



COPYRIGHT WAKAF REGULATIONS IN INDONESIA FROM THE PERSPECTIVE OF MAQASHID SYARIAH

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Abstract: This study aims to analyze the validity of copyright waqf from the perspective of Maqashid Syariah and formulate an appropriate and legally certain regulation in Indonesia. Copyright waqf is an extension of the waqf object recognized in Law No. 41 of 2004 and Government Regulation No. 42 of 2006. However, there are no specific regulations regarding its mechanism, registration, and management. The research method employed is a normative juridical approach, incorporating legislative, conceptual, and historical perspectives. The results of the study indicate that a copyright waqf is valid according to Islamic law if it meets the principles of full ownership, sustainable benefits, and does not conflict with Islamic law. From the perspective of Maqashid Syariah, copyright waqf reflects the protection of religion and property (hifz al-din and hifz al-mal). However, in positive law, a normative vacuum persists, resulting in legal uncertainty. Therefore, this study recommends establishing special regulations and a copyright waqf management institution under the coordination of the Indonesian Waqf Board (BWI), so that its management is more professional, transparent, and in accordance with the principles of maqashid sharia.

Keywords: *Waqf Copyright, Legal Certainty, Maqashid Syariah*

A. Introduction

Waqf is an instrument of Islamic philanthropy that has excellent potential to provide sustainable benefits to society and holds significant value for social life. Therefore, waqf, mentioned in the Quran as one of the acts of worship in the form of charitable giving that is obligatory in Islam, has two aspects: religious and socio-economic (Daveran, Shekam Selwin et al., 2025). First, from a religious perspective, waqf is a religious recommendation that must be practiced in life, so that the waqif or waqf giver receives a reward from Allah SWT for having carried out His command to donate part of their wealth. Then, from a social and economic perspective, the waqf giver or waqif contributes



to the welfare of society in general (Yunus Zamroji, 2021). In the Indonesian waqf concept, waqf often takes the form of physical assets such as land, buildings, or other tangible assets.

Article 1 paragraph (1) of Law Number 41 of 2004 explains that waqf is a legal act carried out by the waqif to hand over or separate part of his property to be used forever or for a specific period of time according to his interests for worship. The objects of waqf, as regulated in Article 16 of Law Number 41 of 2004 concerning waqf, include movable property and immovable property (Hatim, 2021). Therefore, with this regulation, waqf is not only identical to land or money, which is used as an object of waqf that has economic value, but also has a clear and concrete legal basis regarding the licensing, registration, management, and utilization mechanisms. However, with

Over time, the concept of waqf began to expand, including in the form of non-physical assets such as Intellectual Property Rights (IPR), which is a type of non-physical movable waqf that has economic value and is also an asset that cannot be exhausted due to consumption (Meka & Ghasali, 2025). Intellectual Property Rights, or IPR, are exclusive legal rights that arise from the results of human thought, logic, and intelligence, resulting from intellectual activities and unique, innovative endeavors.

Waqf is part of the principles of muamalah, the implementation of which cannot be separated from the concept of maqāsid shariāyah, which serves as a precedent for establishing law in Islam. In essence, maqāsid shariāyah is a fundamental principle in Islamic law. The principle of maqāsid shariāyah aims to bring benefits to humans, both in this world and in the hereafter (Hatim, 2021). In maqāsid shariāyah, the basic principles of Islamic law are classified into five parts, namely hifz al-din (protecting religion), hifz al-nafs (protecting the soul), hifz al-aql (protecting reason), hifz al-nasl (protecting offspring), and hifz al-mal (protecting property). Of the five principles of maqashid sharia, waqf in this case land, money, and intellectual property rights, including copyright, are included in the category of hifz al-din (protecting religion) and hifz al-mal (protecting property), namely protecting property to realize sustainable development for society that not only provides benefits for its owner, but also provides benefits for society in general (Kamal, 2021b).

Law Number 14 of 2004 explains that one of the objects of waqf is land, as stated in Article 16, paragraph 2 of Law Number 41 of 2004. Land waqf is the most common form of waqf and is widely found in Indonesia. Therefore, the existence of land waqf is supported by several clear and comprehensive regulations, starting from Law Number 14 of 2004, which is the primary basis of waqf, to regulations and technical regulations that regulate institutions authorized to manage land as a waqf object (Zainul Afkar, 2020). Therefore, land as an object of waqf is fully regulated in terms of licensing mechanisms, registration, management, and utilization of waqf land, as detailed in Article 27 of Law Number 41 of 2004, Articles 38 and 39 of Government Regulation Number 42 of 2006, and supported by a strong monitoring system. These regulations not only ensure that land waqf can be managed correctly and in accordance with the objectives of waqf, but also facilitate the waqf process for the community and provide legal certainty for nazhir (waqf

managers) (Mundzir, 2025). With clear and comprehensive rules and regulations, land waqf has made a significant contribution to the development of public facilities, including mosques, schools, hospitals, and other essential services.

