

ANALYSIS OF FAIR USE PRINCIPLES OF RELIGIOUS LECTURES DISSEMINATED BASED ON COPYRIGHT LAW

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Abstract

The development of technology, particularly social media, has created new opportunities for the dissemination of religious lectures while also raising challenges related to copyright infringement. Religious lectures are categorized as works protected under Law Number 28 of 2014 on Copyright through both moral and economic rights, although this protection intersects with the principle of fair use, which allows the use of works under certain conditions such as for education or public interest. This study aims to analyze the application of fair use to religious lectures distributed via social media and to examine how the exclusive rights of creators can be safeguarded without neglecting public access. The findings indicate that lectures merely quoting scriptures are not considered original works, while those that include interpretation and creativity by the speaker remain protected by copyright. The dissemination of lectures without permission, especially for commercial purposes, constitutes a copyright infringement. Therefore, a balance between the moral and economic rights of creators and the public's interest in accessing religious information is necessary to create a fair, ethical digital

Keywords: *Copyright; Religious Lectures; Fair use; Social media.*

INTRODUCTION

In the modern era, social media has become a platform for creative expression, widely used to disseminate religious sermons through platforms like Instagram, YouTube, and TikTok. However, this also presents challenges in the form of potential copyright infringement due to a lack of public understanding of the rules for using protected works. This phenomenon demonstrates that technology brings not only benefits but also legal risks. Therefore, copyright protection is crucial to safeguard creativity while ensuring open access to information. Legal awareness and appropriate policies are needed to balance freedom of expression with respect for copyright.

Intellectual Property Rights are rights to an object that originates from the work of the human brain and reason. This process involves rational and emotional work, where rational thinking is based on logic and balanced by emotional work that produces wisdom or prudence. This combination produces intellectual work, which is immaterial. The work of the brain, or intellectuality, is reflected in rational and logical thinking. ¹Intellectual property, as regulated in Law Number 28 of 2014 concerning Copyright (hereinafter referred to as UUHC), defines copyright in Article 1 paragraph (1) as a declarative right and grants exclusive rights to the creator, without reducing the restrictions stipulated by statutory regulations. This right arises from the creator's ideas and innovations so that there is a need for protection for intellectual works. Thus, anyone who wishes to use a creation that has been declared is required to ask permission from the creator or legitimate copyright holder, because this exclusive right arises automatically from the time the creation is declared to exist.²

Article 4 of the Copyright Law outlines the Exclusive Rights held by creators, divided into Moral Rights and Economic Rights. ³Moral Rights, as explained in Article 5 paragraph (1) of the Copyright Law, refer to rights that are eternally attached to the Creator regarding his intellectual work. ⁴Moral rights cannot be transferred while the Creator is still alive, but can be transferred through a will or other reasons after the Creator dies, in accordance with applicable laws and regulations. This article explicitly stipulates that moral rights cannot be transferred while the

¹H. OK. Saidin, 2019, "Legal Aspects of Intellectual Property Rights", Raja Grafindo Persada.

²Article 1 paragraph (1) of Law Number 28 of 2014 concerning Copyright.

³Article 4 of Law Number 28 of 2014 concerning Copyright.

⁴Article 5 paragraph (1) of Law Number 28 of 2014 concerning Copyright.

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Creator is still alive.⁵ In addition to moral rights, Exclusive Rights also include Economic Rights, as explained in Article 8 of the Copyright Law, which grants exclusive rights to the Creator or Copyright Holder to obtain economic benefits from the results of his work.⁶

Article 3 of the Copyright Law explains the meaning of Creation. According to this article, Creation refers to all works that appear in the realm of science, art, and literature. The process of creating this work is influenced by inspiration, ability, thought, imagination, speed, skill, or expertise, which is then expressed in a form that can be identified or felt in real terms.⁷ The types of creations protected under Article 40 paragraph (1) of the Copyright Law are in the fields of science, art, and literature. One of the objects included in this article is lectures.⁸

A lecture is a form of one-way communication in which the speaker conveys his ideas to the audience without requiring a direct response in the form of a verbal response.⁹ Lectures aim to provide advice and guidance, with the audience acting as recipients of the information. Lectures can be divided into two types: general lectures and special lectures. A general lecture is a message intended to provide advice and guidance to the general public or the wider community. This speech is general in nature because its content can be applied to various groups, without age restrictions, and the material is not tied to a specific event.¹⁰ Meanwhile, a special lecture has a unique, special meaning, and no other similar. Special lectures aim to provide advice to a specific audience or audience, focusing on material specifically tailored to a particular situation or event.¹¹

Sermons delivered by religious scholars and pastors are intellectual works protected by copyright law. They have exclusive rights to control the use, reproduction, and distribution of their works. For example, sermons are distributed using animations, with content taken without the creator's permission. While social media is a creative medium that enriches content, taking such sermon content without permission can be considered a derivative work and can raise legal issues.

