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Legal Protection of Architectural Works as Copyright: An Epistemological and Islamic Law Perspective

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ABSTRACT

The research examined the problem of the legal protection of architectural works as copyright. It described the concept of the legal protection of architectural works based on the point of view of the philosophy of science and Islamic law. This research aimed to solve problems related to the infringement of architectural works as copyright through concepts in the philosophy of science and Islamic law. The research method used a philosophical approach and theoretical approach. The results showed that the legal protection of architectural works as copyrighted works from the epistemological point of view was based on the boundaries of science as obtained through experience. Then, it tested empirically to produce science with an objective, rational nature and methods carried out using science from acceptable and reliable researchers so that the results of architectural works by applying elements of culture, science and technology have the quality of works that are not in doubt of their authenticity. In Islamic law, the legal protection of architectural works leads to moral rights owned by the creator because of the principle of *maslahah* or public interest, which has the same concept as the Utilitarian theory proposed by Jeremy Bentham. Legal protection of architectural works as copyright refers to an epistemological point of view. Islamic law is based on moral rights as one of the inherent rights owned by the creator as the originality of the work that must be protected. In contrast, economic rights are considered an added value of the moral rights owned by the creator.

Keywords: Architecture; Copyright; Islamic Law; Legal Protection;

ABSTRAK

Penelitian ini mengkaji permasalahan mengenai perlindungan hukum terhadap karya arsitektur sebagai hak cipta dan menguraikan mengenai konsep perlindungan hukum terhadap karya arsitektur berdasarkan sudut pandang filsafat ilmu dan hukum Islam. Tujuan penelitian ini yaitu untuk memecahkan permasalahan yang berkaitan dengan pelanggaran karya arsitektur sebagai hak cipta melalui konsep dalam filsafat ilmu dan

hukum Islam. Metode penelitian menggunakan pendekatan filsafat dan pendekatan teori. Hasil penelitian menunjukkan bahwa perlindungan hukum terhadap karya arsitektur sebagai karya cipta dalam sudut pandang epistemologis didasarkan pada batas-batas ilmu pengetahuan sebagaimana diperoleh melalui pengalaman yang kemudian diuji secara empiris sehingga menghasilkan ilmu pengetahuan dengan sifat rasional yang objektif dan metode yang dilakukan dengan menggunakan ilmu pengetahuan dari para peneliti yang dapat diterima dan terpercaya sehingga hasil karya arsitektur dengan menerapkan unsur-unsur budaya, ilmu pengetahuan dan teknologi memiliki kualitas karya yang tidak diragukan keasliannya dan dalam perspektif hukum Islam perlindungan hukum terhadap karya-karya arsitektur mengarah pada hak moral yang dimiliki pencipta karena terdapat prinsip *maslahah* atau kepentingan umum. Hal tersebut mempunyai konsep yang sama dengan teori Utilitarian yang dikemukakan oleh Jeremy Bentham. Perlindungan hukum terhadap karya arsitektur sebagai hak cipta berdasarkan sudut pandang epistemologis dan hukum Islam didasari adanya hak moral sebagai salah satu hak yang melekat yang dimiliki pencipta sebagai suatu keaslian karya yang harus dilindungi sedangkan untuk hak ekonomi dianggap sebagai nilai tambah dari adanya hak moral yang dimiliki oleh pencipta.

Kata Kunci: Arsitektur; Hak Cipta; Hukum Islam; Perlindungan Hukum;

Introduction

Legal protection for intellectual property began to be actualized after the claim from other countries of Indonesia's cultural heritage, such as batik, Reog Ponorogo, Pendet dance, and Tor Tor dance, which Malaysia claimed as their cultural heritage. It led to a debate that even spread to the political area between Indonesia and Malaysia. The most fundamental problem concerns the legal awareness of Indonesians who consider intellectual property problems unnecessary. Indonesia itself is a country with high levels of intellectual property violations. Given the historical background of intellectual property's emergence, explicit legislative provisions are therefore required to protect internationally recognized creative works produced by Indonesian nationals. In the domains of trade and industry, intellectual property must be regarded as a legitimate asset to create more comprehensive regulations.¹

Intellectual Property consists of copyright, the exclusive right for creators in science, art, literature, and technology to use or not to use their work and to publish or reproduce their creations.² Meanwhile, industrial intellectual property rights regulate everything in the industrial sector, such as the protection of patents, brands, industrial

¹Djulaika, *Konsep Perlindungan Hak Kekayaan Intelektual Perspektif Kajian Filosofis HaKI Kolektif-Komunal* (Malang: Setara Press, 2014).

²Bambang Kesowo, *Engantar Pemahaman Konsepsi Dasar Sekitar Hak Atas Kekayaan Intelektual (HAKI)* (Jakarta: Sinar Grafika, 2021).

designs, integrated circuit layout designs, trade secrets, and plant varieties. Based on this type of intellectual property, copyright infringement ranks the highest. This is related to the widespread infringement of copyrighted works on the internet, which everyone worldwide easily and freely accesses.

Copyright violations occur due to people's lack of understanding of other people's property rights attached to their creative works. Thus, all data uploaded on the internet or works found in real life appear to have no ownership, including violations of architectural designs widely circulated in cyberspace, used by individuals without permission, and even recognized as their architectural work.³ One proof of the lack of awareness of copyright in architectural works is the legal case that caught Indonesia because there is evidence of plagiarism for Singapore's architectural work, Rabbit Town from Bandung. The management of Rabbit Town was proven guilty of plagiarizing Chris Burden Estate's architectural work in a lawsuit at the Commercial Court of Central Jakarta. It was sentenced to pay a fine of one billion rupiah. Apart from that, many cases of violations of architectural works were found, such as Urban's Light in America and the similarity of One World Trade Center in New York with the design of Jeehoon Park's Skidmore, Owings, and Merrill buildings.⁴

Infringement of architectural works as copyright still needs to be fully recognized by the public, resulting in losses for the copyright owner for the job. If viewed from the perspective of legal philosophy theory, three theories can be applied as protection for the owner of the architectural copyright work: appropriation theory, economic theory, and practical theory. These theories can solve problems that continue to exist because people need to understand the importance of legal protection for copyrighted works. The application that should be carried out in compliance with economic theory, practical theory, and appropriation theory, all of which have been put forth by a number of legal

³Yevhen Kobko et al., "Safeguarding Minors' Personal Data: Legal Principles in Information Security in Ukraine and European," *Syariah: Jurnal Hukum Dan Pemikiran* 23, no. 2 (February 9, 2024): 191–204, <https://doi.org/10.18592/sjhp.v23i2.12304>.