With comprehensive regulations and strong administrative support, the potential of land waqf can be maximized effectively. This means that with more comprehensive and transparent laws and regulations regarding land waqf, the land waqf process becomes more organized and transparent, making it easier for communities to donate their land. The existence of this regulation also helps ensure that the management and utilization of waqf land aligns with the established waqf objectives. This way, the potential use of waqf land for various social, religious, and humanitarian purposes is optimized. It has a positive impact on the broader community, in accordance with Islamic law, as explained in the maqashid sharia, which states that the primary objective of sharia is to bring benefit and prevent harm (jalb al-maslahah wa dar' al-mafsadah).

The same applies to cash waqf, which is categorized as movable waqf property and has experienced significant development in Indonesia. The Indonesian Waqf Board (BWI), as the official institution regulating waqf in Indonesia, has issued various operational guidelines and standards, and coordinated with Islamic financial and banking institutions to facilitate cash waqf. This is supported by various regulations governing cash waqf, namely Law Number 14 of 2004 concerning waqf, which is supplemented by technical regulations governing the mechanism for converting cash into waqf objects.

Therefore, with clear and comprehensive regulations regarding money as an object of waqf, cash waqf is not only legally recognized but also has a clear, measurable, and accountable operational mechanism. In addition, through Government Regulation No. 42 of 2006 concerning the Implementation of Law No. 41 of 2004 concerning waqf, it is stipulated that cash waqf must be implemented through LKS-PWU (Sharia Financial Institutions Receiving Cash Waqf) that have obtained permission from the Ministry of Religious Affairs, as regulated in Article 28 of Law No. 41 of 2004. It is to ensure that every process of collecting, managing, and distributing waqf funds is carried out with transparent and accountable procedures. To date, the Ministry of Religious Affairs has granted legality to 34 banks as LKS PWU (Sharia Financial Institutions Managing Waqf Funds), which have a strategic role in supporting the waqf movement in Indonesia (Diana & Harahap, 2023).

In this study, the object of research is intellectual property rights, namely, copyright as an object of waqf. The legal basis that allows intellectual property rights as an object of waqf is contained in Article 16, paragraph (3) of Law No. 41 of 2004 concerning Waqf. This article states that waqf is not limited to land and buildings, but also includes movable objects, including movable objects other than money that have continuous benefits (istimrar). Meanwhile, according to Article 511 of the Civil Code (KUH Perdata), movable objects are defined as objects that can be transferred or transferred legally. Intellectual property rights (IPR) are considered movable property because they lack a permanent physical form and can be transferred or assigned to another party. In Government Regulation No. 42 of 2006 concerning the Implementation of Law No. 41 of 2004

regarding Waqf, IPR is categorized as movable property, excluding money. Therefore, it can be automatically made an object of waqf as long as it does not conflict with Sharia principles.

Article 21 letter b of Government Regulation No. 42 of 2006 explains that intellectual property rights include copyright, patent rights, trademark rights, industrial design rights, trade secret rights, integrated circuit layout design rights, and plant variety protection rights. In this study, the researcher chose to focus on copyright as an object of waqf because it is essentially an intangible, movable property, which means it is a transferable right. In practice, copyright can be used as collateral for fiduciary guarantees, so, naturally, copyright can be used as a waqf as regulated in Article 16 Paragraph (1) letter b and Article 16 Paragraph (3) letter e of Law Number 41 of 2004 concerning waqf. In this case, copyright that can be used as an object of waqf is copyright that has been officially registered with the Directorate General of Intellectual Property, in accordance with the provisions of applicable laws and regulations. Such registration provides legal certainty regarding copyright ownership, which is a requirement for the transfer of such rights as immovable property of continuing value and utility in the form of a waqf.

Law Number 28 of 2014 concerning Copyright defines copyright as the exclusive right of the creator, which arises declaratively after a work is manifested in a tangible form without prejudice to restrictions in accordance with the provisions of laws and regulations. This copyright not only provides legal protection, but also allows the rights holder to limit or control the use of their work by others. In other words, copyright serves to prevent unauthorized use of the work and ensures that any use or reproduction of a work must obtain permission from the copyright holder.

Law No. 41 of 2004 concerning Waqf and Government Regulation No. 42 of 2006 do recognize that intellectual property rights, including copyright, can be endowed as waqf. However, these regulations do not yet provide clear technical guidelines regarding the mechanisms and procedures for implementing intellectual property rights waqf, particularly copyright, which is the subject of waqf in this study. The lack of specific regulations makes copyright owners hesitant to undertake waqf due to concerns about potential future legal issues. The lack of clear and detailed regulations regarding IPR waqf also results in a lack of institutional support from waqf management institutions such as the Indonesian Waqf Board (BWI), which does not yet have a specific mechanism for receiving and managing IPR waqf. In contrast, land and cash waqf, as explained above, are regulated in great detail and specifically in laws and regulations, and are supported by an established administrative system.