Religious sermon material must be in accordance with religious teachings, relevant to the listener's context, and applicable to everyday life. Sermon content should include inspirational messages, useful advice, and practical guidance that encourages positive change. The delivery should also take into account the social conditions of the congregation to ensure the sermon is truly meaningful. Furthermore, the quality of the sermon is determined by the speaker's ability to convey the material in clear and communicative language. Sermons presented with engaging methods, such as the use of stories or real-life examples, will be more easily understood and remembered by the congregation. Ultimately, a good religious sermon not only conveys religious knowledge but also guides listeners to practice its values in their daily lives.¹²

A lecture creator can face various disadvantages if their work is distributed without permission through social media. Financially, the creator loses control over the potential revenue they would have earned from the lecture. Security-wise, control over the distribution and protection of the lecture is also lost because the distribution is handled by another party. Furthermore, the educational aspect is also impacted because the creator cannot ensure the quality and context of the delivery received by the audience. Therefore, maintaining copyright and control over intellectual works is crucial to protect the interests of the creator and the quality of the lecture delivered.¹³

Article 58 paragraph (1) letter b of the Copyright Law emphasizes that sermons are included in creations that have a validity period for economic rights, so that religious sermons are protected as copyrighted works with exclusive rights, including economic rights. Economic rights give the creator or copyright holder the authority to obtain economic benefits, for example through royalties, as a form of appreciation for the creativity, intelligence, time, costs and energy that have been invested in realizing their work.¹⁴ Basically, protection must be provided so that all financial investments and hard work of the creator can be returned.¹⁵

Copyright infringement can occur when protected religious sermons are taken without the permission of their creators, making it crucial for the creative community to understand and respect copyright in any use of material. The principle of fair use in the Copyright Law is an important basis that allows the use of copyrighted works without

⁵Article 5 paragraph (2) of Law Number 28 of 2014 concerning Copyright.

⁶Article 8 of Law Number 28 of 2014 concerning Copyright.

⁷Article 3 of Law Number 28 of 2014 concerning Copyright.

⁸Article 40 paragraph (1) of Law Number 28 of 2014 concerning Copyright.

⁹Sattia Wathy, "Understanding Lectures".

¹⁰Deni Mahardika, 2015, "Smart Public Speaking", FlashBooks.

¹¹Ibid. p. 49.

¹²Shabrina Alfari, 2023, "Lecture Text: Definition, Elements, Structure, and Linguistic Characteristics", <https://www.ruangguru.com/blog/unsur-unsur-dan-struktur-teks-ceramah>, accessed on March 15, 2024, at 11:00.

¹³Syahrul Yaumil, 2023, Location. Cit.

¹⁴Kusdianti Annantasari, Budi Santoso, Sartika Nanda Lestari, 2016, "Implementation of Copyright Law Protection Against Software Piracy in Indonesia", Volume 5, Number 2.

¹⁵Hendri S, "IMPLEMENTATION OF COPYRIGHT IN RELATION TO LEGAL OBJECTIVES".

permission, as long as the use is fair, non-commercial, educational, and does not harm the work's commercial value. Article 44 of the Copyright Law emphasizes that the use, duplication, or modification of a work, whether in whole or in part, is not considered copyright infringement if the source is fully cited or used fairly, including sermons explicitly designated as objects of fair use. Therefore, the use of sermons for educational and educational purposes is permitted provided the source is cited, in line with the fair use doctrine that emphasizes limited and transformative use of protected works. This principle also serves to balance the interests of creators and the public's right to access information. In the context of social media, the principle of fair use becomes increasingly relevant due to the rapid spread of digital content and the potential for massive violations.¹⁶

In religious sermons disseminated through social media, fair use considerations may arise if there is a form of transformation that creates a new work with added value. Factors such as the purpose of the use, the transformational nature, the quantity and substantiality of the material used, and the economic impact on the original work can be important in assessing whether the use meets the criteria for fair use.

The Berne Convention regulates the fair use of works that have been made available to the public, provided that the use "does not exceed the limits justified by the purpose for which it was created." Indonesia has ratified this convention, making it part of applicable law. Its core principle is automatic protection for creators or copyright holders in member countries, regardless of whether similar protection is already provided, and is equal to the protections available in each participating country. In the United States, the concept of fair use is codified in the Copyright Act of 1976, which states that the use of works for purposes such as criticism, commentary, news reporting, teaching, scholarship, or research is not considered infringement. Article 107 of the law also establishes four determining factors for assessing fair use.¹⁷

Sermons, as copyrighted works, are closely related to the principle of fair use as stipulated in the Copyright Law. Sermons serve as a means of conveying ideas, knowledge, and views to the public, but their use on social media often raises debates about whether they constitute fair use or constitute copyright infringement.¹⁸ On the one hand, fair use plays a crucial role in maintaining a balance between the creator's exclusive rights and the public's freedom of expression, allowing digital creativity to flourish without violating the law. On the other hand, overly strict copyright protection can create dilemmas regarding access to information, education, and freedom of expression, particularly in the internet realm. The problem becomes even more complex when religious sermons, which are supposed to be for social purposes, are exploited by third parties for profit or commercial purposes, potentially violating the creator's economic rights and creating injustice.¹⁹

The concept of intellectual property rights itself relates to human creations that have economic value and can be commercialized. This economic value indirectly categorizes a creation as profitable, providing benefits to society, and encouraging many people to use it.²⁰ Within the Copyright Law, religious sermons are considered works that enjoy legal protection. However, this aspect becomes more complex when linked to two key concepts: the principle of fair use and exclusive rights. The principle of fair use addresses the use of works without the copyright owner's permission in certain situations, while economic rights address how creators can derive economic benefit from their works.

