

THE ROLE OF THE MINISTRY OF LAW AND HUMAN RIGHTS IN PROTECTING BOOK COPYRIGHTS

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Abstract

This research explores the role of the Ministry of Law and Human Rights in protecting book copyrights and identifies the challenges it faces in this effort. Using a normative research approach, data was collected through literature studies and interviews with the Ministry's regional office in South Sulawesi. The findings reveal that the Ministry plays a key role in registering, monitoring, and educating the public about book copyrights. However, it faces challenges such as limited human resources and budget, the complexity of digital technology, low public awareness, and insufficient cross-sector cooperation, which hinder its efforts to protect book copyrights effectively.

Keywords: Book; Copyrights; Law.

Abstrak

Penelitian ini mengkaji peran Kementerian Hukum dan Hak Asasi Manusia dalam perlindungan hak cipta buku dan mengidentifikasi tantangan yang dihadapi dalam upaya tersebut. Dengan menggunakan pendekatan penelitian normatif, pengumpulan data dilakukan melalui studi pustaka dan wawancara dengan kantor wilayah Kementerian Hukum dan Hak Asasi Manusia di Sulawesi Selatan. Hasil penelitian menunjukkan bahwa Kementerian Hukum dan Hak Asasi Manusia memiliki peran penting dalam melakukan pendaftaran, pemantauan, dan edukasi kepada masyarakat tentang hak cipta buku. Namun, Kementerian Hukum dan Hak Asasi Manusia menghadapi berbagai tantangan seperti keterbatasan sumber daya manusia dan anggaran, kompleksitas teknologi digital, rendahnya kesadaran masyarakat, serta kurangnya kerja sama lintas sektor, yang menghambat upaya perlindungan hak cipta buku secara efektif.

Kata Kunci: Buku; Hak Cipta; Hukum.

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INTRODUCTION

Intellectual property rights (IPR) are exclusive rights granted by law to a person or group of people over their works. Intellectual property gives the right to economically enjoy the results of intellectual creativity. The objects regulated in IPR include works that are born from human intellectual abilities¹. Broadly speaking, IPR is divided into two parts, namely copyright and industrial property rights. Copyright is the exclusive right of the creator that arises automatically based on the declarative principle after creation is realized in tangible form, including works in the fields of science, art, and literature.²

Books, as a form of written work, are often the object of copyright infringement, especially in the form of piracy. Research shows that during the COVID-19 pandemic, 54.2% of publishers found pirated books sold through online marketplaces, and 25% of publishers found free distribution of PDF books. This copyright infringement harms book creators and publishers, reducing the incentive to produce quality work. In the context of Islamic law, copyright infringement such as reprinting or copying a book without permission is considered a violation or crime against the rights of the author. The Qur'an teaches us not to harm the rights of others and to prevent corruption on Earth (QS. Ash-Shu'ara [26]: 183). Copyright infringement can be subject to criminal sanctions of up to 10 years in prison and a fine of Rp 4 billion based on the Copyright Law of 2014

Law No. 28 of 2014 on copyright states that books are protected creations. Books with copyright contain moral rights and economic rights for the creator or copyright holder. The Regional Office of the Ministry of Law and Human Rights (Kemenkumham) as a law enforcer has an important role in protecting the copyright of books, providing motivation to authors to produce quality books through legal protection. However, in reality, the protection of book copyright has not been fully met, and copyright owners feel their rights have not been adequately protected. Based on this background, there are problems in the protection of book copyrights. Therefore, this study aims to examine the role of the Ministry of Law and Human Rights in the protection of book copyright.

METHOD

This study uses empirical juridical research that aims to examine in depth the role of the Ministry of Law and Human Rights on the protection of copyright books according to Presidential Regulation No. 44 of 2015 on the Ministry of Law and Human Rights and Law No.28 of 2014 on copyright. Through a comprehensive analysis, it is hoped that recommendations can be found that can provide solutions to the fulfillment of book copyright protection in Indonesia.

RESULTS AND DISCUSSION

1. *The role of the Ministry of Law and Human Rights on Book copyright protection.*

The Ministry of Law and Human Rights of the Republic of Indonesia is a ministry within the government of Indonesia responsible for legal affairs and Human Rights. Kemenkumham is under and directly responsible to the President.

¹ Hak atas kekayaan dan Intelektual (Haki) : Pengertian dan Jenis (<https://lp2m.uma.ac.id/2021/11/25/hak-atas-kekayaan-intelektual-haki-pengertian-dan-jenisnya/>) diakses pada 11 November 2023, pukul 14.00 WITA

² Fadhol Sevima, *Apa Itu HAKI? Pengertian, Fungsi, Macam dan Cara Mendaftarnya* (<https://sevima.com/pengertian-haki/>), diakses pada 11 November 2023, pukul 14.20 WITA

Duties and functions of Kemenkumham

According to Article 2 of Presidential Regulation No. 44 of 2015 concerning the Ministry of Law and Human Rights, Kemenkumham has the main task of organizing government affairs in the field of law and human rights to assist the president in managing the state government. Article 3 Of Presidential Decree No. 44 of 2015 describes the various functions carried out by Kemenkumham, including

(a) policy formulation and implementation: in the areas of legislation, Public Law administration, Corrections, immigration, intellectual property, and Human Rights.(B) coordination and development: implementation of tasks, development, and administrative support to all elements of the organization in the environment Kemenkumham.(c) management of State Property: managing the property/property of the state that is the responsibility of the Ministry of Law and Human Rights.(d) supervision: supervise the implementation of tasks within the Kemenkumham.(e) Technical Guidance and supervision on the implementation of Kemenkumham affairs in the region. (f) National Law Development: implementing national law development.(g). Research and development:in the field of law and Human Rights. (h) Human Resource Development: developing human resources in the field of law and Human Rights.(i) National Technical Activities: carrying out technical activities on a national scale.(j). Substantive support: provide substantive support to all elements of the organization within the Kemenkumham.