In addition to technical limitations related to the mechanisms and procedures for implementing copyright endowments, there are also fundamental issues related to the differences between endowments and intellectual property rights (IPR), particularly copyright. In principle, endowments are permanent, both in terms of ownership and the benefits they provide. In contrast, copyright is temporary, as its protection period lasts only as long as the creator is alive and for 70 years after their death (Pelupey, 2023).

This situation raises legal and practical questions regarding who is authorized to continue managing and utilizing the copyright that has been endowed after the protection period ends, whether the trustee, the heirs, or a third party. Therefore, it is necessary to draw legal conclusions based on Maqāsid Syariah in the process of formulating regulations on copyright endowment, so that these regulations are in line with the objectives of sharia, namely protecting religion (hifz al-dīn), life (hifz al-nafs), intellect (hifz al-'aql), descendants (hifz al-nasl), and property (hifz al-mal).

Copyright as an object of waqf has indeed been mentioned in Law Number 41 of 2004 concerning Waqf and Government Regulation Number 42 of 2006 concerning the Implementation of Law Number 41 of 2004 concerning Waqf. However, these implementing regulations do not yet regulate the Waqf Deed Form (AWW) specifically for copyright waqf (Fatimah & Nuryaningsih, 2018). In fact, AWW functions as an authentic instrument that proves the ownership and validity of a waqf object (Kamal, 2021a). This instrument is actually already available and implemented in the cash waqf mechanism, but has not been accommodated for the copyright waqf.

In addition to the need for a Waqf Deed Form (AIW) as an authentic instrument confirming the validity of the waqf object, regulations regarding the requirements and criteria for copyright that can be used as a waqf object are also important in determining the types of copyright permitted as waqf objects. Law Number 41 of 2004 concerning Waqf and Government Regulation Number 42 of 2006 do not contain provisions regarding the criteria for copyright that can be used as a waqf object. This normative vacuum allows the use of various types of creations, including those that may conflict with Sharia principles, morality, or public decency, as potential waqf objects. (Yusuf et al., 2024) . Therefore, clear regulations are needed regarding the criteria for copyright as a waqf object to maintain the purity of waqf assets from elements of doubt, even from potential elements prohibited by religion.

Copyright in Law Number 28 of 2014 concerning Copyright (UUHC) is declarative, as copyright protection arises automatically upon a work being realized in a tangible form, without the need for registration with the Directorate General of Intellectual Property (DJKI). However, in the context of waqf, authentic proof of ownership of the copyright being waqf is required so that it can be included in the Waqf Deed (AKW). Therefore, although copyright protection does not depend on registration, waqf administrative requirements still require a valid legal instrument as a basis for issuing the AKW, as well as guaranteeing legal certainty regarding the waqf object.

Therefore, in addition to the need for regulations governing the nature of waqf, the existence of a Waqf Deed (AIW), and technical provisions for waqf administration, regulations regarding copyright waqf must also include a management system after the launch of the copyright waqf. This includes regulations regarding who is authorized to receive, process, and manage the copyright that has been donated. This management can be carried out by the Indonesian Waqf Board (BWI), the Office of Religious Affairs (KUA), or even a third party, such as the National Collective Management Institute (LMKN) or the Ministry of Law and Human Rights (Kemenkumham). Furthermore, these regulations

must also include a mechanism for extending copyright before the expiration of the protection period before entering the public domain, as well as procedures for distributing the benefits of copyright waqf in a transparent and accountable manner (Rahmadani & Fajar, 2024). Thus, regulations regarding copyright waqf not only emphasize the formal aspects of the declaration of commitment but also ensure professional management, ensuring that the benefits of the waqf can be sustained over time.

Given the limited regulations and incomplete norms regarding copyright waqf, legal inference is needed to strengthen the legitimacy of copyright as an object of waqf. This effort aims to provide legal certainty, both from a positive law perspective and from the perspective of Sharia law. In this context, this study employs the perspective of *maqāsid al-sharī'ah* as an analytical tool, enabling the formulation of regulations related to copyright waqf and waqf of movable objects other than money to align with national legal principles and Sharia objectives (Ramadhan, 2025).

The lack of specific derivative regulations governing the procedures, mechanisms, and institutional framework for managing copyright waqf has resulted in this concept being neglected. Consequently, the enormous potential of copyright waqf for various fields, such as education, research, and social development, remains unrealized. Thus, in terms of *muamalah* (social transactions), the benefits and welfare for the wider community are not maximized. However, when clear and comprehensive regulations, such as land and cash waqf, can make a significant contribution to society, that is precisely what is expected of copyright waqf: helping to ensure the continuity of knowledge, facilitating access to education, and creating innovations that benefit the wider community.

To date, there are no specific and comprehensive laws and regulations governing the collection procedures (copyright waqf process), management (who manages and extends rights, including the management system), and the distribution system. The absence of specific laws and regulations will create uncertainty regarding the object of the copyright waqf, both in terms of legality and legal protection for the parties involved, as well as certainty for the beneficiaries of the waqf (*mauquf*). Therefore, precise regulatory instruments are needed regarding the registration and recording mechanisms for copyright waqf, as well as a special institution authorized to manage intellectual property rights and a transparent and accountable scheme to distribute the benefits of copyright waqf in accordance with the objectives of the waqf (Asmaul et al., 2023).

