The Preferential Concept of Pro bono Publico as a Guarantee of Legal Certainty of Copyright Waqf in the perspective of Indonesian Law

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Abstract
The declarative principle in copyright protection and the constitutive principle in waqf implementation within Indonesia's legal system have created a normative disharmony, obstructing the legal recognition of intellectual property-based waqf. This misalignment has led to the absence of a clear legal mechanism for facilitating copyright as a valid and productive waqf object. This study aims to formulate an alternative concept, Preferensial Pro Bono Publico, as an administrative framework that ensures legal certainty in the waqf of copyright without compromising the core declarative nature of copyright law. Employing a normative legal research method that combines conceptual and statutory approaches, and supported by qualitative juridical analysis of primary and secondary legal sources, the findings reveal that this concept can fill the regulatory vacuum by providing a functional administrative registration pathway for socially-driven rights transfers. The analysis indicates that the model aligns with responsive legal theory, legal functionalism, and the maqashid al-shariah framework in Islamic jurisprudence, while contributing to the advancement of progressive legal doctrine. Its broader implications include opportunities for regulatory reform, inter-agency system integration, and the strengthening of intellectual property-based philanthropy in the digital era. Thus, Preferensial Pro Bono Publico functions not only as a normative legal innovation, but also as a social instrument for the equitable redistribution of copyright benefits in a sustainable manner.

I. Introduction

The development of intellectual property law in Indonesia has undergone a significant transformation, in line with the rapid digitalization and advancement of information technology. Copyright, as a form of intellectual property, is not only a symbol of individual creativity, but also has great economic value. However, in a socio-religious context, copyright also holds the potential to contribute as an instrument of philanthropy, especially through the waqf mechanism (Saragih, 2022). In Indonesia, waqf has long been an integral part of the wealth distribution system in the Islamic society. Generally, waqf is oriented towards fixed assets such as land and buildings, but the dynamics of the modern economy demand an expansion of the paradigm, including making intangible assets such as copyright the object of waqf (Wahyuni, 2022).

However, this expansion faces serious challenges in terms of regulations and legal legitimacy. Until now, there has been no positive regulation in Indonesia that explicitly and systematically regulates copyright waqfs. Law No. 41/2004 on Waqf recognizes movable objects as waqf objects but does not elaborate on the mechanism, legal protection, or legal consequences of waqf of copyrights. In fact, given its high social value, copyright can be a means of distributing public benefits if managed in a waqf manner. However, legal uncertainty hinders this potential (Nariasih et al., 2021). Issues arise regarding who has the right to manage the copyright that has been endowed, what is the status of the creator's economic and moral rights post-waqf, and how to ensure its continued utilization for the public good?

This condition is exacerbated by the fact that the legal system for intellectual property in Indonesia still faces challenges in terms of legal certainty. However, although regulations on intellectual property have been formulated normatively, their implementation often faces bureaucratic obstacles and a lack of public awareness of the importance of rights registration (Latifiani et al., 2022). This situation has a direct impact on the legitimacy of copyright waqf, as the copyright legality process is an absolute prerequisite for waqf validity. Meanwhile, the prevailing waqf regulations have not been able to accommodate the dynamics of intellectual property as an object of waqf, in terms of substance, institutional structure, and legal culture of the community (Salamah, 2020). This lack of clarity creates a legal gap that jeopardizes the protection of parties involved in the copyright waqf process.

In this context, it is important to integrate the Preferential Pro bono Publico principle as a normative approach to reformulate the legal framework for copyright waqf. This principle places public interest as a priority in the management of endowed intellectual property without overriding the moral and economic rights of the creator. By adopting the spirit of voluntary public service for society's welfare, this concept has the potential to bridge the conflict between private ownership and the public good. Furthermore, Pro bono Publico Preferential can be the basis for establishing regulations that ensure legality, transparency, and accountability in the management of copyright waqf.

This study aims to analyze how the concept of Preferential Pro bono Publico can be adopted in the Indonesian waqf legal system to ensure legal certainty for copyright waqf. This research also seeks to identify regulative gaps and offers a legal model that can synergize the protection of the creator's moral rights with efforts to equalize social benefits. More than just a theoretical contribution, this research also provides practical justification in encouraging the reformulation of legal policies that are more responsive to the dynamics of intellectual property as part of Islamic philanthropy.