⁴KAD, "Pelindungan Hak Cipta Karya Arsitektur: Ketegasan Antara Terinspirasi Dan Plagiarisasi Harus Lebih Jelas," *DJKI*, 2022.

experts in the field of intellectual property rights, will be closely examined by researchers.⁵

Accordingly, the cultural values found in architectural creations that are rich in the appreciation of nature and the meaning of life become aesthetic art for the human soul and provide a sense of national identity. These cultural values are more significant than the meaning of the architectural work itself.⁶ According to the previous statement and description, copyright protection for architectural works is consistent with research in the philosophy of science, which views work as the result of thinking critically to solve problems, and solving problems requires the use of minds.⁷ There is currently a weakness in the field of copyright in architectural works due to ignorance about the relationship between the study of the philosophy of science and legal protection, which should be upheld because it relates to the beginnings of the creation of a work that has both artistic and financial value that belongs to the creator.

Several previous studies are related to the legal protection of architectural works, including research conducted by Haryono and Agus Sutono.⁸ In addition, there is previous research conducted by Darmawati,⁹ Erna Tri Rusmala Ratnawati and Rizqi Samera Al Farizi,¹⁰ then research conducted by Sarah Schindler,¹¹ and Sarah Salih's.¹² The difference with previous research is that a study carried out, namely in this research, focused on

⁵Mitchell Longan, "A System Out of Balance: A Critical Analysis of Philosophical Justifications for Copyright Law Through the Lenz of Users' Rights," *Michigan Journal of Law Reform* 56, no. 3 (2023): 779–826, <https://doi.org/10.36646/mjlr.56.3.system>.

⁶Yenny Febrianty, Holili, Bayuwega Tustikarana, Amak Ui Hosnah, "Perlindungan Hak Cipta Karya Arsitektur Yang Beredar Bebas Di Dunia Maya, Equivalent," *Jurnal Ilmiah Sosial Teknik* 5, no. 2 (2023): 208–217, <https://doi.org/10.59261/jequi.v5i2.145>.

⁷Suardi Endraswara, *Filsafat Ilmu (Edisi Revisi), Konsep, Sejarah, Dan Pengembangan Metode Ilmiah* (Yogyakarta: CAPS (Center For Academic Publishing Service), 2015).

⁸Agus Sutono Haryono, "Pengakuan Dan Perlindungan Hak Cipta Tinjauan Secara Filosofis Dan Teoritis," *CIVIS: Jurnal Ilmiah Ilmu Sosial Dan Pendidikan Kewarganegaraan* 6, no. 2 (2017): 50–58, <https://doi.org/10.26877/civis.v6i2.1904>.

⁹ Darmawati, "Islamic Law and Copyright in Academic World: The Dynamic Debates between Privatization and Distribution of Knowledge," *Mazahib: Jurnal Pemikiran Hukum Islam* 17, no. 1 (2018): 23–45, <https://doi.org/10.21093/mj.v17i1.948>.

¹⁰Erna 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 (2023): 337–408, <https://doi.org/10.20885/millah.vol22.iss2.art4>.

¹¹Sarah Schindler, "Architectural Exclusion: Discrimination and Segregation Through Physical Design of the Built Environment," *The Yale Law Journal* 124, no. 6 (2015): 1934–2024, <https://www.yalelawjournal.org/article/architectural-exclusion>.

¹²A Dini, A. M., Salih, S. A., Ismail, S., Asif, N., & Sabil, "No Title," *International Journal of Academic Research in Business and Social Sciences* 13, no. 9 (2023): 806–830, <https://doi.org/10.6007/IJARBS/v13-i9/18435>.

epistemological reflections as part of the philosophy of science, which is linked to copyright protection. The discussion is directed more specifically at the legal protection of architectural works. Apart from that, the particular research approach used philosophical and theoretical approaches. The distinction from other research lies in its focus not only on the study of Islamic law or the protection of architectural works as copyright. In contrast, the researchers approach the topic from various perspectives, formulating the legal protection of architectural works within the realms of both scientific philosophy and Islamic law.

This research aimed to examine the legal protection of architectural works as copyrighted works from an epistemological and Islamic law point of view by using philosophical theories of science and showing the similarities and differences between one idea and another regarding the use of copyright for architectural works and their legal protection. The existence of studies from an epistemological perspective and Islamic law on copyright will give rise to philosophically based legal constructions that aim to protect the rights of creators both morally and economically.

Method

The research used a philosophical approach and a theoretical approach. The philosophical approach used to see copyright as an embodiment of specific values that a society or nation upholds. Meanwhile, the theoretical approach used to build a concept following the legal rules and principles relating to copyright protection.¹³ This research was an epistemological and Islamic law study on protecting intellectual property rights and copyright in architectural works using doctrinal legal research methods. It employed a qualitative approach using secondary data with literature study techniques related to the research and concepts based on the relevant experts.¹⁴ Using the logic of inductive reasoning and qualitative juridical methods, data related to intellectual property rights protection were presented from an epistemological and Islamic law perspective, and the results were explained through legal interpretation. Also, the researcher used data related to copyright in architectural works through a character approach or course as the concept

¹³Irwansyah, *Penelitian Hukum, Pilihan Metode & Praktik Penulisan Artikel, Edisi Revisi* (Yogyakarta: Mirra Buana Media, 2022).

¹⁴Jonaedi Efendi and Prasetijo Rijadi, *Metode Penelitian Hukum Normatif Dan Empiris: Edisi Kedua* (Depok: Prenadamedia Group, 2022).

of problems in science. This research prioritized the relationship between protecting intellectual property rights and their protection with an epistemological analysis that questions science. Furthermore, it explained how intellectual property rights emerged, why they must be protected as rights, and why intellectual property rights benefit humans.

Findings and Discussion

An Overview of Epistemology

Regarding the existence of architectural works as copyright when viewed from an epistemological perspective, it must first describe the concept of epistemology itself. Linguistically, epistemology comes from the Greek word Episteme, meaning "knowledge," and Logos, meaning "science." Epistemology is a scientific study that studies science substantively and seeks to discuss the occurrence and truth of science. The foundation of epistemology is indispensable in the development of science because it is a strong foundation related to truth and can be tested scientifically.¹⁵

Epistemology considers that every human knowledge results from examining and investigating objects so humans can finally know. Suppose this is related to architectural works before the architectural work exists. In that case, there is a previous experience that makes a person interested in researching what is captured through his five senses, such as when someone sees a building, then questions about the structure of the building and questions about the design of the building to produce a sturdy and aesthetic building that inspires an architect to create architectural works. So, when science is highlighted through epistemology, the discussion is directed at the development of scientists with their methods and characteristics that are different from other scientists.¹⁶

Suppose it is related to the way or method of creating architectural works. In that case, the creator's process in designing architectural works will be carried out with his methods, even though it originates from the creator's experience in seeing building structures in a place. Still, when the work is made, it will have a different characteristic from the previous work. In principle, architecture is a work that comes from a person's

¹⁵Novi Khomsatun, "Pendidikan Islam Dalam Tinjauan Ontologi, Epistemologi Dan Aksiologi," *EDUCREATIVE: Jurnal Pendidikan Kreatif Anak* 4, no. 2 (2019): 229–31, <https://doi.org/10.37530/edu.v4i2.41>.