Based on the search, there are legal studies that share similar topics regarding the regulation of religious sermons in copyright. First, the study by Muhammad Fauzi Rais Lutfi and Agus Sardjono (University of Indonesia, 2023) entitled "Legal Study of the Implementation of Law Number 28 of 2014 concerning Copyright Related to Copyright Protection of Religious Sermons," which differs specifically in that this study discusses religious sermons as creations, the limitations of fair use, and aspects of economic rights supported by international doctrines and conventions. Second, the study by Fadhil Syahputra (Thesis, Syiah Kuala Darussalam University, 2018) entitled "Legal Protection of Religious Sermon Content Based on Copyright Law," which explains the legal protection of religious sermons more generally across religious perspectives, but does not address the limitations of fair use or violations related to dissemination by other parties.

This study aims to explore how the application of exclusive rights limitations in the principle of fair use according to Law Number 28 of 2014 concerning Copyright in the context of religious sermons, specifically to what

¹⁶Article 44 paragraph (1) letter c of Law Number 28 of 2014 concerning Copyright.

¹⁷The Copyright Act of 1976 is the copyright law of the United States and remains the primary basis of copyright law in the United States, as amended by several later copyright provisions. The act outlines the basic rights of copyright holders, codifies the "fair use" doctrine, and for most new copyrights adopts a unitary term based on the date of the creator's death, rather than the previous scheme of fixed initial and renewal terms. It became Public Law No. 94-553 on October 19, 1976, and went into effect on January 1, 1978.

¹⁸Sulasno, Inge Dwisvimiari, "IMPLEMENTATION OF FAIR USE CONCERNING COPYRIGHT MATERIAL ON THE INTERNET", Volume 11 No. 2 Nov 2021 Pages 425-437.

¹⁹Ibid.

²⁰Rais Lutfi, Muhammad Fauzi and Sardjono, Agus, Loc. Cit.

extent the economic rights of creators can be accommodated without ignoring the public interest. In addition, this study also aims to examine how copyright provides protection to creators of religious sermons against the use and/or dissemination of their works without permission by third parties through social media, so that the moral rights and economic rights of creators are maintained amidst the development of information technology.

DISCUSSION

COPYRIGHT IN SOCIAL MEDIA

Copyright according to UUHC is the exclusive right of the creator or rights holder to announce, reproduce, and obtain economic benefits from creations in the fields of science, art, and literature. Copyright is an immaterial property right that is absolute, attached wherever the creation is located, owned only by the creator or rights holder, and can be transferred or assigned. Thus, copyright serves to protect the interests of the creator while encouraging the creation of creativity and innovation.²¹ Creations (works) protected in the context of copyright are creations in the fields of science, art, or literature. Therefore, there are certain types of art in creation that are certainly not intended as brands. These creations are made in the context of art, such as music, paintings, drawings, or sculptures.²² Prof. Mahadi stated that every situation involving a subject is always related to the object through an inseparable relationship, which is called *eigendom recht* or property rights.

An original work is the result of the creator's creativity, reflecting the moral relationship between the creator and the work. Therefore, moral rights must be respected, including the prohibition of changes or distortions that are detrimental to the creator. Creativity is a personal characteristic reflected in the work, although the test of originality is difficult to apply because many works have a similar basis. Therefore, the law stipulates that imitation that does not involve substantial parts of another person's work is still considered valid, as long as the work is truly born from the creator himself. Thus, originality is the main requirement for a work to obtain copyright protection.²³

Article 4 of the Copyright Law explains the exclusive rights of creators. With these exclusive rights, creators or copyright holders have full control over how their works are used and exploited by others, and have the right to receive economic benefits from the use of those works.²⁴

A digital platform is an internet-based platform that facilitates transactions, information exchange, and service provision. Social media, as part of a digital platform, enables user interaction, communication, and content creation. Social media is an important space for content creators to build personal branding and careers through viral marketing, although it also opens up opportunities for copyright infringement due to the ease of content sharing.²⁵ Each social media platform has distinct characteristics and approaches, reflecting its unique features. Content promoted on Instagram, for example, must be tailored differently than content posted on Twitter. The same applies to other social media platforms. Consistency in content, variety in content formats, and a regular posting schedule will help content creators become better known to their target audience.²⁶

The internet offers numerous benefits, providing an abundance of content. However, it also opens up opportunities for abuse, such as unauthorized use or copying without citing the source, which is common on social media in the form of copy-paste or plagiarism. This phenomenon often arises from a lack of understanding of copyright and the ethics of social media use. Uploaded images can even be used as evidence in defamation cases and online crimes. Therefore, it is crucial for users to respect ethics, refrain from using content without permission, and heed disclaimers on platforms. With the rapid development of information technology, copyright protection in digital content is becoming increasingly important because content on social media is highly vulnerable to uncontrolled distribution. Efforts that need to be taken include relevant legal policies, the development of content protection technology, and increasing public awareness of the importance of respecting copyright. By maintaining a balance between copyright protection and access to information, the digital ecosystem can operate more healthily and fairly in valuing intellectual work.

