

Indonesian Law Ideology Dynamics in Supporting Legal Protection of Copyright in the Era of Society 5.0

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ABSTRACT

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Human behavior corresponding with the prevailing legal ideology in the Pancasila practice encouraged much innovation in the digital age. This coincides with the legal protection required to become a protector of a society that spends more time on social media. One of the legal protections that became a proponent of the digital age is with regard to copyright protection. The fifth Pancasila is social justice for all people of Indonesia which is judged as the basis for the justice of every individual in the eyes of the law. The challenges facing societies in the digital age create many stereotypes that can lead them to conclude either positively or negatively. Nevertheless, in this case, social activities are specialized in activities that involve intellectual property detailed into copyright, and the setting is incorporated into Article Number 28 of Copyright Law.

Keywords: Copyrights; Pancasila; Ideology of Law

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INTRODUCTION

Pancasila is an achievement value that was initiated by the selection of three ideas from Indonesian national figures, named Mohammad Yamin, Soepomo, and Ir. Soekarno (Kertamukti, 2013). The beginning of Pancasila as the basis of the state is a union that was initiated by national leaders and passed on to the Indonesian people (Safitri & Dewi, 2021). This includes freedom from the people of Indonesia to embrace a held religion, regulation of human rights (from now on referred to as HR) which is the basis of humanity, unity by putting aside differences in Ethnicity, Race, and Religion, government governed by a set of rules and conscience and justice given to society to be equal in the eyes of the law (Fauzia & Hamdani, 2021).

The five principles summarized by Ir. Soekarno inherited Indonesia's determination in the past to become a bright spot for a growing Indonesia. The five precepts that have been established are essential things for Indonesia with a simple basis and carry a million meanings and can maintain values adapted to Indonesia's increasingly advanced development but are limited by the presence of information technology (Budiman, 2017). The presence of Pancasila values which become the legal ideology for Indonesia, is a manifestation of love for the motherland to build a better nation and state. These legal, ideological values can also be realized in simpler forms in everyday life, such as respecting one another, helping each other, and working together (Anggraini et al., 2020). The presence of Pancasila, which includes the values of inclusivity, cooperation, consensus deliberation, and easy tolerance, is a change as well as a goal as a tool that is not only the main foundation of a country but also a driving force for diversity which aims to unite each other to form a national identity of *Bhinneka Tunggal Ika* (Deliabilda et al., 2021).

The Era of Society 5.0 is a continuation of the industrial revolution 4.0, which creates new challenges for the people of Indonesia and gets on hand in hand with information technology (Nastiti & Abdu, 2020). The concept of society 5.0 is an answer to the industrial revolution 4.0, which focuses on technology without neglecting the humanities aspect which is also developing (Ardinata et al., 2022). Information technology that can be used at this time is undoubtedly an innovation for the community in socializing while still sticking to the values of Indonesian legal ideology, namely Pancasila. (Ferreira & Serpa, 2018) The ease of socializing with the fluency of information technology narrowed down to the digital era, which moves from time to time based

on its sophistication and facilitates the spread of information via the internet without limits (suci rahayu rais et al., 2018). Apart from the use of the digital era, this development must also pay attention to the good and bad impacts on Indonesian people because developing technology goes hand in hand with fundamental values that cannot be separated from the identity of the Indonesian people (Budiman, 2017).

Intellectual property (from now on referred to as IP) is wealth in the form of works that exist and are born from human thought and intellect (The Creations of The Human Mind) (Disemadi., 2023). Works that arise or emerge from human thought give rise to rights for the creator, namely exclusive and economic rights that have commercial value. The emergence of economic rights that are formed encourages the growth of a legal protection system for the protection of Intellectual Property (Setyowati et al., 2005). Referring to practice, the concept of protection of copyright which acts as an exclusive right is not absolute (Rezky Lendi Maramis, 2014). This is supported by the existence of regulations on limitations and exceptions to copyright which states that not all types of copyright can be given permanent protection for their creators. So, as a result, there is a need for the renewal of copyright following the governing Copyright Law. Restrictions and exceptions to copyright have been regulated nationally and internationally, one of which is the provisions in the Berne Convention (Ketut Pastika Jaya, Ketut Sudiarmaka, 2020). Based on conceptual copyright protection, if a country officially regulates copyright protection, then copyright cannot be absolute because it is considered the interests of the creator to adjust to society's general interests.