¹⁶Nur Afni Puji Rahayu, "Tinjauan Ontologi, Epistemologi, Dan Aksiologi Peningkatan Keterampilan Menulis Deskripsi Melalui Model Kooperatif Tipe Round Table," *Jurnal Pendidikan Bahasa Dan Sastra Indonesia* 11, no. 1 (2021): 133–39, <https://doi.org/10.23887/jjpbs.v11i1.22853>.

mind that combines art in the form of building and environmental design with a combination of science and technology applied for the benefit of humans that has certain characteristics as a creation of an idea created in real life.¹⁷

In response to the question of the method, source, and origin of architectural works, it can be explained that knowledge of architectural works is obtained from a historical heritage that has been passed down from generation to generation to create building patterns such as houses, buildings and environmental designs in a region with a certain custom and by the culture of a country. The building patterns are then widely imitated and become a habit of forming buildings like existing examples. Then, architectural works begin to develop along with the times and geographical conditions of a region so that they require adjustments to the shape of the building. Then, the adjustments that were previously only imitated began to be drawn and applied calculations by applying researched science and technology to produce new architectural works formed from experience and implemented through the human mind.¹⁸

About the boundaries, nature, method, and validity of knowledge in architectural works, the boundaries of science are obtained through experience, which is then tested empirically to produce science with an objective, rational nature, and the method carried out is by applying building patterns of cultural products from various civilizations made in architectural works by using science from acceptable and reliable researchers so that the results of architectural works by applying elements of culture, science and technology have the quality of works that are not in doubt of their authenticity. It corresponds to the epistemological concept, which results from accumulated experience that produces knowledge in architectural works.

Legal Philosophy Theory on Copyright

Legal philosophy theory on copyright is divided into three approaches: appropriation, economics, and utilitarianism. In addition to the philosophical theory approach, it also use a theoretical approach in Islamic law, namely the Islamic theory of

¹⁷Dewi Rokhmah, "Ilmu Dalam Tinjauan Filsafat: Ontologi, Epistemologi, Dan Aksiologi," *Cendekia: Jurnal Studi Keislaman* 7, no. 2 (2021): 172–86, <https://ejournal.staiha.ac.id/index.php/cendekia/article/view/124>.

¹⁸Muhamad Harisman, "Kepastian Hukum Hak Cipta Atas Karya Desain Arsitektur Di Indonesia Dikaitkan Dengan Prinsip Alter Ego Dentang Hak Cipta," *Jurnal Poros Hukum Padjadjaran* 1, no. 2 (2020): 283–302, <https://doi.org/10.23920/jphp.v1i2.238>.

art. According to the appropriation theory, someone who discovers an idea or idea for the first time is legally considered the owner. This theory has a perspective that focuses on a creator's contribution as an absolute right of ownership of the creation.¹⁹ This focuses on legal protection for creators for the work they produce. The two main schools of thought on appropriation theory are Hegel's Personality Theory (which holds that intellectual property rights are ownership and that works protected by copyright are an expression of the creator's reflection) and John Locke's labor theory (which holds that an individual has a natural right to an invention or work because the creator has invested energy in working on it).

In applying his theory, John Locke often relies on the transposition of his statements about property rights, which have their value. Locke's theory is also called the "labor theory" and is based on the idea that men and women have property rights to the fruits of their labor. Labort theory defines that by mixing their labor with a jointly owned object, the worker becomes the owner of that object. Locke firmly stated that any violation of an individual's property rights violated the law.²⁰ Furthermore, analysis of Locke's theory shows that he placed higher importance on the welfare of society than on individuals. Concerning the balance between individual property rights and collective rights, Locke refers to his principle called "no harm" or "no harm." Lockean philosophy dictates that when property rights are created, third parties must not use or take property that could harm workers.

Locke's theory tries to balance individual rights and collective rights, such as ownership of an idea that can be used by other people and is not a violation of the law. However, if an idea is in the form of a work, someone may not use it because it has absolute ownership from the creator. Locke's theory emphasizes that works protected by copyright are proprietary works with restrictions on reasonable use. In a sense, several aspects of copyright protection can be shared.²¹ Since it forms the foundation for

¹⁹Melaku T Zengeta, "Access to Justice: New Right or a Reaffirmation of Existing Human Rights for Persons with Disabilities?," *Yustisia Jurnal Hukum* 11, no. 3 (December 25, 2022): 157–66, <https://doi.org/10.20961/yustisia.v11i3.68402>.

²⁰Noer Yasin, "Implementasi Kebijakan Pemenuhan Hak Beragama Penyandang Disabilitas Oleh Negara Perspektif Maqashid Syariah," *De Jure: Jurnal Hukum Dan Syar'iah* 13, no. 2 (December 31, 2021): 170–83, <https://doi.org/10.18860/j-fsh.v13i2.14462>.

²¹Agustina Balik et al., "Registration of Copyright as Guarantee of Batik Motif Legal Protection (Comparison Study of Indonesia, Malaysia and Thailand)," *Journal of Indonesian Legal Studies* 8, no. 1 (May 31, 2023): 1–44, <https://doi.org/10.15294/jils.v8i1.61019>.

contemporary ideas like fair use and fair dealing, particularly concerning transformational work, this statement is in some ways supported by the current legal framework.

In personality theory, Hegel also proposed the theory of appropriation. This theory is predicated on the notion that self-actualization, personal expression, dignity, and individual recognition constitute a special mechanism for intellectual property. Hegel claimed that the future of a creator's work is inextricably linked to the concepts they adopt as well as their self-actualization and well-being. The rational basis for offering unique protection for the works produced follows from there. The integrity of a work and its author should be better protected, as this is known as a moral right, according to Hegelian philosophy. In some situations, Hegelian philosophy is in favor of a liberal system of user rights, even though it seems to be a philosophy that strongly defends creators and their creative works.²²

Hegelian philosophy supports using copyrighted works by others as long as they do not harm the creator. Hegelian philosophy, which is based on the intrinsic relationship between the existence of the creator and his work, is used as the legal basis for the existence of moral rights in copyright. This right is used as the right of descent, the right to authorship and recognition of the creator in the identity of a work, as well as the right of integrity, or the right to oppose any distortion or modification of one's work that could be detrimental to the creator. Hegelian philosophy supports using copyrighted works by others as long as there is recognition of the creator. This recognition can be done by paying royalties for the copyrighted work. For an artist, earning income from creative works is an ability to fund further creative endeavors. Therefore, personality theory would support a user's right to adopt copyright works when paid for such use.²³

In connection with appropriation theory, there is continuity in the economic theory that supports reproduction rights in copyrighted works. Economic theory encourages creative work to be created by someone, which is appreciated through financial incentives. The justification for the economic theory of copyright is based on the fact that

²²Alexander D. Northover, "'Enough and as Good' in the Intellectual Commons: A Lockean Theory of Copyright and the Merger Doctrine," *Emory Law Journal* 65, no. 5 (2016): 1363–1410, <https://scholarlycommons.law.emory.edu/elj/vol65/iss5/3/>.