Exclusive rights in copyright, as stipulated in Article 1, point 1 of the Copyright Law, explain the reproduction of a work or granting permission to another party within legal boundaries. Advances in technology have significantly impacted copyright, bypassing legal norms. Consequently, policymakers, such as the World Intellectual Property Organization (WIPO), have emerged. WIPO requires all members to develop policies to protect creators'

²¹Article 1 paragraph (1) of Law Number 28 of 2016 concerning Copyright.

²²Julientie, Danthy, 2021, "LOGOS AT THE INTERSECTION OF COPYRIGHT LAW AND TRADEMARK LAW," Dharmasisya: Vol. 1, Article 25.

²³Henry Soelistyo, 2022, "Plagiarism: Copyright Violation and Ethics", PT Kanisius, pp. 61-63

²⁴Achmad Baihaqi, 2022, "Copyright in the Perspective of Islamic Law", Q-MEDIA, page 3.

²⁵Ahmad M. Ramli, and the Writing Team of the Center for Cyber Law and Digital Transformation Studies, Faculty of Law, Padjadjaran University, 2022, Op. Cit. p. 90

²⁶Ibid.

rights. This is based on the need to protect against the deletion or modification of rights through copyright management information.²⁷ Copyright for digital works not only serves to prevent misuse but also supports oversight and law enforcement while maintaining public access to information. Public awareness is key, as many use digital works for both personal and commercial purposes. A good understanding of the importance of respecting copyright can safeguard the integrity of digital works while supporting a just digital ecosystem. Therefore, copyright protection in the digital realm should be viewed as a shared responsibility between creators, the government, and users.²⁸

Based on Article 6 letter b of the Copyright Law, moral rights include electronic copyright information, while Article 7 paragraph (2) explains that this information includes creation data, the creator's name or alias, ownership status, period and conditions of use, and related information codes. This protection applies to social media, so that as long as the creator's name or identity is included, the announcement of the work is not considered to violate moral rights. In addition, Articles 8 and 9 of the Copyright Law regulate economic rights that give the creator full control over the use and distribution of his work, including the prohibition of duplication or commercial use without permission. Thus, copyright on social media not only maintains respect for the creator, but also guarantees fairness in the use of the work.

PRINCIPLES OF FAIR USE IN RELIGIOUS LECTURES

A lecture is a form of one-way communication in which the speaker conveys his or her ideas to an audience without requiring a direct verbal response. A lecture is a public speaking activity in a specific situation and for a specific purpose, directed at a specific audience. Article 40 of the Copyright Law states that lectures are a form of work that can be legally protected. In this context, a lecture is considered an oral expression that creates added value in the delivery of ideas, knowledge, and information. The concept of restrictions on copyrighted works is known as "fair use." Fair use permits the use, appropriation, or duplication of a work without permission from the copyright holder or original creator, but the user cites the source and the action is limited to non-commercial activities, including social activities. In other words, if the use of the work is still within the conditions of fair use, then fair use is also called the principle of fair use.²⁹

The doctrine of "fair use," first established in the Copyright Act of 1976, Article 107, provides a positive opportunity for the public to use copyrighted works in various contexts. According to Arthur R. The adoption of the fair use doctrine in the use of copyrighted content aims to prevent misuse of information sources and unauthorized duplication that can harm the creative process within the framework of intellectual property rights. Content considered as copyrighted objects requires copyright protection, but also requires copyright restrictions as an effort to balance the personal interests of the creator with the public interest.³⁰ The Berne Convention has included several provisions that allow parties to limit the exclusive rights of authors in certain situations and to permit the reproduction of protected works with the permission of the author or copyright holder. Article 9 paragraph (2) of the Berne Convention states as follows.

"It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author."

Article 9 paragraph (2) of the Berne Convention contains three conditions that still apply to exceptions and limitations of copyright and related rights under international and European Union law. These conditions, often referred to as the "three-step test", are used to assess whether certain exceptions or limitations are permissible in accordance with international standards on copyright and related rights. Although initially this three-step test only applied to the right of reproduction under Article 9 paragraph (2), it was later extended to cover all exclusive rights regulated by other international treaties.³¹ Fair use is one aspect recognized by copyright law, which involves the rational and limited use of copyrighted works, thereby reducing the likelihood of copyright infringement. However, in the internet era, the situation has become more complex. For example, copying copyrighted content from the internet can be considered copyright infringement, or downloading content without permission and then re-uploading

²⁷Rika Ratna Permata, Tasya Safiranita Ramli, Yuliana Utama, Biondy Utama, Reihan Ahmad Millaudy, 2022, Op. Cit.

²⁸Ujang Badru Jaman, Galuh Ratna Putri, Tiara Azzahra Anzani, 2021, "The Urgency of Legal Protection for Copyright of Digital Works", Vol 3, No. 1.

²⁹Muhammad Fauzi Rais Lutfi, Agus Sardjono, 2023, "Legal Study of the Implementation of Law Number 28 of 2014 Concerning Copyright Related to the Protection of Copyright of Religious Sermons," Technology and Economics Law Journal: Vol. 2: No. 2, Article 6.

³⁰Ahmad M. Ramli, and the Writing Team of the Center for Cyber Law and Digital Transformation Studies, Faculty of Law, Padjadjaran University, 2022, Op. Cit. pp. 101-103

³¹Rika Ratna Permata, Tasya Safiranita Ramli, Yuliana Utama, Biondy Utama, Reihan Ahmad Millaudy, Op. Cit. p. 37.

it can also be considered copyright infringement.³² One common example is the downloading of religious sermons from digital platforms, which indirectly results in copyright infringement.