Theoretically, this article brings novelty through the idea of integrating the principle of Pro bono Publico into the modern waqf legal framework. This idea has not been explored much in the Indonesian legal literature, especially in relation to non-traditional waqf. The justification for this research is stronger because, in addition to answering the need for a positive law on the certainty of the status of copyright waqf, this approach also offers a bridge between religious norms, legal protection, and social justice. This research is important in the context of the increasing relevance of intellectual property as the nation's strategic asset and as a new medium for strengthening social participation through productive and sustainable waqf.

2. Research Method

This research uses normative legal research with conceptual and statutory approaches. The conceptual approach was chosen to examine in depth the declarative principle in the copyright system and the constitutive principle in the waqf system, as well as its potential integration through the concept of Preferential Pro bono Publico. Meanwhile, the statutory approach is used to examine the compatibility between applicable legal norms, including Law Number 28 of 2014 concerning Copyright and Law Number 41 of 2004 concerning Waqf, as well as its derivative regulations.

Data collection techniques are carried out through library research, which includes tracing primary legal materials, such as laws and regulations and relevant court decisions, as well as secondary legal materials such as books, scientific journals, previous research results, and relevant policy documents. In addition, tertiary legal materials such as legal dictionaries and encyclopedias were also used as support to strengthen the definition of concepts.

The data that has been collected is analyzed using qualitative juridical analysis, with an emphasis on systematic interpretation of relevant legal norms, rules and principles. The analysis is carried out logically and argumentatively to build a coherent and applicable legal framework, especially in formulating the administrative legitimacy of the concept of Preferential Pro bono Publico as a legal engineering mechanism to ensure certainty in copyright endowments.

3. Results and Discussion

Protection of Copyright Endowments in the Indonesian Legal System

In the Indonesian legal system, copyright protection is regulated by Law Number 28 of 2014 on copyright, which adheres to the declarative principle. Legal protection is

granted automatically because the work is realized in real form, without the necessity of formal registration. This principle places the act of "announcement" of the work as the moment of birth of the right to protection by the state against the creator. Andy Usmina Wijaya and Rihantoro Bayu Aji emphasized that in the era of digital disruption, this declarative principle is increasingly relevant because the ease of announcement through electronic media allows creators to immediately obtain state protection without a long bureaucracy (Wijaya & Aji, 2019).

Meanwhile, waqf is regulated in Law No. 41/2004, which adheres to the constitutive principle that the validity of the transfer of assets into waqf depends on formal proof through the waqf ledge (AIW). Based on Albab et al.'s study, the constitutive principle in waqf is very important to ensure the validity of the transfer of rights, as well as the protection of the wakif's will and the implementation of the mandate by the nazir(Albab & Mulyadi, 2023). Waqf is not merely an act of intention but must also be manifested in the form of legal documentation recognized by the state and religion.

The fundamental difference between declarative and constitutive principles creates normative disharmony, especially when copyright-protected without registration wants to be the object of waqf, which requires formal proof. Research results in Al-Istinbath by Islamic law researchers state that Sharia copyrights are indeed valid as waqf objects, but still require legal certainty in order to be legally and productively managed by waqf institutions(Sukiati et al., 2023). Without a registration or recording mechanism that combines these two principles, the implementation of copyright waqf risks is not legally recognized.

Furthermore, the lack of technical regulations has reinforced this issue. To date, there are no procedures that regulate in detail the procedures for recording copyright as waqf, either by DJKI or BWI. This results in administrative uncertainty and reduces the interest and courage of creators or heirs to endow their intellectual work. In addition, waqf management institutions generally do not have sufficient understanding of or capacity to manage intellectual property as productive waqf assets (Habibaty & Wadi, 2023).

In response to these problems, the concept of Preferential Pro bono Publico has emerged as an alternative administrative solution. This scheme does not contradict the declarative principle because it does not change the substance of copyright protection but strengthens the administrative formalization aspects for social purposes, such as waqf. This model is also in line with the principle of legal functionalism, which prioritizes the efficiency and usefulness of the law in meeting contemporary social needs. This concept refers to the thinking of Roscoe Pound, who stated that law must function as a tool of social engineering, namely, forming a just structure of society through the active role of the legal system (Al Alawi, 2024).