Therefore, this research is important for identifying weaknesses, incomplete norms, and challenges faced in optimizing copyright waqf, as well as formulating strategic steps to strengthen regulations and policy innovations that support it in line with legal principles and the *maqashid* of sharia. This research is expected to make a significant contribution to the development of waqf law and policy in Indonesia, particularly in expanding the scope and effectiveness of copyright waqf management. Thus, waqf in various forms, whether land, money, or copyright, is expected to be maximized for the welfare of the community and national development.

B. Method

This research employs a normative legal research approach, utilizing a statutory framework to investigate and analyze all relevant laws and regulations related to the legal issues under examination. Moreover, a Conceptual Approach, namely an approach carried out by using principles and concepts obtained from the views of scholars or legal doctrines relevant to this research.

The legal materials in this study comprise both primary and secondary sources, including laws and regulations relevant to the research, as well as books, journals, and court decisions. The legal material collection technique is carried out through inventory procedures, identification of laws and regulations, and classification and systematization of legal materials according to the research problem. Therefore, the method used to collect legal materials in this study is a literature review. The literature review is conducted by reading, studying, taking notes, reviewing reference materials, and searching the internet for media related to waqf and copyright in Indonesia (Ummah, 2019).

The analysis used in this study is qualitative, in the form of legal analysis. Qualitative analysis is a type of analysis that does not rely on statistical calculations and is conducted by interpreting the data after it has been processed. The analysis employed is legal analysis, meaning the researcher will attempt to examine and review laws, regulations, and all related materials pertinent to the research topic.

C. Results and Discussion

1. The Validity of Copyright Waqf from the Perspective of Maqashid Syariah

Maqashid Syariah principles in waqf practice serve as the normative foundation and fundamental principles that form the main pillars of every implementation of waqf law. This principle serves as a guideline in directing the objectives of Islamic law, ensuring that waqf is understood not only as ritual worship but also as a socio-economic instrument that provides benefits to society. This aligns with al-Syatibi's assertion that one of the objectives of the maqashid sharia principle is to safeguard the interests of humanity.

The application of Maqashid al-Syariah in waqf emphasizes that all management and utilization must be directed towards upholding the five basic principles of sharia, namely: preserving religion (hifz al-dīn), preserving the soul (hifz al-nafs), preserving reason (hifz al-aql), preserving descendants (hifz al-nasl), and preserving property (hifz al-mal). Maqashid al-Sharī'ah is the primary parameter in ensuring that waqf practices align with the objectives of shari'ah, while also meeting the community's needs in the contemporary era. The application of this principle simultaneously provides legitimacy to Islamic law and a philosophical foundation for the development of productive waqf, ensuring its benefits can be felt sustainably by the wider community.

Copyright is a form of Intellectual Property Rights (IPR) that falls under the category of intangible movable property. In the context of waqf law, copyright can also be used as an object of waqf. This is regulated in the provisions of Article 16, paragraph (2) and

paragraph (3) letter e of Law Number 41 of 2004 concerning waqf, which states that objects that can be waqf include movable property, including intellectual property rights.

Copyright is a form of intellectual property that has high sustainable economic value and can be utilized for the benefit of the wider community. As stated by Imam al-Syathibi, waqf, in this case copyright, must have sustainable economic value and benefit the welfare of the community. This economic value means that copyright is not merely the exclusive right of the creator to protect his work, but can also be used as an instrument for distributing social benefits through specific legal mechanisms, one of which is waqf.

To date, the use of copyright as an object of waqf still faces various normative and practical obstacles. Normatively, regulations governing waqf in Indonesia, as outlined in Law No. 41 of 2004 concerning waqf and its implementing regulations, do not explicitly accommodate copyright as a waqf object. Existing regulations are more oriented towards waqf of immovable objects (such as land) and movable objects with physical form (such as money and precious metals), so the scope of intellectual property waqf, including copyright, has not been comprehensively accommodated, both in terms of its management and technical regulations governing the copyright waqf process.

Copyright as an object of waqf is included in the category of intangible movable property. Upon further investigation, copyright has sustainable economic value through royalties and licensing mechanisms. Based on this, copyright can essentially be used as an object of waqf because it has the potential to provide productive and sustainable benefits to society. However, in practice, the form of waqf objects that remains dominant in society is limited to movable, immovable, and tangible assets, such as land and money (Yulianti et al., 2025). Both types of waqf objects have received relatively comprehensive regulations, both in terms of management and utilization, which is also supported by the existence of official waqf institutions that are normatively regulated in legislation.

