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Copyright Protection of Artificial Intelligence-Based Works in Indonesian Legal Perspective

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Abstract:

The development of Artificial Intelligence (AI) has transformed the process of creating literary, artistic, musical, and other creative works, while simultaneously creating new challenges for copyright protection. This study aims to analyze the legal status of AI-assisted works and examine their legal protection under Indonesian copyright law. This research employs a normative juridical method using statutory and conceptual approaches. The primary legal material is Law Number 28 of 2014 concerning Copyright, supported by relevant academic literature on AI and intellectual property. The results indicate that AI cannot currently be recognized as an independent copyright author under Indonesian law because copyright protection remains centered on human creativity. Protection may therefore be granted to AI-assisted works when sufficient human creative contribution can be identified. However, works generated with minimal human involvement raise uncertainty concerning originality and ownership. AI development also creates potential copyright infringement through the use of protected works in training processes and through outputs that may substantially resemble existing works. Therefore, Indonesian copyright law requires adaptive interpretation and further regulatory development to provide legal certainty while maintaining protection for human creativity.

Keywords:

Artificial Intelligence; Copyright; Human Creativity; Legal Protection; Originality.

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1. Introduction

The development of artificial intelligence technology (*AI*) has brought changes to the process of creating and utilizing intellectual works. AI is no longer only used as a tool to process information, but is also capable of producing various forms of works, such as texts, images, music, design, and audiovisual works. These developments provide opportunities for humans to increase efficiency and creativity, but at the same time raise legal issues regarding the status and protection of works produced through AI technology (Selvadurai & Matulionyte, 2020; Shtefan, 2021). These issues become more complex when the level of human involvement in producing a work varies, from the use of AI as a tool to the conditions when most works are automatically generated by AI systems.

From a copyright perspective, the existence of AI raises questions about the concepts of creativity and originality. Copyright protection has traditionally been related to the existence of creative contributions from human creators. However, works produced using AI can have a form that objectively meets the characteristics of a work, while the process of its formation does not entirely come from human creativity. Therefore, determining whether an AI-generated work can obtain copyright protection cannot only be based on the existence of the final product, but also needs to consider the creation process and the level of human contribution in it (Iaia, 2022; Dornis, 2021). The issue of originality is one of the main issues in determining the limits of legal protection for AI-based works.

In addition to the issue of originality, the development of AI also raises problems regarding copyright ownership and attribution. When a work is generated through an AI system, there are several parties who have the potential to be associated with the work, such as AI users, technology developers, or other parties who contribute to the creation process. This condition causes the concept of creators and copyright holders to need to be reviewed in the context of the use of AI technology. Kahveci (2023) shows that the issue of attribution is becoming increasingly complicated in works produced by generative AI, while Matulionyte and Lee (2022) emphasize that the development of AI technology requires a review of the concept of intellectual property law that has been oriented towards human creators or inventors.

In Indonesian law, copyright protection is mainly based on Law Number 28 of 2014 concerning Copyright. The law regulates creators, works, moral rights, economic rights, and the protection of various forms of works that meet the requirements for copyright protection. However, the development of AI presents creation characteristics that are not explicitly formed based on the assumption of technology that is capable of producing works automatically. This condition raises the question of how the applicable copyright provisions can be applied to works produced with the help of or through AI (Ramli et al., 2023; Mayana et al., 2024). Thus, the development of AI needs to be analyzed within the framework of the copyright law that has been in force so that the limits of protection for the work can be known.

These problems are also related to the possibility of copyright infringement in the use of AI. AI systems can produce works that have similarities to existing works or process large amounts of data and intellectual works as part of the development process or produce an output. This raises questions about the limits of the use of protected works, responsibility for AI outputs, and protection mechanisms for creators whose works are used without rights (Lim, 2023; Tyagi, 2024). At the same time, legal arrangements need to consider the balance between creator protection and the development of technological innovations.

A number of previous studies have discussed the relationship between AI and copyright law, both in terms of originality, attribution, and ownership. However, studies are still needed that specifically link the issue to the Indonesian copyright

legal framework and determine the position of works produced through AI based on the level of human contribution. Studies on these issues are important to provide an understanding of the application of copyright law to the development of AI technology and identify the need for adjustments to legal protection in the future (Mayana et al., 2024; Rizki & Hafiidz, 2024).

Based on this description, this study aims to analyze the legal position of the works produced using AI and the copyright protection of the works based on Indonesian law. This research is formulated through two research questions, namely:

RQ1: What is the legal position of works produced using Artificial Intelligence in the perspective of Law Number 28 of 2014 concerning Copyright?

RQ2: What is the legal protection of Artificial Intelligence-based works and potential copyright infringement based on Indonesian law?