²³Haswira Nor Mohamad Hashim Muhamad Helmi Muhamad Khair, "Justifications of Intellectual Property Rights: A Discussion on Locke and Hegel's Theories," *Jurnal Hukum Novelty* 11, no. 2 (2020): 114–23, <https://doi.org/10.26555/novelty.v11i2.a16595>.

to grow creative works, there are costs that the creator must incur, and if the creator's work is used without any profit being obtained, then the creator will stop creating altogether or at least at a level that will significantly reduce the output of creative work and also social wealth. Economic theory also supports creators' reproduction rights as a necessary countermeasure to market failures inherent in creative works.²⁴

The British Parliament passed the Statute of Anne, also known as the Copyright Act of 1710, which is regarded as the world's first copyright law and contains economic theory. In the beginning, the history of copyright in England was born on the foundation of very monopolistic and capitalistic printing and book publishing business practices, which ignored the personal rights of the creator over his creation. Still, as it developed, it underwent changes, which at first were only for the business interests of the British Empire, but then changed. So, it is perfect with recognition of the creator realized in the form of giving royalties that are economic and also based on John Locke's theory at that time. Overall, the Statute of Anne represented a significant shift in legal thinking about intellectual property, establishing the concept of copyright as a means to promote the progress of science and the arts while also recognizing the importance of public access to creative works.²⁵

The next discussion is the Utilitarian theory conceptualized by the philosopher Jeremy Bentham. The philosophy of Utilitarianism is an approach that analyzes the perceived effects of an action to achieve happiness for a certain number of people. Bentham defined utility as the principle that approves or disapproves any action, according to the tendency it seems to have to increase or decrease happiness, and questions those who oppose such joy. In Bentham's version of Utilitarianism, the basic principle is that all individuals are considered equal, and the assessment of happiness and suffering is made using a quantitative, not a qualitative, scale. According to this view, the joy or grief experienced by one person has the same moral weight as that of another. Therefore, in any moral or ethical dilemma, the best course of action is the one that

²⁴Michelle M. Wu, "Defeating the Economic Theory of Copyright: How the Natural Right to Seek Knowledge Is the Only Theory Able to Explain TheRight to Seek Knowledge Is the Only Theory Able to Explain the Entirety of Copyright's BalanceEntirety of Copyright's Balance," *Georgetown Law Faculty Publications and Other Works*, 2023, 1–21, <https://scholarship.law.georgetown.edu/facpub/2495/>.

²⁵April M. Hathcock, "Confining Cultural Expression: How the Historical Principles Behind Modern Copyright Law Perpetuate Cultural Exclusion," *American University Journal of Gender, Social Policy & the Law* 25, no. 3 (2017): 239–60, <https://digitalcommons.wcl.american.edu/jgspl/vol25/iss3/1/>.

minimizes overall suffering for the greatest number of individuals or, conversely, maximizes pleasure for the greatest number of individuals.²⁶

The utilitarian theory approach is viewed from a consequentialist perspective, which evaluates the morality of an action based on its results and effects on the collective welfare of the parties involved. The main point is the net balance between happiness and suffering that a particular action produces. The application of utilitarian theory to copyright law protection will direct the interests of individual creators compared to their users by viewing happiness as the main factor. In this theory, copyright is not only concerned with the creator as an individual but also with users, in this case, public access to copyrighted works to be utilized to create derivative works. Therefore, the construction of pure utilitarianism would support the overall happiness of a larger group of individuals and would open access to works for creative consumption.²⁷

In the theory of Islamic art, there are three principal trends among modern scholars about the definition of Islamic art. The first trend is to view art with a wide lens encompassing all forms of creativity, including the linguistic, the artistic, and others. This trend places knowledge, literature, and art within the same broad category. The second way of conceptualizing Islamic art, which is somewhat narrower than the first, encompasses everything directly related to feeling, sensation, and aesthetic experience, including music, rhythm, architecture, drawing, and painting. As for the third trend, which is the most widespread among art historians and contemporary critics, it narrows the definition of Islamic art to include only visual expressions of Islamic creativity in the areas of architecture, writing, and relevant applied arts, as well as creative harmonizations of the aesthetic and the functional in, for example, architectural structures, books, manuscripts, tools, furnishings, and various other practical items.²⁸

This concept of Islamic art forms the epistemological nucleus of the study of buildings, paintings, rarities, manuscripts, and other material objects produced over time within the context of Islamic civilization and capable of being described, categorized, and

²⁶ Olgierd Górecki, "Utilitarianism: Doctrinal Analysis Evolution of Thought," *Annales. Ethics in Economic Life* 20, no. 5 (2017): 141–53, <https://doi.org/10.18778/1899-2226.20.5.11>.

²⁷ Patrick Russell Goold and David A Simon, "On Copyright Utilitarianism," *Indiana Law Journal*, 2023, 1–58, <https://doi.org/10.2139/ssrn.4408039>.

²⁸ Idham Mohammed Hanash, *The Theory of Islamic Art: Aesthetic Concept and Epistemic Structure* (London: The International Institute of Islamic Thought, 2017).

displayed as works of art that bear the marks of Islamic identity and culture. In connection with this, the theory underlying architectural works in Islamic law is regulated in the theory of Islamic art, which automatically regulates the protection of copyright in the perspective of Islamic law and rests on the opinion of Islamic scholars around the world to appreciate every work of art produced by its creator.