Waqf objects in the form of land and money, when based on comprehensive regulations, have essentially obtained normative legitimacy and legal certainty, as stated by Kelsen in his theory of legal certainty, which states that law, as a collection of general rules, serves as a guide for individuals in behaving in society, both in interactions between individuals and with the broader community. These rules limit and regulate the actions that can be imposed on individuals (Zoni & Mubarok, 2021). The existence and application of these rules ultimately create legal certainty. However, in practice, the form of waqf objects that remains dominant in society is limited to movable and immovable tangible assets, such as land and money (Risna Hairani Sitompul, 2023). These two types of waqf objects have received relatively comprehensive regulations, both in terms of management and utilization, which is also supported by the existence of official waqf institutions that are normatively regulated in laws and regulations.

From the perspective of Maqāsid al-Shariah, the validity of waqf on both objects can also be justified, because they substantially fulfill the main principles of sharia. First, maintaining religion (hifz al-din), which is reflected in the use of waqf land for the construction of mosques, Islamic boarding schools, and da'wah institutions. Second, maintaining life (hifz al-nafs), for example, through the use of waqf proceeds for the

construction of hospitals, the provision of health services, and social assistance. Third, maintaining reason (*hifz al-aql*), through the use of waqf proceeds for the development of education, schools, and literacy facilities. Fourth, maintaining descendants (*hifz al-nasl*), through family empowerment programs, scholarships, and social services that support the continuity of generations (Zul Azimi, 2025). Fifth, maintaining assets (*hifz al-mal*), which is realized through productive management of waqf land and optimization of cash waqf in sharia investments that provide sustainable benefits (Alfawwaz et al., 2025).

Then what about the validity of copyright in the view of *maqashid sharia* which until now has not had comprehensive regulations, so that the management mechanism is not yet precise and the institution that can manage copyright waqf objects is also not clear, because copyright waqf objects are slightly different from other objects, namely because copyright is a form of the results of someone's thoughts and works, such as books, films, songs, and other creative works that are protected by copyright.

The validity of copyright waqf from the perspective of *maqāsid al-syariah* must essentially be studied comprehensively by examining the main principles and objectives of *maqāsid al-syariah*, which include the protection of religion (*hifz al-din*), soul (*hifz al-nafs*), mind (*hifz al-aql*), descendants (*hifz al-nasl*), and property (*hifz al-mal*). It is also necessary to classify the conditions for copyright that can be donated, because not all copyrights can be used as objects of waqf as long as they do not conflict with Islamic law. Therefore, a discussion regarding the validity of copyright waqf within the framework of *maqāsid al-syariah* and the conditions of copyright waqf is important to emphasize that copyright waqf is not only normatively valid but also in line with the objectives of Islamic law in protecting the interests of the community (Arminsyah, 2020). Therefore, further analysis is needed to explain in detail how the copyright waqf can be integrated into each of the objectives of *maqāsid al-syariah*, namely as follows:

1) *Hifz ad-Din* (guarding religion)

Under the principle of *hifz ad-din* (protecting religion), works such as books, films, songs, or Islamic-themed applications can be considered legitimate for waqf if their use is intended for the benefit of society, for example, as a medium for preaching, education, and the development of Islamic knowledge. In this context, copyright aligns with the goal of Islamic law to maintain and promote the faith and morality of society. Conversely, copyrights that contain harmful or detrimental content, such as works that damage faith, morals, or religious values, cannot be used as objects of waqf because they contradict the essence of *hifz ad-din*, which emphasizes the importance of maintaining the purity and honor of society's religion.

2) *Hifz an-Nafs* (Protecting the Soul)

This principle teaches that protecting life is one of the teachings of Islam, specifically regarding copyrighted objects, and the economic benefits of copyright, such as royalties from health or technology books, which can be used to fund social and healthcare services. This is very helpful in supporting people's livelihoods, in accordance with the sharia's goal of protecting life. This differs from copyright,

which does not substantively reflect efforts to protect the life and morals of society. For example, copyright for pornographic films or music that contain elements of harassment and insults towards others cannot be used as an object of waqf, because it contradicts the principle of *maqāsid al-sharī'ah*, specifically *ḥifz an-nafs* (preserving life). This principle emphasizes the importance of protecting human dignity, honor, and moral and spiritual safety. Therefore, any form of copyright that has the potential to harm the soul and morals of society does not meet the criteria of public benefit, which is the basis for the permissibility of an object being waqf (Masruchin, 2021).

3) Hifz al-Aql (maintaining reason)

Copyrighted waqf objects, in this case, are examples of scientific works, educational books, or research results that can expand knowledge and foster public intelligence. Therefore, it is appropriate that these copyrighted waqf objects be protected from works that are the result of a person's mind in order to support the protection of reason. This means that protecting reason (*hifz al-aql*) in the context of waqf objects requires the waqf to provide positive benefits and not cause harm to human reason and mentality. Thus, waqf objects must encourage the growth of healthy thinking, education, and the development of science. Conversely, copyrights for destructive works, such as pornographic films or similar content, cannot be used as waqf objects, because they have the potential to damage common sense, morals, and the social order of society.