2. Methods

This research uses normative legal research methods with a regulatory approach and a conceptual approach. Normative legal research is used to examine legal issues related to the position and protection of copyright to works produced through the use of Artificial Intelligence (AI) based on the applicable legal provisions in Indonesia. The approach to laws and regulations is carried out by examining various legal provisions related to copyright, intellectual works, creators, and the use of technology in the process of creating works. Meanwhile, a conceptual approach is used to understand the concepts of creation, originality, rights ownership, and legal protection in the context of works involving AI technology.

The legal materials used in this study consist of primary legal materials and secondary legal materials. Primary legal materials are in the form of laws and regulations that are directly related to the object of research, especially Law Number 28 of 2014 concerning Copyright as the main basis for analyzing the status and protection of AI-based works. In addition, other legal provisions relevant to the development of technology and intellectual property are also used if necessary to strengthen the analysis. Secondary legal materials include books, scientific articles, legal journals, research results, and academic literature that discusses copyright, Artificial Intelligence, works produced by AI, rights ownership, originality, and potential copyright infringement.

The collection of legal materials is carried out through literature studies by identifying, selecting, and studying legal sources and literature that are relevant to the research problem. The legal materials that have been obtained are then classified based on their relationship with the formulation of the problem so that they can be used systematically in the analysis process.

The analysis of legal materials is carried out qualitatively by descriptive-analytical method. Each relevant legal provision and concept is analyzed to gain an understanding of the position of AI in the process of creating works, the legal status of works produced with the help or through AI systems, parties who can obtain rights to the work, and the forms of legal protection that can be provided. The results of the analysis are then used to answer research problems and formulate conclusions about the adequacy of Indonesia's copyright legal framework in dealing with the development of Artificial Intelligence-based works.

3. Results and Discussion

3.1 Legal Status of Works Produced Using Artificial Intelligence in the Perspective of Law Number 28 of 2014 concerning Copyright

The development of Artificial Intelligence (AI) has changed the process of creating works by allowing systems to produce text, images, music, designs, and other forms of expression based on commands and data provided by humans. This

condition raises questions about whether the results produced by AI can be seen as works that receive copyright protection and who can be placed as the creator. This problem is increasingly complex because AI not only functions as a technical tool, but under certain conditions is able to produce outputs that have creative characteristics without each element of expression being directly determined by the user (Selvadurai & Matulionyte, 2020; Shtefan, 2021).

From the perspective of copyright law, the main problem lies in the concept of creators and human creativity. Law Number 28 of 2014 concerning Copyright places the creator as the subject who produces a work that has distinctive characteristics. Thus, the existence of AI does not automatically make it a creator because AI is a technological system and not a human that can legally exercise moral and economic rights like the creator. This view is in line with the study of AI-generated works which shows that the copyright system in general is still oriented towards human creativity as the basis for providing protection (Iaia, 2022; Mayana et al., 2024).

The position of AI-based works needs to be differentiated based on the level of human involvement in the creation process. In AI-assisted works, humans still determine ideas, choose instructions, direct processes, make selections, and edit AI results. In these conditions, there is a human creative contribution that can be the basis for placing humans as creators. On the other hand, if an output is produced almost entirely by an AI system with very limited human involvement, the basis for providing copyright protection becomes more difficult to determine because the elements of human creativity are not adequately visible (Selvadurai & Matulionyte, 2020; Iaia, 2022; Shtefan, 2021).

The next problem relates to originality. AI-generated works can have a new form of expression in appearance, but this novelty does not necessarily indicate the existence of human creativity. Therefore, the assessment should not only be based on the final result, but also consider the process and creative contribution of humans in producing the work. This principle is important because copyright protection is not solely given to the existence of an output, but relates to expressions that meet the protection requirements under copyright law (Iaia, 2022; Lim, 2023).

A study of Indonesian law shows that the Copyright Law is still built on the assumption that works are the result of human creative activities. Mayana et al. (2024) emphasized the existence of issues of copyrightability, authorship, and ownership of AI-generated works because the development of AI has begun to shift the position of technology from just a tool to a system that can produce output more independently. Meanwhile, Ramli et al. (2023) show that the development of AI raises questions about the possibility of placing AI in the construction of intellectual property law, even though Indonesian law currently does not give AI a position as a creator.

Thus, works produced using AI cannot be automatically declared as unprotected works or as works that are wholly owned by AI users. Its legal status needs to be determined by looking at the creative contribution of humans in the creation process. This approach is more in line with the construction of Law No. 28 of 2014 because it still maintains humans as the center of copyright protection, while providing space for the protection of works whose production process utilizes AI technology. The view on the need to determine the boundary between AI as a tool and AI as a system that produces works is also an important issue in the development of contemporary copyright law (Matulionyte & Lee, 2022; Kahveci, 2023).