Based on the description relating to appropriation theory, economic theory, utilitarianism theory, and the theory of Islamic art, a comparison of the concepts in these theories is presented in table 1:

Table 1. The Comparison of Theoretical Concepts in Copyright Protection

No	Appropriation Theory	Economic Theory	Utilitarianism Theory	The Theory of Islamic Art
1.	Acknowledge ownership of copyright and legal protection of copyright as a right that must be given to the creator.	Acknowledge ownership of copyright and legal protection of copyright as a right that must be given to the creator.	Acknowledge ownership of copyright and legal protection of copyright as a right that must be given to the creator.	Acknowledge ownership of a work of art to the creator, and there is recognition to the creator for their work.
2.	The theory of appropriation was initiated based on John Locke and Hegel's theory.	The economic theory was initiated based on John Locke's theory. The first example of copyright law in the world was the Statute of Anne, also called the Copyright Act of 1710, passed by the British Parliament in 1710.	The utilitarianism theory was initiated based on Jeremy Bentham's theory.	The Theory of Islamic Art was initiated by the thought of Isma`il R. Al Faruqi, who stated that Muslims do not limit Muslim works of art and recognize the distinctive characteristics of an Islamic work of art that must be recognized as an Islamic cultural heritage.
3.	The ideas adopted, self-actualization, and well-being of the creator are intrinsically related to the future of his work. They are based on individual protection of the work created as well as stronger protection of the integrity of a job and its creator, known as moral rights.	Economic theory encourages creative work to be created by someone, and this work is appreciated through financial incentives. The concept of copyright is a means of promoting the progress of science and art while recognizing the	In this theory, copyright is not only concerned with the creator as an individual but also with users, in this case, public access to copyrighted works to be utilized in the creation of derivative works.	In The Theory of Islamic Art, a theory is an idea, perspective, or vision that is structured based on a set of concepts and relationships that provide a thematically organized explanation of the structural, descriptive, and functional aspects of a phenomenon. It follows the concept of copyright protection based on the protection of an idea.

importance of
public access to
creative works.

(Source: Mitchell Longan, 2023 & Idham Mohammed Hanash, 2017)

In this regard, it is necessary to explain the concept of copyright in Islamic law, including the thoughts of philosophers. Contemporary Muslim scholars provide views regarding the concept of copyright, and they make *ijtihad* regarding the basis on which the law relies in determining copyright.²⁹ Among them is Fathi Al-Duraini, who stated that the legal basis for copyright is *'urf* (a custom that is generally accepted in society) and the rule of *maslahah mullah* (a benefit for which there is no text in the Qur'an and *Al-Sunnah*, but contains goodness in it). From this, it is evident that copyright in Islamic Sharia is a recognized ownership right based on these legal arguments. The global legal source relates to why a person obtains property ownership rights.³⁰

In Islamic philosophy, copyright might be viewed from an Islamic moral and legal perspective. Although "copyright" may not be explicitly mentioned in classical Islamic texts, intellectual ownership and respect for individual works can be identified as ownership concepts with an essential position in Islamic law. The creator is considered to have ownership rights to his work.³¹ The principles of justice and respect for property rights are the basis for the Islamic view of copyright. Stealing or using work without permission is considered a violation of someone's property rights. In addition, Islamic Philosophy encourages the development and use of individual talents and creativity to make positive contributions to society. Therefore, copyright is a way to recognize and reward individual efforts in creating something worthwhile.

Islam encourages the pursuit and spread of knowledge. Copyright is a tool to encourage innovation and scientific development by incentivizing individuals to share their discoveries without fear of being stolen or misused. Although copyright is respected, the concept of public interest (*maslahah*) also has a role in Islamic philosophy. Specific

²⁹AAA. Ngurah Sri Rahayu Gorda et al., "Legal Protection for Copyright Holders of Commercialized Remix Song Cover Version," *Legality: Jurnal Ilmiah Hukum* 30, no. 1 (February 10, 2022): 1–11, <https://doi.org/10.22219/ljih.v30i1.17034>.

³⁰Supeno, "Hak Cipta Dalam Perspektif Hukum Islam," *Wajah Hukum* 2, no. 1 (2018): 120–37, <https://doi.org/10.33087/wjh.v2i1.32>.

³¹Afwan Faizin, Ali Mansur, and Akhmad Mughzi Abdillah, "Islam, Human Rights, and AKP (Adalet ve Kalkinma Partisi) in Turkey," *Ahkam: Jurnal Ilmu Syariah* 21, no. 2 (2021): 279–98, <https://doi.org/10.15408/ajis.v21i2.20136>.

works can be restricted to protect the public interest and social justice, and giving credit and recognition to creators can also be seen as an underlying value of copyright in the Islamic context.³² Giving credit to creators is not only a form of right but also a form of respect for creativity and positive contributions to creators.

Ibnu Sina emphasized the importance of knowledge and wisdom. His thinking can be interpreted as support for recognizing and respecting copyright because science results from creativity and research. Meanwhile, Al-Farabi, an Islamic political philosopher, discussed the concept of a just state. Although it does not directly discuss copyright, the principles of justice in a society he proposes can refer to protecting property rights, including copyright. Ibnu Khaldun, a historian and social philosopher, understood the importance of culture and innovation. Although copyright is not explicitly discussed, Ibn Khaldun's views can be interpreted as supporting respect for individual creativity and contributions. The concept of copyright in the context of Islamic philosophy emphasizes the values and principles of Islamic ethics, which provide a basis for understanding the importance of respect for creative works and copyright in Muslim society.³³

Review of Intellectual Property Rights and Copyright: An Epistemological and Islamic Law Perspective

The subdivision of philosophy that deals with various issues regarding science is called epistemology. Studies in epistemology continue to question how science came to be, whether there are boundaries, the nature of science itself, and the methods and validity of science. Epistemology is a theory of science that outlines discussions regarding the nature and scope of knowledge and its basis and control. The study of epistemology charts the evolution of human knowledge from the time people first believed that they could use recognition to understand reality as it is.³⁴ In addition to these subjects, epistemology discusses how knowledge and science can be acquired via non-scientific methods like experience, scientific methods like research, and helpful problem-solving techniques.³⁵

³²Evra Willya, Ahmad B. Bintang Maronrong, and Sabil Mokodenseho, "The Enforcement of MUI Fatwa Number 1 of 2003 Concerning Copyright for Merchants Selling Pirated VCD and DVD in Manado City," *Al-Ahkam* 31, no. 2 (October 31, 2021): 183–202, <https://doi.org/10.21580/ahkam.2021.31.2.8638>.

³³Sutisna, "Pandangan Hukum Islam Terhadap Hak Cipta," *MIZAN: Journal of Islamic Law* 5, no. 1 (2021): 1–16, <https://doi.org/10.32507/mizan.v5i1.927>.

³⁴Mohammad Adib, *Filsafat Ilmu Ontologi, Epistimologi, Akasiologi, Dan Logika Ilmu Pengetahuan (Edisi III Revisi)* (Yogyakarta: Pustaka Pelajar, 2018).

³⁵Reno Wikandaru et al., "Critical Analysis of Javanese Epistemology and Its Relevance to Science Development in Indonesia," *Humaniora* 32, no. 3 (2020): 206–16, <https://doi.org/10.22146/jh.49065>.