4) Hifz an-Nasl (maintaining genealogy)

Copyrights donated in the form of educational works for children, curricula, or learning media support the quality of future generations. Thus, the copyright waqf contributes to the protection of descendants. In the principle of *hifz an-nasl* (preserving descendants), copyrights that can be used as objects of waqf are those that have value and essence in efforts to maintain and foster the sustainability of the nation's future generations. This includes works that contribute to moral education, character formation, strengthening family values, and improving the quality of human resources. For example, copyrights on educational books, scientific works, learning media, or films that instill ethical values and social responsibility can be categorized as objects of waqf in line with the principle of *hifz an-nasl*, because they function to protect and foster generations to grow into moral and knowledgeable individuals (Kasdi, n.d.).

Conversely, copyrights that do not reflect these values, such as works containing elements of violence, pornography, moral deviation, or propaganda that undermines social order and family values, cannot be used as waqf objects. It is because such works have the potential to corrupt the morals of the younger generation and contradict the primary goal of Islamic law, which is to protect descendants and maintain a dignified society.

5) Hifz al-Mal (Guarding Property)

Copyright is an intangible asset with sustainable economic value and broad social benefits. By donating copyright, the owner (wakif) not only transfers his economic rights for the public good but also optimizes the asset's social function. Through the waqf mechanism, royalties generated from copyright use can be channeled to various charitable purposes, such as community economic empowerment, educational scholarships, Islamic research development, or assistance to the underprivileged.

It aligns with the principle of *hifz al-mal* in *maqāsid al-syarī'*, which involves maintaining and developing assets to ensure that they consistently provide benefits, avoid damage, prevent misuse, and ensure their proper use. From the perspective of Islamic law, maintaining assets is not only interpreted as maintaining assets, but also includes efforts to utilize assets productively and sustainably for the benefit of the afterlife (Ega Rupita & Mawardi, 2025). Therefore, a copyright waqf can be seen as one form of implementing *hifz al-mal*, as it converts worldly economic value into an ongoing charity whose benefits continue to flow, while also serving as a means of maintaining assets in accordance with Sharia values.

From the perspective of *maqāsid al-sharī'ah*, copyright can be declared valid for waqf, as explained in detail above, provided that it meets the principles of *maqāsid al-sharī'ah* and does not conflict with Islamic law, as explained above in the principles of *maqāsid al-sharī'ah*. However, a problem arises that there are currently no specific regulations governing the types and provisions of copyright that can be used as objects of waqf (Judijanto et al., 2025). This is important, considering that the scope of copyright is very broad, encompassing books, films, songs, works of art, and other forms of intellectual work, each of which has distinct characteristics and legal implications.

In the context of waqf, especially copyright waqf, there are four pillars or main elements that form the basis for the validity of a waqf as regulated in Article 6 of Law Number 41 of 2004, namely wakif (waqf founder), mauquf (waqf property or objects), mauquf 'alaih (waqf recipient), and shighah (waqf contract or statement) (Maulani, 2022).

First, the waqf (endowment) or founder of a waqf must be the party who legally owns the copyright and has full legal capacity. The requirements are that the endowment founder must be a Muslim, adult, of sound mind, and make the waqf consciously and without coercion. This voluntary element demonstrates that copyright waqf must be undertaken with the aim of providing sustainable benefits to the community, not for personal gain.

Second, mauquf, or waqf assets, in this context, refer to copyrights legally owned by the waqf founder. Waqf objects must be lawful (*halal*), permanent, and possess both utility and economic value. This means that copyrighted works donated must not conflict with Islamic teachings, must have utility value that can be utilized sustainably, and must have economic value so that their use can support community welfare.

Third, the mauquf 'alaih or beneficiary of the waqf is the party designated by the waqf donor to receive the benefits of the copyright. The beneficiary must be a legally recognized institution or party whose endowment is intended for the public good, such as an educational, social, or religious institution. Thus, the copyright donated will have a genuinely positive impact and align with the purpose of waqf in Islam, namely, tahqiq al-maslahah al-'ammah (realizing the public good).

Fourth, the shighah, or waqf declaration, is a statement of intent from the waqf founder to the beneficiaries. This statement can be made verbally or in writing, but must be valid under applicable positive law. Furthermore, its implementation must be recorded by the Waqf Deed Making Officer (PPAIW) or an official waqf institution to ensure apparent legal and administrative validity.

Therefore, fulfilling all these pillars and requirements is a crucial foundation for ensuring that the copyright waqf is not only valid under Islamic law but also has legal legitimacy in Indonesia. This also ensures the continued benefits of the copyright waqf for the wider community.

Regarding the requirements for copyright to be used as an object of waqf, the copyright must meet the provisions of positive law and not conflict with the principles of Islamic law. These requirements are intended to ensure that the copyright being waqf is truly valuable for the public good, provides sustainable benefits to society, is valid according to Islamic law, and is free from elements that are dangerous or prohibited by Islamic teachings (Taufiq, 2013).