Protection of intellectual property itself can be an embodiment of Pancasila, namely the fifth precept, which is social justice for all Indonesian people, to get equal justice in the eyes of the law, especially for IP, which has been registered with the Directorate General of Intellectual Property (DGIP) (Kuasa et al., 2022). IP has several types, including Copyrights, Patents, Trademarks, Industrial Designs, Geographical Indications, Integrated Circuit Layout Designs (ICLD) and Trade Secrets (Kusno, 2017). For Copyright, legal arrangements to regulate legal protection are regulated in Law Number 28 of 2014 concerning Copyright (in the future referred to as the Copyright Law). Copyright protection that has been set has a period for its registration. This refers to article 58, paragraphs (1), (2) and (3) of the Copyright Law; article 1 states that some protections for works of art, books, maps and others are valid for the life of the Author and

continue for 70 (seventy) years after the Creator's death, commencing January 1 of the following year. In article 2 it reads, "If a work as referred to in paragraph (1) is owned by 2 (two) people or more, copyright protection lasts for the life of the author who passed away and lasts for 70 (seventy) years after that, commencing starting from January 1 of the following year.", and in Article 3 if a legal entity holds it then it is valid for fifty years since the announcement was made for the first time (Guswandi et al., 2021).

Previous studies with the theme of the dynamics of Indonesian legal ideology, namely Pancasila regarding the protection of intellectual property law, were previously conducted by Airlangga Surya Nagara (2013) entitled Copyright in Indonesia (Studies Regarding the Politics of Copyright Law in Indonesia) (Nagara & SH, 2013). There was Juliana Susantje Ndolu (2020) which has the title Legal Protection for Women Weaver through Affirmation Policy from the Perspective of Pancasila Justice (Ndolu & Sulistiyono, 2020), and Kholis Roisah (2012) with the title Prismatic of Law as the Basis for Legal Development in Indonesia Based on Pancasila (Study of Intellectual Property Law) (Roisah, 2006). Where the three articles above discuss the study of copyright politics in Indonesia without specifically discussing copyright law protection, the second article discusses legal protection for batik copyrights through the perspective of Pancasila justice. The third article discusses the combination of social values in society. Meanwhile, the research conducted by the author is about copyright protection through the dynamics of Indonesian legal ideology (Pancasila). It discusses copyright protection during the 5.0 society era, which is familiar with information technology. Thus, with a difference in focus, the author discusses the Dynamics of Indonesian Legal Ideology in Supporting Copyright Law Protection in the Era of Society 5.0.

METHOD

This study uses a normative legal approach, which is a process to find a rule of law, legal principles, and legal doctrines to answer the legal issues at hand. This method was chosen because the object of research study is regarding legal principles and principles, legal rules, legal theories and doctrines of legal experts (Nurhayati et al., 2021). The type of data in this study uses secondary data (Disemadi, 2022). Secondary data, namely data obtained indirectly through

literature studies on laws and regulations and publication of previous studies to add information, obtain a theoretical basis and a legal basis (Tan, 2021).

DISCUSSION AND ANALYSIS

The Dynamics of Indonesian Legal Ideology amidst the Development of Information Technology

Law is a set of rules that are closely related to human life. According to Satjipto Rahardjo, where there are human groups, there is also a law that develops with them. The law exists for humans, not humans for the law (Pradhani, 2018). The law applied in Indonesia was born with the Indonesian state that formed, starting with the presence of Pancasila, which was coined by Ir. Soekarno and became the basis of the state as well as the basis of Indonesian regulations (Widiuseno, 2014). Pancasila is present to become the ideology of Indonesian law which in its implementation can realize law enforcement, uphold the right to freedom, the right to independence, the right to protection and security for every individual under the pillars of Indonesian law and create order and tranquility for the community, these rights are written in Article 28 and Article 28E paragraph (3) of the 1945 Constitution of the State of Indonesia (Widiatama et al., 2020). Pancasila, which stands for unity, is inseparable from various challenges that also vary over time, not only conventionally but also through information technology systems that are increasingly developing in society (Situru, 2019).