3.2 Legal Protection of Artificial Intelligence-Based Works and Potential Copyright Infringement Based on Indonesian Law

Protection of AI-based works is not only related to the determination of creators, but also concerns the ownership of rights, the use of the work, and the possibility of violations of works that have received protection. In the context of Indonesian law, Law No. 28 of 2014 provides protection for the moral rights and economic rights of

creators. Therefore, when AI is used in producing a work, it is necessary to first determine the human party who has a creative contribution so that it can be known who has the potential to obtain and exercise the rights to the work (Mayana et al., 2024; Matulionyte & Lee, 2022).

Legal protection can be given more clearly to works whose creation process is still dominated by human creativity. AI users who define concepts, provide substantial instructions, make selections on various outputs, combine AI results with their own creative results, and make creative modifications have a stronger position to be associated with copyright ownership. Conversely, if users only give simple commands and then receive results directly without meaningful creative contributions, granting copyright protection to these outputs faces greater problems (Selvadurai & Matulionyte, 2020; Iaia, 2022; Shtefan, 2021).

The issue of ownership can also arise when there is more than one party involved in the creation process, such as users, system developers, platform owners, and data providers. Not all of these parties can be automatically considered creators. Technical contributions in providing or developing AI systems are different from creative contributions in producing a creation. Therefore, the determination of ownership must pay attention to the relationship between human contributions and the form of expression produced. The approach to ownership in AI works also shows that ownership arrangements need to provide certainty for parties who use and exploit AI outputs legally (Matulionyte & Lee, 2022; Kahveci, 2023).

In addition to ownership issues, the use of AI can pose a risk of copyright infringement of other parties' works. Generative AI systems can be developed and trained using large amounts of data that potentially include copyrighted works. The use, duplication, processing, or utilization of such works in the system development process can raise questions about the limits of permissible use under copyright law. This issue is becoming increasingly important because text and data mining and AI training processes can involve the use of various types of previously protected material (Tyagi, 2024).

The risk of infringement can also arise at the output stage. If AI results have substantial similarities to protected works, their use or distribution can cause legal problems, especially if they are done for commercial purposes without regard to the rights of copyright holders. Lim (2023) places generative AI as a challenge to the basic principles of copyright law because the boundaries between the use of AI as a tool and the production of works by systems are becoming increasingly difficult to distinguish. Meanwhile, Kahveci (2023) shows that the development of generative AI has resulted in various attribution issues and disputes related to the use of protected works.

In the Indonesian context, this condition shows that Law No. 28 of 2014 can still be the basis for protection, but its application requires a careful interpretation of the characteristics of AI technology. Legal protection needs to be directed at two interests at once, namely providing certainty to humans who produce works with the help of AI and preventing the unauthorized use of works owned by other parties. Mayana et al. (2024) assess that the development of AI requires a more adaptive legal framework so that the use of technology can continue to develop without eliminating legal certainty regarding authorship and ownership.

Based on this analysis, legal protection for AI-based works in Indonesian law is currently more appropriately placed on a human-contribution-based approach. AI cannot yet be positioned as an independent creator, while humans who make creative contributions can obtain protection as long as the resulting works meet the requirements of copyright law. At the same time, it is necessary to develop policies and legal interpretations that are able to answer new problems regarding AI training, data use, attribution, ownership, and similarity of outputs. With this approach, copyright law can still protect human creativity while adapting to the

development of AI technology (Mayana et al., 2024; Tyagi, 2024; Matulionyte & Lee, 2022).

4. Conclusion

Based on the results of the research, it can be concluded that the use of Artificial Intelligence (AI) in the process of creating works raises new problems in the application of copyright law in Indonesia, especially regarding the position of creators, originality, ownership, and legal protection. Based on Law Number 28 of 2014 concerning Copyright, AI cannot be placed as a creator because the legal position of the creator is still related to humans as the party who produces the work through their intellectual abilities and creativity. Therefore, works produced with the help of AI need to be assessed based on the level of human creative contribution in the creation process. The greater the involvement of humans in determining concepts, providing direction, selecting, processing, and perfecting AI results, the stronger the basis for providing copyright protection for the work.

Legal protection for AI-based works can still basically still use the applicable copyright legal framework, but its application faces limitations when works are produced with minimal human involvement. In addition, the use of AI also has the potential to cause copyright infringement if the system training process or the resulting results utilize the work of another party without paying attention to the rights inherent in the work. Thus, it is necessary to develop more adaptive legal policies and interpretations to provide certainty regarding the ownership, attribution, use of data, and protection of AI-based works, without reducing the principle of protection of human creativity.

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