From an epistemological standpoint, comprehension of scientific knowledge facilitates human comprehension of the scientific method. Intellectual property rights are scientific methods in the form of ideas generated from a person's thoughts and then expressed as creative works and discoveries, after which they are tested using the scientific method. As discussed previously, this scientific method is part of the philosophy of science called epistemology. Intellectual property rights, which are studied from an epistemological perspective, can be described as follows:³⁶

Intellectual Property Rights in Subjective Epistemology

Subjective epistemology seeks the truth of science without using reliable standards, but it is based on self-reflection included in the understanding of science, usually subjective. Intellectual property rights are meant to be used for the common good of society, as an example of this viewpoint. Because it does not believe that intellectual property rights need to be protected and are not significantly impacted by them, traditional society is in charge of this. It contrasts modern society, which considers intellectual property rights equivalent to ownership rights over an object with a creator and must be protected as a right.

Intellectual Property Rights in Pragmatic Epistemology

The basis of pragmatic epistemology is the valuable aspect of science in society. If viewed based on intellectual property rights protection, creators, inventors, and designers are given incentives and special rights over their creations. Apart from that, protecting intellectual property rights can create a conducive climate for investors, encourage research and development activities to produce discoveries in various fields of technology and new inventors, and accelerate economic growth in the industrial sector. Judging from the diversity of tribes, ethnicities, and cultures and the existence of various intellectual property in the fields of art, literature, culture, and science, protection of this intellectual property shall be required.

Intellectual Property Rights in Moral Epistemology

Moral epistemology looks for right and wrong decisions based on good and evil. Thus, the study of moral epistemology will be linked to the study of decisions outlined in

³⁶Yulia Nizwana and Rahdiansyah Rahdiansyah, "Perlindungan Hak Kekayaan Intelektual (HaKI) Ditinjau Dari Epistimologi," *UIR Law Review* 3, no. 2 (2019): 34–40, [https://doi.org/10.25299/uirrev.2019.vol3\(02\).4006](https://doi.org/10.25299/uirrev.2019.vol3(02).4006).

the law regarding all protection of intellectual property rights in Indonesia. Based on this, if we look at the regulations regarding intellectual property rights, there are 2 (two) inherent rights, such as moral and economic rights, so the concept of moral epistemology follows the protection concept of intellectual property rights.

Epistemology helps provide scientific space for testing ideas against intellectual property to maintain authenticity.³⁷ Originality does not always have to indicate novelty. However, originality can be determined by how ideas are expressed regarding a variety of topics. For example, inventive concepts don't always need to be novel or new; patent concepts acknowledge the existence of a simple patent as an addition to or improvement over the inventor's earlier work done by new inventors; one such example is the upgrading of cell phones to Android and iOS technology to make them more advanced than before. The goal of intellectual property rights protection is the intellectual property rights themselves, which are closely related to the study of epistemology. Intellectual property rights are a person's natural right to protect their ideas, which are gifts from God.

Discussing intellectual property rights in terms of their authenticity, copyright has a reasonably significant role in protecting intellectual property rights. It consists of works in art, culture, literature, technology, and science produced through thoughts, feelings, knowledge, imagination, and experience, which must be protected as exclusive rights. In this regard, copyright is the most frequently violated among other intellectual property rights. Thus, it is necessary to discuss the epistemological review regarding copyright and its protection using one of the approaches in philosophy, such as the figure or *ism* (school) approach.

Natural rights theory, with the basic principles of property rights, including intellectual property rights, reflects the recognition of copyright because the human mind is a guide to life with moral value. Moreover, it is said that if God did not exist, the mind would be able to guide humans. The figure related to natural rights theory is John Locke, who defined humans as free or naturally existing before their country. Humans have natural rights. This right then underlies the existence of intellectual property rights, which

³⁷Sekar Aulia Prameswari and Ira Suryani, "The Effectiveness of Group Guidance Based on The Value of Islamic Education in Reducing Academic Procrastination Behavior in Madrasah Aliyah," *Nazhruna: Jurnal Pendidikan Islam* 6, no. 2 (March 29, 2023): 226–39, <https://doi.org/10.31538/nzh.v6i2.3178>.

originate from the power of human thought to create something valuable for society.³⁸ Humans then use these rights as property rights even though their nature is not materialized like physical material rights. Even though intellectual property rights are intangible, they have value in human civilization, for example, technological developments that changed humans during the Industrial Revolution, and this is used as the basis for economic rights for creators to gain profits from the results of their creations.

Regarding intellectual property rights, Jeremy Bentham, through the utilitarian philosophy, proposed a principle that balances producers' economic interests with consumers' interests. Utilitarian philosophy tries to balance economic rights with moral rights that define justice and truth in action, which takes into account the ultimate goal of the happiness of society. Regarding regulations regarding intellectual property rights,³⁹ apart from the regulated economic rights, there are also moral rights for the creator. Conceptually, it is used to credit creators by recognizing them as creators by people who use their creative works. Based on this, when creators do not get the economic rights they deserve in traditional societies, they should receive respect for moral rights by stating the creator's identity on each of their creations in that field or by recognizing the work they have created.

From an epistemological perspective, intellectual property rights and copyright are based on John Locke's natural correct theory and Jeremy Bentham's utilitarian theory. Intellectual property rights and copyrights have two fundamental protections: economic and moral rights. John Locke had the idea of strictly protecting intellectual property rights, giving repressive law enforcement against violators to protect the economic rights of creators. Meanwhile, the protection of moral rights in Jeremy Bentham's theory reveals that apart from the economic rights expressed by John Lock, there are moral rights inherent in the creator as something that needs to be recognized,⁴⁰ as the application of subjective epistemology in the traditional society which still considers intellectual

³⁸Asmawi et al., "Measuring Human Rights and Islamicity of Indonesian Anti-Terrorism Law," *Ahkam* 19, no. 2 (2019): 229–46, <https://doi.org/10.15408/ajis.v19i2.13898>.

³⁹Ampuan Situmeang, Ninne Zahara Silviani, and David Tan, "The Solving Indonesian Intellectual Property Rights Transfer Issue," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 23, no. 1 (June 24, 2023): 59–74, <https://doi.org/10.30631/alrisalah.v23i1.1341>.

⁴⁰Arif Sugitanata et al., "Violation of Women's Rights: The Kawin Magrib Tradition of the Sasak Muslim Community in Lombok, Indonesia," *Journal of Islamic Law* 4, no. 2 (2023): 197–217, <https://doi.org/10.24260/jil.v4i2.1772>.

property rights unnecessary to be protected. However, Bentham's theory can only be applied when economic rights are not obtained; the creator is entitled to moral rights from his creative work.