The legal ideology, which is Pancasila, is a normative basis that organizes all regulations in Indonesia; in short, Pancasila is the basis of the state that is aspired to be the foundation of state formation since Indonesia was declared independent (Agus, 2016). Pancasila's role as a state foundation was created as a consequence of various favourable legal regulations such as legislation that was formed, arranged in detail and systematically. Some parts were narrowed down to regulate specific things so that these regulations are derived or elaborated based on Pancasila values, one of which is the regulation of legal copyright protection (Zulkarnain, 2019). Pancasila, at present, runs in harmony with the presence of information technology, namely the increase in the era of the industrial revolution 4.0, which developed with the presence of the Internet of

Things (IoT), Big Data, Artificial Intelligence (AI), Cloud Computing and Addictive Manufacturing to the era of society 5.0 which runs with the aim of society being able to solve various challenges by utilizing innovations that have been born in the era of the industrial revolution 4.0 and centred on the use of technology (Sundari et al., 2019). Technology that has developed in this case, one of which is the internet, has fostered a new era, namely the digital era, which has evolved from 1.0 to 5.0, and the development between one computer and another covers the whole world. These developments also facilitate communication that can cross borders between countries easily with the help of the internet network. In the digital era, it provides various types of information that can be uploaded and obtained easily without being hindered by geographical areas or territorial rules (Murfianti et al., 1977).

The era of society 5.0, which affects all aspects of life that have been influenced by globalization, including activities that support education, economy and also other community life, raises the dynamics of Indonesian legal ideology and survives at its level; this is used to assist the community in obtaining fair justice in carrying out daily activities in the eyes of the law (Asatawa, 2017). This dynamic is also in line with the fifth principle of Pancasila, which reads social justice for all Indonesian people, aiming not only to regulate activities that move directly but also indirectly, namely through online media (Nila Aulia Khairunnisa, 2018). The behavior of Indonesian people who spend more time surfing online media has led to several activities that innovate and can be accessed through online media without the need to do it directly (Marysca, 2021). One is registering copyright to obtain economic rights from the copyright owner. Copyright registration is also a benefit for copyright owners to get legal protection for their work (Rahayu, 2011).

The rapid advancement of technology in the era of society 5.0, significantly the increase in internet users in the millennium era in the fields of economy, tourism and education help to encourage increased competition and competitiveness by considering the cost and time effectiveness of technological developments (Bimantoro et al., 2021). In its development, advances in information technology have had positive and negative impacts on the continuity of social life. The positive impacts of advances in technology and information include making it easier to access information, saving costs and time, increasing the ability of individuals to think quickly and accurately by utilizing online media and also increasing creativity and innovation in building a

new activity (Setiawan, 2018). However, the positive impact of information technology is also followed by its negative impact, including increasing online-based crimes such as theft, fraud and several unlawful activities; moreover, this can affect all aspects of the field, including the realm of intellectual property (Marryono Jamun, 1996). Thus, to avoid undesirable things in the refraction of the negative impact of information technology, there is a need for regulations governing legal protection related to intellectual property rights, especially for copyright.

Arrangements Regarding Copyright Legal Protection in the Era of Society 5.0

Article 1 paragraph (1) of the Copyright Law stipulates that copyright is an exclusive right that arises automatically based on the declarative principle or must be declared in advance against an actual creation without having to reduce restrictions related to applicable laws (Sitorus, 2015). It aims to avoid other parties who want to recognize the work of creation and reproduce it for commercial purposes without the creator's permission. Thus, encouraging copyright registration to be implemented so that creators can feel the economic benefits of their creations and get appropriate legal protection (Kusmawan, 2014) Legal protection is lexically an act or event regulated by legislation, in this case, the Copyright Law (Kusmawan, 2014). The protection provided by the government to the creator for his work stands in the form of guarantees of security, welfare, risks that threaten him, peace and unexpected dangers. The legal protection that applies not only regulates from written regulations but is also based on unwritten regulations in the hope that the work created gets its rights and obligations (Valentina & Senewe, 2015).