The Preferential Pro bono Publico Concept also has the potential to support institutional reform in the waqf and intellectual property sectors. The implementation of this scheme can encourage the birth of derivative regulations governing the

technical procedures for waqf registration of IPR, including copyrights. For example, the DJKI could develop a special sub-directory that records copyright assets intended for social purposes, while the BWI could develop an endorsement mechanism that refers to the list. Thus, interagency coordination can be formally established, creating a regulatory ecosystem that supports the legality and sustainability of copyright waqf (Faisal et al., 2024).

Strengthening regulations will also increase public participation in intellectual property-based philanthropy. Creators, artists, writers, and creative industry players have higher legal confidence to endow their work, as there are legal channels that guarantee formal protection and recognition. This is in line with the state's aspiration to develop innovation-based social resources as well as to support productive waqf management that can directly contribute to national development and the welfare of the people. The availability of an inclusive legal mechanism is an important condition for the realization of meaningful participation from the public in the intellectual property legal system, as stated by Wardana et al. that public participation is an essential element in the process of law formation and determines the legitimacy and effectiveness of the application of regulations in society(Wardana et al., 2023).

With this approach, the Indonesian legal system can be directed not only to protect individual rights but also to facilitate social contributions to those rights. Harmonizing declarative and constitutive principles through the Pro bono Publico Preferential scheme not only resolves juridical disharmony but also creates a new space for the transformation of intellectual property law into an effective, sustainable, and social justice value-based philanthropic instrument.

From a theoretical point of view, the application of the concept of Preferential Pro bono Publico emphasizes the importance of developing a social function of law. It shifts the focus from the protection of the exclusive rights of an individual nature to strengthening collective contributions that can be legally mediated. Within the framework of progressive legal theory, the preference for distributive justice and social responsibility should be reflected in responsive legal instruments. The progressive legal theory promoted by Satjipto Rahardjo criticizes legal formalism and proposes a more substantive approach to realizing social justice. Therefore, this concept contributes to the enrichment of intellectual property law theory, especially in terms of reconstructing the purpose of the law as an instrument of balance between individual rights and public interests.

Practically, these implications are seen in the increased administrative efficiency, procedural clarity, and legal validity of the copyright waqf process. The presence of a specialized administrative recording mechanism provides a strong legal basis for waqf institutions to accept and manage copyrights as productive assets. This opens up new opportunities for the diversification of waqf resources, especially in the digital era and the creative economy. In addition, this practice has the potential to encourage regulatory reform and standardization of the intellectual property waqf process in the national legal system, making it more inclusive of non-physical forms of assets.

Disharmony between the Declarative Principle of Copyright and the Constitutive Principle of Waqf Law

The interpretation of the legal findings regarding the disharmony between the declarative principle in copyright law and the constitutive principle in waqf law can be understood through complementary theoretical approaches and normative practices. In the Indonesian positive legal system, these two principles are based on different philosophical, methodological, and functional conceptions. The declarative principle, as stipulated in Law No. 28 of 2014 on copyright, rests on the assumption that the creator's moral rights and economic rights are born since the work is realized in real form, without formal administrative procedures. In this context, copyright is inherent and automatically attached to the creator after the creation of the work(Wijaya & Aji, 2019).

By contrast, the constitutive principle in Law No. 41/2004 on Waqf requires formal procedures as an essential element that determines the validity of waqf. This mechanism requires a pledge to be formally stated in the Waqf Pledge Deed (AIW) and authorized by the Waqf Pledge Deed Official (PPAIW). This provision is intended to ensure the legal transfer of rights from the waqif to the nazir as well as to maintain the integrity of the waqf mandate so that it is not misused. Therefore, the implementation of waqf without a formal process is considered to have no legally binding force (Albab & Mulyadi, 2023).

Further interpretation of this issue needs to see that the disharmony between the two principles is not only normative-textual but also functional in implementation. For example, in practice, many creators of works do not register their copyrights with DGKI because they feel that the automatic protection provided by law is sufficient. However, when copyright is used as an object of waqf, the absence of formal proof of ownership becomes a real legal obstacle. In this context, the Pro bono Publico Preferential plays the role of a functional solution that allows for a special and limited administrative record, which is only for social purposes, such as waqf.