Article 44 of the Copyright Law explains that if a work is used, taken, duplicated, or changed in whole or in substantial part, this is not considered a copyright infringement as long as the source is stated or listed in full. Paragraph (1) letter c of the Article specifically states that lectures intended only for educational and scientific purposes are included in this provision. This means that if a person or institution uses a lecture for educational or scientific purposes, this action is permitted, but on the condition that the source used must be clearly acknowledged.³³

In the context of lectures, the principle of fair use can be applied when the lecture is used for educational purposes, research, or other public interests, such as in the use of lectures for religious activities or community activities. However, in some situations, the use of lectures without permission or in a manner that is contrary to the law can be considered a copyright infringement. Article 9 Paragraph (1) of the Copyright Law emphasizes that authors or creators have the exclusive right to grant permission for the reproduction of literary and artistic works in various ways and formats. Paragraph (2) also explains that anyone who wishes to use the economic rights of a work must first obtain permission from the creator or copyright holder. Fair use in lectures is considered appropriate if it meets several criteria, such as supporting social and cultural goals, not violating copyright, and not being used for commercial gain. Conversely, fair use in religious lectures must be in line with the public interest and not harm the copyright holder.

Article 32 of the Copyright Law explains the creator of a sermon. The article states that a person who delivers a sermon without written material and without notification of the creator of the sermon is considered the creator unless proven otherwise. This indicates that in the case of a sermon without written material and without information about the creator, the speaker is considered the creator of the material presented. However, the creator must still be able to prove that the work is their creation. Otherwise, there is a high possibility that their creation will be claimed by others. Especially in digital platforms that now increasingly use audio and visual displays without text, making it difficult for audiences and other parties to determine the original text of the religious sermon. Therefore, it is important for the creator to provide clear evidence of ownership of their work to avoid claims from other parties. In addition, Article 16 of the Copyright Law mentions the transfer of Copyright, in its explanation it states that only the Economic Rights of the Work can be transferred and not Moral Rights. In other words, moral rights will remain attached to a creator. Therefore, it is important to have proof of ownership of a work.

Fair use of religious sermons is also regulated in Article 42 of the Copyright Law. This article explains that there are certain restrictions on religious sermons. This article, specifically letter e, states that no copyright shall be infringed on material derived entirely from holy scriptures. This means that religious sermons, whose primary material is taken from holy scriptures, cannot be claimed as copyrighted works. As a result, preachers cannot claim exclusive rights to the content they convey if that content is merely a recitation or repetition of holy scripture texts. This creates limitations for preachers who wish to protect their sermons as intellectual works, as they cannot claim copyright on material derived from holy scriptures. Thus, although religious sermons play an important role in education and preaching, their copyright protection is limited by the provisions of Article 42 of the Copyright Law.

EXCLUSIVE RIGHTS OF THE CREATOR AND IMPLEMENTATION OF FAIR USE IN RELIGIOUS LECTURES

Exclusive rights inherent in religious sermons are divided into two: moral rights and economic rights. As stipulated in Article 4 of the Copyright Law, these rights are divided into moral rights, which are personally inherent to the creator, and economic rights, which allow the creator to obtain financial benefits. With these exclusive rights, the creator has the right to determine how their work is used, prevent unauthorized use, and guarantee legal protection for the resulting work.³⁴ Moral rights are inherent to the preacher, are non-transferable, and remain valid for the creator's lifetime, even after the economic rights are transferred. These rights include the inclusion of a name, the use of a pseudonym, and the right to refuse changes to the content of the sermon that could damage the creator's reputation. Moral rights are crucial for maintaining the integrity and authenticity of the sermon.³⁵ Article 9 of the Copyright Law defines economic rights as commercial and transferable to other parties. These rights include recording, duplication, broadcasting, distribution, adaptation, and rental of sermons. Through economic rights, the preacher has the right to obtain financial benefits from the sermon. In the context of social media, these economic rights are closely related to the monetization of content uploaded to digital platforms. Without the creator's

³²Sulasno, Inge Dwisvimiar, 2021, Loc. Cit.

³³Muhammad Fauzi Rais Lutfi, Agus Sardjono, 2023, Location. Cit.

³⁴Achmad Baihaqi, 2022, Op. Cit. p. 3.

³⁵Ok. Saidin, Loc. Cit.

permission, any attempt to profit from a sermon is a violation of the law. Although exclusive rights are legally guaranteed, there are limitations in the form of the fair use doctrine. This doctrine allows the use of sermons without the creator's permission in certain contexts. Article 44 of the Copyright Law mentions exceptions to the conditions of a creation that does not violate copyright, one of which is as stated in paragraph (1) letter c, namely "sermons that are only for educational and scientific purposes." This then creates a contradiction regarding the exclusive rights of creators of religious sermons and raises the question of whether the creator of a religious sermon will not receive his economic rights. The application of fair use aims to maintain a balance between the interests of the creator and the interests of society in gaining access to religious knowledge widely.