The birth of legal protection is based on the existence of copyright infringements in science, art and literature. Referring to the principle of the offence is a criminal act that includes violating the property rights of others in general (Lopes, 2013). The occurrence of copyright infringement is feared to damage our country's social, economic and ideological order. Thus, the presence of laws governing specifically on copyright in Indonesia can be an answer to the violations that occur (Mashdurohatun, 2012). The emergence of copyright infringement, especially in the digital age, is increasingly giving rise to new violations that are proliferating; this happens among others because replication, which is the ease of technology to create with different methods but with

almost similar results, and produced continuously, giving rise to similarities with the original product. Furthermore, the ease of modification and transmission in the continuous use of digital works (Riswandi, 2016). This is also supported by various platforms or websites that provide a place for people who infringe by facilitating and disseminating unoriginal works owned by infringers in various ways (Suran Ningsih & Hedyati Maharani, 2019). The last is the presence of digital media and technology itself, which makes it easier for unscrupulous infringers to make various changes and modifications to work (Mike, 2019). Digital media itself can potentially be the most significant space for copyright infringement, so the ideology of Indonesian law should be present to prevent this from happening (Riswandi, 2016).

Legal protection of copyright in the era of information technology that is developing amid the era of society 5.0, which has continued from the era of industrial revolution 4.0, has had a significant impact (Salindeho, 2017). One of them is the ease of theft of copyright crimes can take place through online media, such as negligence in not getting permission to redesign a copyrighted work such as music, writing or books and videos, and the results of the redesigned work that produces economic value and causes harm to the creator of the work (Munawar, 2013). Pancasila, through the last precept, which is one of the foundations of justice for the legislation in Indonesia, presents legal protection that can protect the work of irresponsible individuals or entities, such as the regulation of copyright royalties music/songs, which also regulates online actions contained in Government Regulation No. 56 of 2021 concerning Management of Copyright Royalties of Songs and Music (after this referred to as GRCRS) which is adjusted in Article 87, Article 89, and Article 90 of the Copyright Law (Atmadja, 2017).

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Regulation No. 56 of 2021 concerning Management of Copyright Royalties of Songs and Music (from now on referred to as PP Management of Copyright Royalties of Songs / Music) which is adjusted in Article 87, Article 89, and Article 90 of the Copyright Law.

The sanctions given to violators it is regulated in Article 113 of the Copyright Law paragraph (1), which reads, “Every person who without rights infringes the economic rights as referred to in Article 9 paragraph (1) letter for Commercial Use shall be punished with a maximum imprisonment of 1 (one) year and a maximum fine of Rp100,000,000 (one hundred million rupiahs).”, paragraph (2) which reads “Any Person who without rights and the authorization of the Creator or Copyright holder infringes the economic rights of the Creator as referred to in Article 9 paragraph (1) letter c, letter d, letter f, or letter h for Commercial Use shall be punished with a maximum imprisonment of 3 (three) years and a maximum fine of Rp500. 000,000.00 (five hundred million rupiahs).”, and also paragraph (3) reads, “Any Person who without rights and the authorization of the Creator or Copyright holder infringes the economic rights of the Creator as referred to in Article 9 paragraph (1) letter a, letter b, letter e, and letter g for Commercial Use shall be punished with a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp1. 000,000,000.00 (one billion rupiahs)”, and (4) reads, “Any person who fulfils the elements as referred to in paragraph (3) which is carried out in the form of piracy, shall be punished with a maximum imprisonment of 10 (ten) years and a maximum fine of Rp4,000,000,000.00 (four billion rupiahs)” (Kemdikbud, 2016).

The regulation of legal protection in the digital era is a form of the principle of equality and transparency as well as best market practice (Nurchayadi, 2022). Copyright has three principal pillars in running the system, namely regulation, management and law enforcement. What is meant as a regulation is to refer to the Copyright Law, and Government regulations governing the protection of copyright; management is how copyright regulates the exclusive rights arising from the creation of a work, and law enforcement which means that in its regulation, all the consequences arising from activities concerning copyright has a basis or arrangement that regulates in detail and in full along with sanctions that can be paid in case of violation (Chantry Dhityaenggarwangi, 2022).

CONCLUSION

The growing digital era does not make legal protection against copyright infringement shrink. However, it encourages innovation so that the perpetrators and behavior contrary to the law can be more easily reviewed and sanctioned for their actions. The growing technology also brings digital influence and social change to society, including affecting social development that plays a role closely with the presence of intellectual property that specifically regulates copyright which is part of it. In line with the existence of Pancasila as a legal ideology and the basis of a regulation that applies at this time, the era of society 5.0 is where regulations regarding the legal protection of copyright become more transparent.

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