Furthermore, this approach can be interpreted within the framework of responsive law theory introduced by Nonet and Selznick. According to them, law should not only be autonomous and repressive but should also be able to answer social needs substantively and contextually. Responsive law encourages the formation of a legal system that is not rigid in formality but adaptive to social reality and human values. In this framework, Pro bono Publico Preferential is a concrete form of law that moves from a formalist approach to an instrumentalist one by placing social aspects as a central variable in regulatory design.

This interpretation is also reinforced by the Luhmannian legal systems approach, which views law as a normative communication system in society. According to Luhmann, law is formed and maintained through communication networks between various social elements, including state institutions, economic actors, and civil society. In this case, the creator of the work and the endowment institution are actors in a

system that cannot operate alone, without a legal communication mechanism that enables recognition and validity. The Pro bono Publico Preferential, as a limited administrative recording mechanism, acts as a form of legal communication that connects the intellectual property system with the waqf system through a minimal legal-formal bridge, yet sufficient to guarantee legitimacy (Tikhonova, 2022).

The interpretation of the legal values underlying this scheme also needs to consider the existence of the principles of expediency and legal certainty. According to the principle of expediency, the law must make a real contribution to social welfare and distributive justice. This is reflected in the potential of copyright waqf in supporting sustainable financing for educational, social, and religious institutions through the utilization of royalties and licenses for works. Meanwhile, in terms of legal certainty, the Pro bono Publico Preferential recording scheme offers a legal instrument that is strong enough to guarantee the validity of the transfer of rights without disturbing the foundation of the declarative principle adopted in the copyright system.

When viewed from a legal hermeneutics approach, this concept can be understood as a creative reinterpretation of existing norms without violating the basic normative structure. In Ronald Dworkin's theory of legal hermeneutics, legal interpretation is not a purely mechanical act but rather a constructive process that considers moral principles, the value of justice, and the consistency of the legal system as a whole. As such, the administrative registration scheme does not contradict the norms of copyright law but is a functional extension of those norms to meet specific social needs.

Furthermore, in the context of contemporary Islamic legal theory, the interpretation of this result can be aligned with maqashid al-shariah, especially in the dimensions of hifz al-mal (protection of wealth) and hifz al-nafs (protection of human welfare). By making copyright a legitimate waqf asset administratively and shar'i, the intellectual contribution of the creator is not only protected but also empowered for the benefit of the people. This is a form of integration between positive law and Islamic values, which are adaptive to the needs of the times (Nugroho & Hilal, 2019).

Thus, the interpretation of this study's results leads to the conclusion that the disharmony of legal principles can be reconciled through an adaptive and integrative legal approach. The Pro bono Publico preferential scheme acts as a normative strategy that facilitates the synchronization between a legal system based on individual protection (copyright) and a socially oriented legal system (waqf). This scheme not only resolves legal-formal issues but also opens up a new space for legal construction that is inclusive, progressive, and responsive to social transformation.

Impact on Theory and Practice

The application of the concept of Preferential Pro bono Publico in the legal framework of copyright waqf in Indonesia not only provides an administrative solution to the issue of formal legality but also produces significant conceptual implications for legal theory, especially in the development of the doctrine of intellectual property law and waqf law. Theoretically, this concept expands the scope of intellectual property rights protection

theory, which tends to be oriented towards private and commercial aspects, and towards the recognition of the social dimension of these rights. This shows a paradigm shift from exclusive rights that only protect the economic interests of the creator towards the social function of copyright that can be managed for collective interests through the waqf mechanism.

In the context of intellectual property law theory, Preferential Pro bono Publico breaks down the old assumption that copyright should be commodified individually for economic value. Through this concept, copyright is positioned as an object that not only has economic value but also social, spiritual, and public benefits. This concept reinforces the argument in the access to knowledge (A2K) theory, which emphasizes that knowledge and intellectual expression should not be completely locked up within the framework of exclusive rights but should be channeled for public benefit, including through legal instruments such as waqf (Disemadi et al., 2024).

On the other hand, from the perspective of Islamic legal theory, this concept supports the development of contemporary forms of waqf that remain maqashid al-shariah-based. Preferential Pro bono Publico supports the principle of hifz al-mal (protection of wealth), but also expands its meaning to hifz al. (protection and distribution of knowledge), which can be utilized by the wider community in a sustainable manner. This also confirms that Islamic law can develop dynamically and respond to modern socio-economic realities, including intellectual property rights management (Rahmadany et al., 2024).