Examining intellectual property rights from the standpoint of Islamic law is the subject of the following conversation.⁴¹ The sources of Islamic Shari'a serve as the foundation for the Islamic viewpoint on intellectual property (IP). These sources primarily consist of the Qur'an, the *Sunnah*, or customs of the Prophet, and the legal techniques, such as legal analogy, or *qiyas*, and the consideration of public interest, or *masslaha mursala*, that are used to infer prohibitions from the Qur'an and the *Sunnah*. The roots and tenets of Islamic Shari'a impact culture and legislation in 57 countries worldwide, albeit to differing degrees. Islamic Shari'a strongly emphasizes controlling the legislative process in Muslim countries. It can serve as a normative basis for legislation in various legal domains, including intellectual property. Almost all nations with sizable Muslim populations acknowledge and safeguard intellectual property. Prominent Islamic organizations, including the Al-Azhar Fatwa committee and the Council of Islamic Fiqh (Jurisprudence) Academy, have released fatwas based on Shari'a, stating that the sources of Shari'a support the preservation and use of intellectual property. On the other hand, little has been written to demonstrate IP's theoretical underpinnings from an Islamic standpoint.

According to most modern Muslim academics, Islamic Shari'a acknowledges intellectual property rights, and "nothing in [its rules] enjoins or contravenes protecting and enforcing intellectual property." On the other hand, it appears that the *Qur'anic* and *Sunnahi* principles and the non-textual sources of Shari'a strongly support the acknowledgment and defense of intellectual property.⁴² In contrast to what might be considered acceptable as protectable subject matter, Islamic Shari'a states that the breadth

⁴¹Ogie Ardiansyah and Masrokhin, "The Tradition of Tepuk Tepung Tawar in Malay Weddings from the Perspective of Islamic Law: A Case Study at Tanjungpinang, Riau Islands," *El-Usrah: Jurnal Hukum Keluarga* 6, no. 2 (2023): 399–410, <https://doi.org/10.22373/ujhk.v6i2.5391>; Bukhari Ali, "Otoritas Ijtihad Dalam Kajian Hukum Islam (Analisis Kaedah Fikih Al-Ijtihadu La Yunqadhu Bi Al-Ijtihadi)," *El-Usrah: Jurnal Hukum Keluarga* 4, no. 1 (March 18, 2021): 108–21, <https://doi.org/10.22373/ujhk.v4i1.9246>.

⁴² Imam Agung Prakoso, "Zakat Atas Hak Kekayaan Intelektual Perspektif Teori An-Nama' Yusuf Qaradhawi," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi* 3, no. 1 (June 18, 2020): 1–15, <https://doi.org/10.24090/volkgeist.v3i1.3503>; Mabarroh Azizah, "Peran Negara Dalam Perlindungan Konsumen Muslim Di Indonesia," *Volkgeist: Jurnal Ilmu Hukum Dan Konstitusi* 4, no. 2 (November 12, 2021): 153–65, <https://doi.org/10.24090/volkgeist.v4i2.5738>.

of the protectable subject matter under the international and Western IP systems is enormous. Their content restrictions for protectable subject matter are typically limited to public order and morality, which are nebulous notions heavily influenced by liberal conceptions of personal freedom. Islamic *Shari'a* has moral standards that could determine the protection available for many types of intellectual property, including copyright.

A copyright will be recognized when it meets the required elements. First, because of copyright ownership. A creator with sincerity, perseverance and scientific capital has created a creative work that will benefit humanity. This effort is a noble practice and a natural thing when he gets the results of his creative work. The attempt to create a creative work is one of the causes of ownership, it is equated with work (*al-'amal*), or it can also be correlated with making a product (*as-sina'ah*). Working is one of the reasons for obtaining property ownership rights. So, a creator with all his sincerity has worked (*al-'amal*) with his brain to produce a product (*as-sina'ah*) as a creative work. Second, use of copyright. Copyright as an exclusive right of the owner of a creative work in Islam also has social rights. As stated by Yusuf Al-Qaradawi, it is permissible for every individual to have ownership rights in Islam, even until they become wealthy. It is not a problem, as long as he takes care in the process of earning his wealth on something *halal*, spends it in the way of Allah, does not spend it on something that is *haram*, does not exaggerate in permissible things, does not mistreat property rights, does not do injustice to other parties, and not consuming other people's rights as stipulated by Islam. So, the use of copyright in Islam must be to the objectives of Islamic law.⁴³

Epistemological and Islamic Review of the Legal Protection of Architectural Works as Copyright

As time and technology develop, the public can easily access works without going to certain places such as art exhibitions, libraries, galleries, or bookstores. People can access everything very quickly by using the internet. Works of art, research, literature, and science, including works of architecture, can be directly accessed by the public. Thus, every work an architect produces has scientific, technological, and artistic value, which

⁴³Cut Vera Shilvia, Azkiya S Sabrina, and Shabarullah, "The Concept of Copyright In Civil Law And Islam," *Mudharabah: Jurnal Ekonomi Dan Keuangan Syariah* 3, no. 2 (2022): 126–52, <https://doi.org/10.22373/al-mudharabah.v3i2.3424>.

must be protected. Architectural work is an exclusive right that attaches to the creator, and the creator must permit its use.⁴⁴ Violating an architectural work includes downright plagiarizing the work or imitating, adding, and changing several forms to produce a new architectural creation.⁴⁵

Related to the existence of architectural works as copyright, the concept of epistemology itself should be clear when viewed from an epistemological perspective. Linguistically, the Greek terms episteme, which means "knowledge," and logos, which means "science," are the source of the word epistemology. The scientific study of epistemology examines the existence and integrity of science through a substantive analysis. Since epistemology is a solid foundation of truth that can be tested scientifically, it is essential to the advancement of science.⁴⁶

All human knowledge, according to epistemology, comes from studying and investigating things up until people are able to know them for themselves.⁴⁷ When it comes to architectural works, past experiences arouse people's interest in what their five senses perceive before the creation of the architectural work. For example, this perspective can be seen when someone sees a building and then questions its structure and design that could produce a sturdy and aesthetic building, which inspires architects to create architectural works. Thus, when science is highlighted through epistemology, the discussion is focused on the development of scientists with methods and characteristics that are different from other scientists.⁴⁸

When it relates to manner or method in creating architectural works, the creator's process in designing architectural works will be carried out using their method, even though it originates from the creator's experience in seeing building structures in a place. However, when the work is created, it will have different characteristics from previous work. In principle, architecture is a work that originates from a person's mind that

⁴⁴Ni Ketut Supasti Dharmawan, *Harmonisasi Hukum Kekayaan Intelektual Indonesia* (Denpasar: Swasta Nulus, 2018).

⁴⁵Hanafi Amrani, "Urgensi Perubahan Delik Biasa Menjadi Delik Aduan Dan Relevansinya Terhadap Perlindungan Dan Penegakan Hak Cipta," *Undang: Jurnal Hukum* 1, no. 2 (2018): 347–62, <https://doi.org/10.22437/ujh.1.2.347-362>.

⁴⁶Sulaiman, "Epistemology of the Indonesian Law State (Re-Conceptualization of Indonesian Law)," *Law Research Review Quarterly* 4, no. 2 (2016): 543–66, <https://doi.org/10.15294/snh.v2i01.21341>.