Article 43 letter d of the Copyright Law states that the creation and dissemination of content through information technology that is non-commercial and benefits the creator, or if the creator does not object, is not considered a violation. In the context of religious sermons, dissemination by third parties without permission essentially violates copyright because sermons are works protected by moral rights and economic rights. However, if the creator consciously allows or gives implicit permission, then such dissemination is not subject to sanctions. This emphasizes the importance of the creator's consent, especially regarding moral rights, and clarifies that what is protected is the results of the preacher's interpretation and creativity, not merely the content of the holy book. Fair use should not be interpreted as absolute freedom to use sermons without limits. Use must still respect moral rights, for example by including the name of the preacher and not damaging the integrity of the sermon's content. If a violation occurs, such as editing that changes the meaning of the message or duplication for commercial purposes, then the fair use doctrine does not apply. Thus, fair use must be understood as a proportional restriction.

According to Article 107 of the Copyright Act of 1976, it provides a positive opportunity for the public to use copyrighted works in various contexts. According to Arthur R. Miller and Michael H. Davis, the fair use doctrine aims to balance various complex factors with diverse interests, including:

- a. The purpose and character of the use, including its commercial nature;
- b. The nature of the copyrighted work;
- c. The proportion that was "taken"; and
- d. The economic impact of the "taking".³⁶

In other words, when using a work restricted by the principle of fair use, the purpose and character of the use, the nature of the copyrighted work, the proportion of the material used, and the economic impact of the use must be considered. These are important considerations in assessing whether a use of copyrighted material can be considered fair use or not. It can be seen that the purpose and nature of the use of the material must be considered, especially whether the use is commercial or not. Religious sermons should not be based on worldly or commercial interests. Religious sermons generally originate from holy books or the advice of trusted religious figures, such as prophets or apostles. Holy books and the words of religious figures are divine revelations and not human intellectual products, therefore they are not included in copyrighted works. The large proportion of the work used determines whether the sermon can be protected by copyright. If the sermon uses entirely holy verses or holy books as material, then it is not subject to copyright protection and is governed by the provisions of fair use. In addition, the economic impact of the use of the material must be considered, both for the copyright holder and the community as a whole. Religious sermons should not be commercially intended. However, a speaker can gain economic benefits if given voluntarily or as an incentive.

Apart from the Copyright Act 1976, Article 9 paragraph (2) of the Berne Convention which has been ratified by Indonesia, there are three conditions known as the "three-step test" which still apply to exceptions and limitations on copyright and related rights under international and European Union law, namely that they are limited:

1. to special cases, provided that the act;
2. does not conflict with a normal exploitation of the work;
3. does not unreasonably prejudice the legitimate interests of the author.³⁷

This article is used in certain special cases, provided that the act does not conflict with the normal use of the work and does not unreasonably harm the legitimate interests of the author. This emphasizes that there are certain situations in which the use of copyrighted material is permissible, as long as it does not interfere with the normal use of the work and does not unfairly harm the legitimate interests of the author. In the context of copyright, this principle ensures that there is a balance between the rights of the copyright owner and the public's interest in accessing and using the work, and provides guidance on when the use of the material can be considered reasonable and legitimate.

³⁶Ahmad M. Ramli, and the Writing Team of the Center for Cyber Law and Digital Transformation Studies, Faculty of Law of Padjadjaran University, 2022, Loc. Cit.

³⁷Rika Ratna Permata, Tasya Safiranita Ramli, Yuliana Utama, Biondy Utama, Reihan Ahmad Millaudy, Loc. Cit.

ANALYSIS OF FAIR USE PRINCIPLES OF RELIGIOUS LECTURES DISSEMINATED BASED ON COPYRIGHT LAW

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Reproduction of copyrighted works is permitted only for educational purposes, research, and non-commercial activities, while commercial use, especially of more than a substantial part of the work, is considered infringement. Religious sermons that purely quote scripture are not considered intellectual works, but sermons that contain the speaker's thoughts must still be credited with the author's name as a form of respect for moral rights. Economic rights remain in effect, so any reproduction of material value requires the author's permission. Thus, religious sermons must be conducted with respect for the principle of integrity, a balance between the public interest, and the exclusive rights of the author.

In general, religious sermons are protected by the creator's moral and economic rights, so unauthorized distribution constitutes copyright infringement. Within the framework of fair use, the name or original source must be cited to respect moral rights. However, if the creator allows or grants implicit permission, such distribution is not always considered a violation. Therefore, copyright protection also depends on the creator's attitude in defending their rights. This shows that copyright protection depends not only on legal regulations, but also on the creator's active attitude in defending their rights.

REGULATIONS ON RELIGIOUS LECTURE CONTENT ON SOCIAL MEDIA DISTRIBUTED WITHOUT PERMISSION BY THIRD PARTIES BASED ON LAW NUMBER 28 OF 2014 CONCERNING COPYRIGHT

Religious sermons on social media are an effective and efficient means of disseminating religious messages. Social media allows sermons to reach a broad audience, across geographic boundaries and diverse backgrounds, thus increasing the message's influence and impact. Besides being less expensive than holding physical events, digital platforms also offer interactive features such as comments, likes, and live streaming, strengthening the relationship between the preacher and his followers. Sermon content can be accessed anytime and anywhere, and can even be replayed, thus transcending time and location. Furthermore, sermons distributed on social media have the potential to go viral, allowing religious messages to spread more quickly and widely. Furthermore, some platforms, such as YouTube, offer monetization opportunities, allowing preachers to earn income through advertising, sponsorships, or donations from their followers. With these advantages, social media not only expands the reach of religious sermons but also increases engagement, sustainability, and economic potential for preachers.³⁸ It's common in social media content creation for third parties to repost other people's content. This can be beneficial in several ways, such as increasing the reach of the original content, allowing its message to reach a wider audience. Furthermore, reshared content can attract new followers and fans for the original creator. However, this practice can also be detrimental to the content creator, particularly when it comes to the dissemination of religious sermons on social media.

