights owners can compete on a global scale. Although copyright has been recognized globally for centuries, it only gained formal recognition in Indonesia in the early 1980s. Prior to the enactment of Indonesia's first Copyright Law in 1982, the country relied on the Dutch colonial "Auteurswet 1912" (Wet van 23 September 1912, staatsblad 1912 No. 600) [40].

As an independent nation, Indonesia has revised its copyright laws multiple times to adapt to changing circumstances, with the latest revision being Law No. 28 of 2014 on Copyright, which remains in effect today. This law affirms that copyright is a special right that automatically arises when a creation is materialized, based on the declarative principle, without the need for formal registration, though it remains subject to statutory restrictions.

To further protect the economic rights of copyright owners, particularly in the music industry, and to regulate the commercial use of copyrighted works, the government introduced Government Regulation No. 56 of 2021 on the Management of Copyright Royalties for Songs and/or Music. This regulation established a national collective management system to optimize royalty collection and distribution, ensuring that creators receive the full benefits of their work [41]. The modernization of copyright protection regulations has become increasingly urgent, emphasizing the need for a justice-based approach that ensures fairness and effectiveness in protecting the rights of creators and rights owners in Indonesia [42].

by Uzair Fauzan and Heru Prasetyo, *Teori Keadilan*, Yogyakarta: Pustaka Pelajar, 2006.

³⁷ Mahmud Kusuma (2009) *Menyelami Semangat Hukum Progresif- Terapi Paradigmatik Atas Lemahnya Penegakan Hukum Indonesia*. Antony Lib bekerjasama LSHP, Yogyakarta

³⁸ Rachmadi Usman (2003) *Hukum atas Hak Kekayaan Intelektual: Perlindungan dan Dimensi Hukumnya di Indonesia*, Alumni, Bandung.

³⁹ Mochtar Kusumatatmadja (1995) *Pemantapan Cita Hukum dan Asas-Asas Hukum Nasional di Masa Kini dan Masa yang akan Datang*, Dalam *Majalah hukum*

Nasional Nomor 1, Badan Pembinaan Hukum Nasional Departemen Kehakiman, Jakarta,

⁴⁰ Iswahyudi, F. (2022). *Konstitusionalitas Masa Perlindungan Hak Cipta dalam Perspektif Prinsip Deklaratif*. *Grondwet*, 1(2).

⁴¹ Hariyani, I., Serfiyani, C. Y., & Purnomo, R. S. D. (2024). *Hak Kekayaan Intelektual Sebagai Jaminan Kredit*. Penerbit Andi.

⁴² Nurcholis Madjid (1992) *Islam Kemanusiaan dan Kemoderenan, Doktrin dan Peradaban, Sebuah Telaah Kritis tentang Masalah Keimanan*. Jakarta: Yayasan Wakaf Paramadina. hlm. 512-513, sebagaimana dikutip

4. CONCLUSION

The conclusion of this research highlights the necessity of shifting towards a justice-based regulatory framework in copyright protection, marking a significant departure from the traditional, more rigid legal approaches. The evolving landscape of intellectual property, particularly in the face of rapid technological advancements such as artificial intelligence, has exposed the inadequacies of existing regulations. The current laws, including Law No. 28 of 2014 on Copyright and Government Regulation No. 56 of 2021, have been scrutinized for their inability to fully protect the economic and moral rights of creators, often leading to injustices where copyright owners are inadequately compensated for the use of their works. The proposed reconstruction of these regulations seeks to embed the values of justice more deeply into the legal framework governing copyright in Indonesia. This includes not only the protection of economic rights but also the equitable distribution of royalties and the transparent management of these rights in the digital age. By revising key provisions to address issues such as unauthorized modifications of works through AI and ensuring that all forms of public commercial use, including on digital platforms, are adequately covered, the new paradigm aims to close the gaps that have allowed for exploitation and unfair practices. This shift towards a justice-based approach is crucial in maintaining the relevance and effectiveness of copyright laws in a globalized world where intellectual property is a key economic asset. It also aligns with international commitments, ensuring that Indonesia's legal framework is competitive and capable of protecting its creators on a global stage. Ultimately, this new paradigm not only safeguards the rights of individual creators but also promotes a more just and balanced environment for the growth and development of the creative industries in Indonesia.

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