Practically, the impact of implementing this concept is far-reaching, especially in encouraging institutional reform in the waqf sector and intellectual property protection. First, this concept requires new regulations or technical guidelines from the DJKI and BWI governing the procedures for registering copyrights as waqf objects. The regulation encourages the creation of a coordinative mechanism between agencies that have been running separately, thus forming an integrated legal ecosystem. Coordination is not only concerned with normative aspects but also implementative aspects that include nazir training, development of digital infrastructure for recording IPR waqf, and provision of legal incentives for creators who endow their works (Ardiansyah et al., 2023).

Second, the concept also strengthens community participation in innovation and creativity-based philanthropy. In the era of the creative economy and digital transformation, creators and innovators have a wider space to make social contributions through their copyrights. When legal channels are available and recognized, creators are encouraged to make their work a sustainable social asset. This directly increases the volume of waqf assets that are productive and relevant to the needs of contemporary society (Yuswar et al. 2023).

Third, in terms of legal education and socialization, this concept encourages the integration of intellectual property law and waqf material into the legal education curriculum in higher education. Law students, practitioners, and policymakers must

understand how two different legal systems can be harmonized within a unified normative and administrative framework. This will shape the generation of legal professionals who not only understand the classical principles of private law or religious law in isolation but are also able to design adaptive and socially oriented legal policies.

Broader implications can be found in the context of the Indonesian legal system as a whole. Pro bono Publico Preferential is a concrete example of the application of progressive legal theory, as proposed by Satjipto Rahardjo, that law must serve substantive justice and side with the real needs of society. Law should not merely be the guardian of norms but should be a facilitator of social transformation. In this context, Pro bono Publico Preferential is a form of articulation of progressive, responsive, and solutive law towards inequality of access to intellectual resources in society (Anisa Rizki Fadhila, 2021).

In addition, the application of this concept can be a reference for other countries characterized by legal pluralism, where religious law, state law, and social practices run together. Countries such as Malaysia, Turkey, and some Middle Eastern countries have started to open up the possibility of developing intellectual property-based waqf, but not many have developed an administrative framework as comprehensive as that offered by the Pro bono Publico Preferential. Thus, this concept has the potential to contribute to Indonesia's global forum on digital and intellectual asset-based philanthropic management (Yuswar et al., 2023).

Research Development on Copyright Waqf Law

In the context of legal science development and public policy formulation, the conceptual findings on Pro bono Publico Preferential as a legal framework to ensure the legal certainty of copyright waqf opens up various new exploration spaces that are highly relevant for further research. One of the main suggestions is to conduct in-depth empirical-qualitative research involving key actors, such as the Directorate General of Intellectual Property (DJKI), the Indonesian Waqf Board (BWI), nazirs, and creators as prospective wakifs. The aim was to explore the actual understanding, perceptions, and constraints in the implementation of copyright waqf in the field, as well as to identify potential administrative barriers, legal culture, and institutional infrastructure (Faisal et al., 2024).

This study can also be developed in the form of cross-country comparative research, particularly by comparing Indonesia's legal system with other countries that have developed intellectual property waqf practices, such as Malaysia, Singapore, and Turkey. These countries have relatively progressive regulatory structures for accommodating non-physical assets within the waqf framework. Through this approach, researchers can identify the best practices, as well as the weaknesses and strengths of their respective legal systems that are relevant to be adapted or avoided in the Indonesian context (Thaker, 2023).

In addition, future research is recommended to develop interdisciplinary studies

between law, technology, and economics, especially in terms of digital management of copyright waqf assets. The challenges of Pro bono Publico preferential implementation in the future will largely depend on the readiness of the information system and recording technology, including the integration between the copyright recording system at DJKI and waqf administration system at BWI. Therefore, further research needs to cover aspects of digital system design, data security, and electronic governance that can ensure the validity, transparency, and accountability of the transfer of rights for waqf purposes. Digital integration is becoming increasingly relevant as the digitization of works and public service systems has increased.