The role of the division of Legal Services and Human Rights:

The division of legal and Human Rights services at the Kemenkumham Regional Office is responsible for providing services related to copyright as part of intellectual property rights. The Directorate General of Intellectual Property Rights (Ditjen IPR) in the Ministry of Law and Human Rights has the main functions such as policy formulation, monitoring, evaluation, reporting, and dispute resolution related to intellectual property.

The role of the Directorate General of IPR in book copyright protection:

(a) book copyright registration: processes copyright registration for books, providing legal certainty and proof of ownership for authors or publishers. (b)law enforcement and supervision: cooperate with law enforcement officials to crack down on copyright infringement, and provide dispute resolution mechanisms.(c). Education and socialization: conducting campaigns to raise public awareness about copyright, through seminars, workshops, and social media.

Supervision and Prevention of copyright infringement of books:

(a) Compliance audits: conduct audits of publishers, authors, and distributors to ensure compliance with copyright regulations. (b) Direct inspection: carry out inspections to bookstores and exhibitions to check the authenticity of books.(c)License and contract checks: checks license and contract documents to ensure copyright is properly managed.(d)cooperation with related parties: cooperate with publisher associations, authors, and related organizations to address copyright infringement.

Although Kemenkumham plays an important role in the protection of book copyrights, the authority of law enforcement over copyright infringement cases is under the judiciary and law enforcement agencies such as the police and prosecutors. Kemenkumham focuses on the formation of policies, regulations, and socialization regarding copyright.

Adjustment and strengthening of regulation:

Presidential Decree No. 44 of 2015 can be strengthened by clarifying digital law enforcement strategies, cross-sector cooperation, empowerment of human resources and technology, as well as education strategies and increasing public awareness about copyright in the digital age. This is important to ensure more effective and comprehensive book copyright protection amid technological developments and digital content distribution.

2. *Factors inhibiting the Ministry of Law and Human Rights in the book Copyright Protection*

Limited resources are a major obstacle for the Ministry of Law and Human Rights (Kemenkumham) in protecting book copyrights, which includes shortages of personnel, budget, and technological infrastructure. Kemenkumham often lacks trained experts in the field of intellectual property rights, including book copyright, so law enforcement is ineffective. In addition, the limited budget hinders various copyright protection initiatives and programs, including investments in technology, personnel training, and public awareness campaigns. The lack of adequate technological infrastructure also hinders surveillance and law enforcement, making the detection and enforcement of copyright infringement more difficult.

In the digital age, book copyright infringement is increasingly complex and rapid, especially through the internet and digital platforms. Rapid technological developments make copyright infringement methods increasingly sophisticated and difficult to track, while easy and fast digital distribution makes surveillance increasingly difficult and requires more effective law enforcement strategies. Low public awareness and understanding of the importance of copyright and the negative impact of copyright infringement is also a significant obstacle. Many people have not realized the importance of copyright and the legal risks of copyright infringement, causing a culture of piracy to persist.

Regulatory limitations also affect the effectiveness of book copyright protection in the digital age. Vagueness in copyright-related regulations, especially in the digital context, causes confusion among law enforcement and copyright holders. In addition, the law often lags in keeping up with technological developments and trends in the distribution of digital content, making copyright protection less effective and relevant. Slow and bureaucratic enforcement processes are also barriers to book copyright protection. Lengthy and bureaucratic legal processes reduce the effectiveness of copyright enforcement, while sanctions against copyright violators often do not have enough deterrent effect.

Book copyright protection efforts also require close cooperation between governments, the publishing industry, digital platforms, and internet service providers. A lack of cross-sector cooperation can hinder the effectiveness of law enforcement. Cooperation with the private sector and international collaboration is critical to addressing book copyright infringement, especially since violations are often cross-border. Lack of cooperation with other countries and international organizations can hinder the enforcement of book copyright law in Indonesia.

CONCLUSION

The role of the Ministry of Law and Human Rights (Kemenkumham): book copyright is regulated in Article 40 paragraph (1) UUHC 2014. Copyright includes moral rights and economic rights for book creators. Kemenkumham has an important role in the protection of book copyright through the division of Legal Services and Human Rights and the Directorate General of Intellectual Property Rights. Its role includes copyright registration, law enforcement, and supervision, as well as education and socialization.

Factors inhibiting Kemenkumham's efforts in copyright protection: Kemenkumham faces limited resources, especially in terms of personnel, budget, and technological infrastructure. The complexity of digital technology, low public awareness, limited regulation, weak law enforcement, and lack of cross-sector cooperation are also major obstacles. Educational efforts, regulatory updates, increased sanctions, and increased cross-sector and international cooperation are needed to improve the effectiveness of book copyright protection.

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