Thus, although the conceptually valid copyright waqf can be justified according to the maqāṣid al-syariah because it contains benefits, in practice, positive law in Indonesia still contains ambiguity and uncertainty regarding its management mechanism. Therefore, in the author's opinion, the validity of copyright waqf as an object of waqf is not yet apparent and measurable, because more concrete legal regulations are still needed to determine the types and conditions of copyright waqf that can be waqf, how it is managed, and how the distribution of its benefits is in line with the principles of maqāṣid al-syariah and in accordance with national law.

2. The form of copyright waqf arrangement that is appropriate and has legal certainty

Law No. 41 of 2004 concerning Waqf explicitly stipulates that copyright falls under the category of intellectual property rights, which in this case are classified as intangible movable property. Therefore, because they have sustainable economic value and can be utilized for the benefit of society, copyright can be used as a waqf object. This provision demonstrates that positive law in Indonesia has opened up space for the development of intellectual property waqf, including copyright, as a productive philanthropic instrument.

Although it has been legally established that copyright can be used as an object of waqf, to date, there are no regulations specifically governing the mechanism for waqf of copyright. This lack of regulation encompasses various important aspects, including registration and recording procedures, utilization mechanisms, the appointment of

management institutions, and the criteria for copyright to be used as an object of waqf, given its broad scope, which includes books, films, songs, and other intellectual works (Shiddiqy, 2022).

From a Sharia perspective, a copyright waqf can be declared legitimate, as it has sustainable economic value and its benefits can be channeled for the benefit of the community, provided it does not conflict with Islamic law. However, within the positive legal framework in Indonesia, the absence or incompleteness of regulations specifically governing copyright waqf has profound implications for both individuals and institutions wishing to implement copyright waqf. This has the potential to create legal uncertainty, particularly regarding the validity, governance, and distribution of benefits from the copyright being waqf.

Therefore, the author examines several weaknesses inherent in copyright as an object of waqf, which in practice create obstacles for waqf managers in implementing copyright waqf. First, there is still a lack of specific regulations governing copyright as an object of waqf. This condition has implications for legal uncertainty in the implementation of copyright waqf, despite copyright being an intellectual property asset with sustainable economic value and the potential to benefit society.

Regulation of waqf rights with other countries, such as Saudi Arabia, is one of the jurisdictions that makes Islamic law (Sharia) the primary foundation in the formation of waqf rules (Azizah & Novalia, 2025). In contrast to Indonesia which places copyright waqf as part of "intangible movable property" through Law Number 41 of 2004, Saudi Arabia has from the beginning placed productive waqf, including non-physical assets such as intellectual property rights, as part of assets that can be waqf as long as they fulfill the elements of benefit and do not conflict with sharia principles (Muhammad Afifullah, Jurnal et al., 2024).

Waqf regulations in Saudi Arabia are managed directly by the Ministry of Islamic Affairs, Dawah, and Waqf, as well as the Saudi Authority for Intellectual Property (SAIP), regarding intellectual property rights. In Saudi Arabia, copyright (*huquq al-ma'nawiyah*) can be the object of waqf if two conditions are met:

1. The rights generate ongoing economic benefits, such as royalties, publication permits, and licenses.
2. These rights do not conflict with sharia, especially regarding moral values, ethics, and protection from harmful elements.

A striking difference between Indonesia and Saudi Arabia is that Saudi Arabia has an institutional mechanism in place to ensure that productive waqf, including non-physical assets, are professionally managed through a waqf institution (Awqaf Authority). This mechanism encompasses standard benefit calculations, copyright utilization periods, and benefit distribution models for those entitled to them. Meanwhile, in Indonesia, there is no dedicated institution to technically manage copyright waqf, resulting in a regulatory gap that creates legal uncertainty in the management of copyright waqf.

Therefore, it is necessary to create regulations specifically governing copyright waqf in order to provide absolute legal certainty for the parties involved. These regulations should provide detailed explanations of the types of copyright that can be used as waqf objects and the conditions under which copyright can be waqf. This is because copyright encompasses a broad scope, ranging from books, films, and works of art to other forms of intellectual property. Furthermore, more specific regulations are needed to regulate the mechanism of copyright waqf, which includes procedures for registration, recording, preparation of waqf declarations, and procedures for the use of waqf copyright. With comprehensive and systematic regulations, it is hoped that the implementation of copyright waqf can be well-organized, ensuring its validity aligns not only with the principles of *maqāsid al-syariah* but also provides legal certainty within the framework of positive Indonesian law.

Second, the institution currently authorized to manage waqf is the Indonesian Waqf Board (BWI). However, in general, BWI focuses more on managing waqf objects, such as land and money. Copyright waqf has distinct characteristics, as copyright is an intellectual work born from human thought and possesses sustainable economic value through royalty and licensing mechanisms. These distinct characteristics require an institution with specialized competencies to manage the copyright waqf (Faqih Hamdani Hafizh et al., 2025).

Copyright management is generally carried out by the National Collective Management Institution (LMKN), which is tasked with managing the economic aspects of copyright through the collection and distribution of royalties. However, when copyright is designated as an object of waqf, the existence of the LMKN alone is insufficient. This is because copyright waqf encompasses not only the management of economic value but also the distribution and management of benefits in accordance with the objectives of the waqf and the principles of the *maqāsid al-syariah*.