Article 1, number 11 of the Copyright Law, explains that there is a possibility of dissemination, especially through electronic means or digital platforms. Religious sermons delivered through social media fall into the category of announcements because they are disseminated using electronic devices, allowing them to be heard and viewed by others. However, this does not violate copyright if done with the creator's permission. However, as previously explained, there are restrictions on the use of religious sermons. This is due to the principle of fair use, as stipulated in the Copyright Law. Plagiarism violates the Copyright Law and ethics because it harms the creator's moral rights, particularly the obligation to credit the work's identity and integrity. The Copyright Law also prohibits alteration, distortion, or mutilation of a work, including careless paraphrasing that changes the meaning even if the source is cited. Two elements of moral rights, namely the right of paternity (crediting) and the right of integrity (the integrity of the work), are protected by legal sanctions.³⁹ According to Julissar's research, plagiarism is the use of another person's ideas, words, data, or work without citing the source, without quotation marks, or by changing the author's identity as if it were one's own.⁴⁰ In religious sermons on social media, plagiarism occurs when sermons are uploaded without credit, thus harming the creator, reducing the value of the sermon because it is merely a copy, and damaging the integrity of the content disseminator. This also misleads listeners and reduces public trust in religious content. Therefore, citing sources and imposing legal sanctions are crucial to maintaining the authenticity and integrity of information. Social media is closely related to the economic rights of creators, both directly through content monetization (advertising, sponsorships, donations) and indirectly through reputation that increases the value of the work.⁴¹ However, injustice arises when third parties take economic advantage of other people's work without

³⁸Rulli Nasrullah, 2023, Op. Cit

³⁹Henry Soelistyo, Loc. Cit.

⁴⁰Ibid.

⁴¹Talitha Nuroini Ahdianitasary, 2019, "THE BENCHMARK OF VIOLATIONS OF RIGHTS

INTEGRITY BASED ON ARTICLE 5 PARAGRAPH (1) LETTER E OF LAW NUMBER 28 OF 2014 CONCERNING COPYRIGHT TO PHOTOGRAPHIC WORKS, PAINTINGS AND DRAWINGS".

ANALYSIS OF FAIR USE PRINCIPLES OF RELIGIOUS LECTURES DISSEMINATED BASED ON COPYRIGHT LAW

Wendelyn Winona Widyadari

permission. Misuse of religious sermon content is a copyright violation as stated in Article 9 paragraph (3) of the Copyright Law, with criminal penalties according to Articles 112–120. Copyright as a property right must be protected so that creators are not harmed materially or immaterially.⁴² Enforcement efforts are divided into two categories: preventive and repressive. Preventive efforts include including warnings in content and registering copyright as proof of originality (Article 32 of the Copyright Law). In social media, several platforms, such as YouTube, have implemented Content ID. Registering your work with YouTube can prevent theft, plagiarism, or reuse of content. Furthermore, government regulations, such as Article 54 of the Copyright Law, provide regulatory oversight over digital content.⁴³

Meanwhile, repressive efforts are carried out through reporting violations to the Minister of Communication and Information (Article 55 UUHC), as well as dispute resolution through mediation, arbitration, or the Commercial Court (Article 95 UUHC). Article 99 UUHC gives the right to creators or rights holders to file a lawsuit for compensation, including the surrender of income obtained by third parties from violations. This aims not only to restore the creator's economic losses, but also to enforce exclusive rights and provide a deterrent effect against copyright infringement in the digital space. In addition, in the case of social media, reporting content that violates copyright can then be requested to be taken down by the platform, or rebuttal or rebuttal can be carried out against content that is deemed to have violated copyright, which will then be mediated by the platform to conduct negotiations or mediation with the third party.

CONCLUSION

Religious sermons can be categorized as intellectual works protected by copyright if they contain the speaker's thoughts, creativity, and originality, for example through analysis, interpretation, or creative arrangement of material that distinguishes it from mere repetition of scriptural texts. Sermons that only quote verses from scripture without additional thoughts cannot be considered original because scripture is included in the public domain and is not protected. Based on the Copyright Law, a creation is the result of inspiration expressed in a tangible form, so an originality test is necessary to ensure that a sermon is an original work. Article 32 of the Copyright Law also states that a person who delivers a sermon without written material and without including the name of the creator is considered the creator, unless proven otherwise. This emphasizes that originality and proof of ownership of the work are crucial to protecting sermons from claims by other parties.