⁴⁷Nur Afni Puji Rahayu, "Tinjauan Ontologi, Epistemologi, Dan Aksiologi Peningkatan Keterampilan Menulis Deskripsi Melalui Model Kooperatif Tipe Round Table."

⁴⁸Dewi Rokhmah, "Ilmu Dalam Tinjauan Filsafat: Ontologi, Epistemologi, Dan Aksiologi."

combines art in the form of building and environmental design with a combination of science and technology applied for the benefit of humans, which has specific characteristics as the creation of an idea created in natural form.

Regarding the methods, sources, and origins of architectural works, it can be explained that knowledge about architectural works is obtained from historical heritage, which has been passed down from generation to generation to create building patterns such as houses, buildings, and environmental designs in certain areas with specific customs and based on the culture of that country. The building pattern is then widely imitated and becomes a habit of creating buildings like existing examples. Then, architectural works begin to develop along with the times and geographical conditions of a region, requiring certain adjustments to the shape of the building. Then, by applying researched science and technology, these adjustments, which had previously only been copies, begin to draw and apply calculations, creating new architectural works that are formed from experience and implemented through the human mind.⁴⁹

Concerning the boundaries, nature, methods, and validity of knowledge in architectural works, the boundaries of science obtained through experience are then tested empirically to produce science with an objective, rational nature and using methods of applying building patterns and cultures from various civilizations created in architectural works using science from researchers who are acceptable and trustworthy. Therefore, the results of architectural works by applying elements of culture, science, and technology have a quality of work whose authenticity cannot be doubted by the epistemological concept, which results from accumulated experience that produces science in architectural works.

For these reasons, same as the explanation of copyright according to the theory of John Lock and Jeremy Bentham that requires protection as a creative work that has moral and economic rights, architectural works that are included in copyright as regulated in copyright law must be protected as the work of an intellectual idea which is different for every human being. Intellectual ideas need to be protected because they are subjective and natural, and the epistemological concept of how science is obtained through

⁴⁹Muhamad Harisman, "Kepastian Hukum Hak Cipta Atas Karya Desain Arsitektur Di Indonesia Dikaitkan Dengan Prinsip Alter Ego Dentang Hak Cipta."

experience or human thought in creating something through their imagination or research methods applied in obtaining science.

From an Islamic epistemological point of view, the protection of architectural works is more directed towards the creator, with works created as part of obedience to God. The goal of civilization is the ongoing discovery of existence's mysteries. Man's relationship with reality is an epistemological relationship that arises from man's relationship with God, which is a relationship of friendship and worship. When God created man in the best way possible, He also gave him the wisdom and knowledge to discover the secret of existence through it. The science of Islamic aesthetics developed under the idea of Islamic art, a new movement spawned by Islamic beliefs in all Islamic arts, including architecture and illustration. Islamic towns employed Islamic arts, which had distinct religious and civilizational traits.

The city's structures were oriented toward the *Qibla*, and great attention was taken to ensure that the buildings' heights did not surpass the mosques' domes and garlands. It is another characteristic of Islamic architecture demonstrating the dedication to Islam and religious beliefs. Islamic law did not emphasize the use of Islamic art in buildings and structures, nor was it a popular means of religious instruction.⁵⁰ Instead, Islamic architecture reflects the historical and civilizational values of Muslims. Instead, Muslim artists used imagery of religious hadiths, Quranic phrases, and the Prophetic tradition, performed for religious purposes to uphold their beliefs and the integrity of God's message.⁵¹

In Islamic arts, particularly Islamic architecture, illustrations support Muslim ideals, history, and civilization, for example, by hanging on palace walls or placing them

⁵⁰Agus Riwanto and Sukarni Suryaningsih, "Realizing Welfare State and Social Justice: A Perspective on Islamic Law," *Volksgeist: Jurnal Ilmu Hukum Dan Konstitusi* 5, no. 1 (June 30, 2022): 41–51, <https://doi.org/10.24090/volksgeist.v5i1.6430>.

⁵¹Wildani Hefni, Rizqa Ahmadi, and Imam Mustofa, "Reinventing the Human Dignity in Islamic Law Discourse: The Wasatiyah Approaches from Khaled Abou El-Fadl to the Interreligious Relation," *Al-Manahij: Jurnal Kajian Hukum Islam* 16, no. 2 (November 25, 2022): 239–54, <https://doi.org/10.24090/mnh.v16i2.6928>; Hazar Kusmayanti et al., "Judges' Acceptance of Sharia-Inspired Laws in Indonesia," *Al-Manahij: Jurnal Kajian Hukum Islam* 17, no. 2 (October 27, 2023): 199–214, <https://doi.org/10.24090/mnh.v17i2.7716>.

next to manuscript pages. At the same time, Islamic art and architecture created the framework for showcasing Islamic principles.⁵²

In this regard, Islamic architectural designs have philosophical and spiritual characteristics. Islamic architectural works are the same as others, which must be protected as works with copyright, primarily because the work reflects an artist's love for God.⁵³ In protecting architectural works, considerations of *maslahah* or the public interest are more prominent than safeguarding the ownership of an individual or a creator, as is the case with the Utilitarianism theory proposed by Jeremy Bentham, which prioritizes the public interest above personal interests. However, architectural works in Islamic law are recognized as copyrights, reflecting Islamic ethics principles that must be protected as copyrighted works.

Conclusion

Legal protection for architectural works in Islamic law is the same as legal protection for copyright, which has economic and moral rights and Islamic ethical principles and must be protected as a creative work. From an Islamic legal perspective, the protection of architectural works is more directed towards the creator's moral rights because there is the principle of *maslahah* or public interest. Based on the research, there must be changes related to copyright laws that apply in Indonesia and other countries based on the use of different theories between countries, so the current rule of law has not accommodated the protection of architectural works as copyright. In some countries, architectural works are excluded from works protected by copyright because it is considered of public interest. However, it needs to be thoughtful concerning epistemological aspects and Islamic law that the protection of architectural works remains.

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⁵²Mahin Keramatifard Mahdis Mohammadi, "Philosophy of Aesthetics and Art in Islamic Architecture," *International Journal of Multicultural and Multireligious Understanding* 8, no. 2 (2021): 612–26, <https://doi.org/10.18415/ijmmu.v8i2.2656>.

⁵³Syufa'at Syufa'at, "Pembajakan Karya Di Bidang Hak Cipta: Telaah Integratif Hukum Islam Dan Undang-Undang R.I. Nomor 28 Tahun 2014 Tentang Hak Cipta," *Al-Manahij: Jurnal Kajian Hukum Islam* 13, no. 1 (June 25, 2019): 49–63, <https://doi.org/10.24090/mnh.v0i1.2215>.

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