Therefore, it is necessary to establish or appoint a special institution capable of professionally and accountably managing copyright waqf, including administration, distribution of benefits, and legal protection. This is crucial to ensure that the copyright waqf is managed appropriately, systematically, and with legal certainty, so that its benefits can be optimally distributed for the benefit of the community.

Considering the urgency of special regulations governing copyright as an object of waqf, both in terms of registration, recording, institutional management, distribution, and utilization, as well as regulations regarding the types and conditions of copyright that can be used as an object of waqf, then based on the author's findings, the Indonesian Waqf Board (BWI), which is the only institution authorized to manage waqf in Indonesia, should and needs to formulate and establish special regulations regarding copyright waqf while adhering to and not contradicting the provisions of higher laws and regulations.

This regulation contains comprehensive provisions, including procedures for registering copyrights to be endowed. Considering that the registration process requires specific copyright identification and verification, it is essential to note that not all copyrights can be registered if they conflict with Islamic law. This is intended so that the

issuance of the Deed of Endowment (AIW) can be carried out by the Deed of Endowment Official (PPAIW) from both the KUA and a notary in accordance with the provisions of applicable laws and regulations.

Furthermore, the regulation should also include provisions regarding the registration process, considering that registration alone is not sufficient to guarantee the validity of a copyright waqf. The registration process is a crucial step in ensuring that the waqf copyright is legally valid, both in terms of ownership and status, and in preventing future disputes or multiple lawsuits. Therefore, registration of a copyright waqf serves not only as an administrative function but also as a legal instrument that provides legal certainty and protection for the waqf object.

The regulation also needs to include provisions regarding the copyright management institution as a waqf object, considering that copyright has different characteristics from other waqf objects. Unlike tangible waqf objects, copyright is the result of intellectual work or human thought that is abstract and has its own economic and moral value. Therefore, the management of copyright waqf requires a special institution competent in the field of intellectual property rights, so that its management can be carried out professionally, transparently, and accountably. Currently, competent institutions to manage intellectual property rights, particularly copyright, include the National Collective Management Institute (LMKN) and the Directorate General of Intellectual Property (DJKI). However, a copyright waqf requires an institution that is truly competent in managing such a waqf.

In addition, the establishment of this special management institution is also intended to ensure that the management of copyright waqf is in line with the principles of *maqāsid al-syariah*, namely realizing benefits, protecting rights (*hifz al-haqq*), and optimizing the economic and social benefits of copyright waqf without ignoring the values of justice and sustainability.

Furthermore, the regulation also mandates provisions regarding the requirements and types of copyright that can be used as waqf objects, given that copyright encompasses a wide range of intellectual works. Therefore, there needs to be a normative framework that clearly defines the criteria for copyright eligible for waqf.

This regulation is important to ensure that only copyrights that provide benefits and do not cause harm greater than the benefits can be used as objects of waqf. In addition, the copyright donated must be an original work that the donor wholly owns, not the result of quotation, plagiarism, or violation of the moral and economic rights of others. Regulations regarding the terms and types of copyright that can be donated serve to maintain the validity, purity, and ethical and legal values of the waqf objects, while ensuring that the implementation of copyright waqf is in line with the principles of justice, benefit, and legal responsibility as regulated in statutory regulations and in line with the values of *maqāsid al-syariah*. In this way, the regulations prepared by BWI will provide a clear and measurable legal basis for the implementation of copyright waqf in Indonesia, as well as offering legal certainty for the parties involved, including waqf givers, trustees, and beneficiaries (*maquf*).^{alaih}).

D. Conclusion

Copyright waqf conceptually meets the criteria as a waqf object because it has economic value and sustainable benefits for the wider community. Copyright waqf is valid if it meets the requirements and pillars of waqf and does not conflict with the principles of maqashid sharia, namely maintaining religion (hifz al-dīn), soul (hifz al-nafs), reason (hifz al-'aql), descendants (hifz al-nasl), and property (hifz al-mal). The second problem is that the waqf related to copyright waqf still lacks specific regulations, resulting in legal uncertainty. Therefore, to ensure legal certainty for copyright waqf, the Indonesian waqf agency, as the institution that manages waqf in Indonesia, makes regulations that specifically regulate copyright waqf objects related to waqf management, both from waqf registration, waqf recording, waqf distribution, waqf utilization, and competent institutions to be part of the copyright waqf management.

Therefore, the Indonesian Waqf Board, as an institution that manages waqf in Indonesia, must classify the types of copyright waqf that will be waqf, which, of course, must meet the requirements and pillars of waqf and must not conflict with the principles of maqashid sharia. The Indonesian Waqf Board (BWI) needs to immediately form regulations that specifically regulate copyright waqf to ensure legal certainty, which includes provisions regarding the registration process, recording, management, distribution, and competent institutions to manage it, as well as the conditions and types of copyright that can be waqf, of course that do not conflict with the principles of maqashid sharia.

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