The exclusive rights of creators, particularly economic rights as stipulated in the Copyright Law, grant full authority to regulate the production, distribution, and use of works. However, the principle of fair use is an important exception, as it allows the use of works for educational, research, or public interest purposes provided that the original source is cited. Religious sermons derived from holy books are not protected, but their presentation and interpretation remain within the scope of copyright protection. Problems arise when sermons are disseminated on social media without permission, for example by plagiarizing, duplicating, or monetizing them, which violates the creator's moral and economic rights. This practice not only harms the preacher but also has the potential to mislead the public. Therefore, the Copyright Law provides protection through moral and economic rights, as well as civil lawsuits and criminal prosecutions in Articles 112–120, making respect for copyright and law enforcement key to maintaining the integrity of religious sermons in the digital age.

REFERENCES

Buku:

- Arif Lutviansor, 2010, "Hak Cipta dan Perlindungan Folklor di Indonesia", PT Graha Ilmu
- Achmad Baihaqi, 2022, "Hak Cipta dalam Perspektif Hukum Islam", Q-MEDIA.
- Henry Soelistyo, 2022, "Plagiarisme: Pelanggaran Hak Cipta dan Etika", PT Kanisius.
- H. OK. Saidin, 2019, "Aspek Hukum Hak Kekayaan Intelektual (Intellectual Property Rights)", Raja Grafindo Persada.
- Rika Ratna Permata, Tasya Safiranita Ramli, Yuliana Utama, Biondy Utama, Reihan

⁴²Ok. Saidin, 2019, Op. Cit. p. 213

⁴³Arif Lutviansor, 2010, "Copyright and Protection of Folklore in Indonesia", PT Graha Ilmu, p. 83.

ANALYSIS OF FAIR USE PRINCIPLES OF RELIGIOUS LECTURES DISSEMINATED BASED ON COPYRIGHT LAW

Wendelyn Winona Widyadari

- Ahmad Millaudy, 2022, "Hak Cipta Era Digital dan Pengaturan Doktrin Fair Use di Indonesia", PT Refika Aditama
- Rulli Nasrullah, 2023, "Media Sosial: Perspektif Komunikasi, Budaya, dan Sioteknologi", Edisi Revisi, Simbiosis Rekatama Media.
- Ahmad M. Ramli, dan Tim Penulis Pusat Studi Cyber Law dan Transformasi Digital Fakultas Hukum Universitas Padjadjaran, 2022, "Aspek Hukum Hubungan Platform Digital Over The Top dan Pengguna Konten Multimedia". PT Refika Aditama
- Deni Mahardika, 2015, "Cerdas Berbicara di Depan Publik", PT FlashBooks

Jurnal:

- Hendri S, "IMPLEMENTASI HAK CIPTA DALAM HUBUNGANNYA DENGAN TUJUAN HUKUM".
- Julinentie, Danthy (2021) "LOGO DIPERSIMPANGAN UNDANG-UNDANG HAK CIPTA DAN UNDANG- UNDANG MEREK," Dharmasiswa: Vol. 1 , Article 25.
- Kusdianti Annantasari, Budi Santoso, Sartika Nanda Lestari, 2016, "Implementasi Perlindungan Undang-Undang Hak Cipta Terhadap Pembajakan Perangkat Lunak di Indonesia", Volume 5, Nomor 2.
- Muhammad Fauzi Rais Lutfi, Agus Sardjono, 2023, "Kajian Hukum Implementasi Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta Terkait Perlindungan Hak Cipta Ceramah Agama," Technology and Economics Law Journal: Vol. 2: No. 2, Article 6.
- Oksidelfa Yanto, 2016, "KONVENSI BERN DAN PERLINDUNGAN HAK CIPTA", Vol. 6 No.1.
- Sulasno, Inge Dwisvimiari, 2021, "Penerapan Kepentingan yang Wajar (Fair Use) Mengenai Materi Hak Cipta di Internet".
- Syahrul Yaumil, 2023, "EFEKTIVITAS UNDANG-UNDANG HAK CIPTA TERHADAP PELAKU SPOILER FILM DI MEDIA SOSIAL TIKTOK DALAM KASUS FILM MENCURI RADEN SALEH".
- Talitha Nuroini Ahdianitasary, 2019, "TOLOK UKUR PELANGGARAN HAK INTEGRITAS BERDASARKAN PASAL 5 AYAT (1) HURUF E UNDANG-UNDANG NOMOR 28 TAHUN 2014 TENTANG HAK CIPTA TERHADAP KARYA FOTOGRAFI, LUKISAN DAN GAMBAR".

Internet:

- Sattia Wathy, "Pengertian Ceramah",
<https://www.scribd.com/doc/169957177/PENGERTIAN-CERAMAH>
- Shabrina Alfari, 2023, "Teks Ceramah: Pengertian, Unsur, Struktur, dan Ciri Kebahasaan",<https://www.ruangguru.com/blog/unsur-unsur-dan-struktur-teks-ceramah>, diakses pada 15 Maret 2024, pukul 11.00.

Peraturan Perundang-undangan:

- Kitab Undang-Undang Hukum Perdata.
- Undang-Undang Republik Indonesia Nomor 28 Tahun 2014 Tentang Hak Cipta.
- United States Copyright Act 1976.

Perjanjian Internasional:

- Berne Convention for the Protection of Artistic and Literary Works (Konvensi Berne tentang Perlindungan Karya Seni dan Sastra)