It is also important that future research is directed towards aspects of policy analysis and regulatory harmonization, including an evaluation of the possibility of amending Law No. 28 of 2014 on Copyright and Law No. 41 of 2004 on waqf. A deeper legal analysis is needed to assess whether the current legal framework is flexible enough to accommodate Preferential Pro bono Publico or whether a new, more specific norm needs to be established. In this framework, comparative legal studies and systematic juridical analysis of the clauses on the recognition of ownership and transfer of rights are very important because they concern the legitimacy and effectiveness of the overall policy (Hakimah et al., 2022).

Equally important, future research can also raise the sociological and anthropological dimensions of law to understand how society responds to the concept of copyright waqf, especially in the context of the diverse legal culture of Indonesian society. Differences in perceptions between urban and rural communities, between the younger and older generations, or between creative industry players and Sharia law practitioners can be important variables that determine the success of the national implementation of this concept. With this approach, pro bono publico preference is not only understood as a legal-formal idea, but also as a social product that must be contextualized culturally and ideologically.

Finally, future research can be directed towards developing simulation models and long-term impact studies of the implementation of the Pro bono Publico Preferential, both in terms of contributions to the development of productive waqf assets, increased social participation of creative actors, and strengthening of an inclusive intellectual property legal system. This simulation can be based on historical royalty data, estimates of the economic value of the works endowed, and scenarios of the fiscal and social impacts of implementing a social-preference-based administrative recording system. With this approach, the research results are not only conceptual but can also provide concrete input for future policy planning and regulation-making.

Implication of Pro bono Publico Preferential Conception in Copyright Waqf

The conception of Pro bono Publico Preferential as an administrative solution to the disharmony of copyright and waqf legal principles not only produces normative effects but also has significant social and ethical implications. In a social context, the presence of this scheme can expand people's access to intellectual property-based resources

that were previously only private and exclusive. By making copyright a legally valid waqf object, there is a process of value transformation from personal wealth to social assets that can be utilized for public interest in a sustainable manner (Sukiati et al. 2023).

This social implication is very strategic, especially in a society that is moving towards a knowledge- and creativity-based economy. In such ecosystems, intellectual work becomes one of the most valuable commodities; however, access to it is often limited by a legal system that overemphasizes exclusive rights. The Pro bono Publico Preferential is a redistributive instrument that provides legal space for creators to donate rights to their works to the public through waqf. This creates a new opportunity to realize distributive justice based on non-physical wealth.

In the context of legal ethics, this concept also reinforces the importance of the principle of social responsibility of intellectual property rights owners. So far, the orientation towards maximum monetization of copyright has often neglected the aspect of social benefit. With the existence of a special administrative scheme for endowments, Pro bono Publico Preferential encourages rights owners to consider the moral dimension in the management of their copyrights. This is in line with John Rawls' view of the "duty of justice" in the theory of justice, that individuals who benefit from a particular social system have a moral obligation to share back in order to create a just society.

Furthermore, from an Islamic ethical perspective, this concept is in line with the values of ikhlas (sincerity), ta'awun (helping), and maslahah (benefits). In this case, copyright waqf becomes a legitimate medium for channeling the spiritual and social potential of intellectual property. It also strengthens maqashid al-shariah, particularly the principles of hifz al-'aql (protection of intellect) and hifz al-mal (protection of wealth), by making the product of intellect a beneficial asset for public welfare (Disemadi et al., 2024).

Another important aspect is how Pro bono Publico can strengthen legal legitimacy in the eyes of the public. In many cases, legal uncertainty discourages people from utilizing formal legal institutions, including waqf management. By providing a clear recording mechanism recognized by the state, this concept can build public trust in the national legal system. This is important for strengthening legal culture, which has been a weak point in law enforcement in many developing countries (Nugroho & Hilal, 2019).

Broader social implications also include the dimensions of civil society empowerment. When intellectual works are dedicated to the public interest through waqf mechanisms, educational institutions, literacy communities, and other social groups will have new resources that can be used to strengthen their capacity. Thus, copyright waqf is not only an instrument of wealth distribution but also a tool for the democratization of knowledge and the strengthening of grassroots communities.

In terms of policy, the Pro bono Publico Preferential opens up space for the formulation

of a national strategy for the development of productive waqf based on the creative economy. The state can act not only as a regulatory facilitator, but also as a manager of IPR-based social assets for the purposes of education, research, and innovation. This is in line with the constitutional mandate to educate the nation and realize social justice for all Indonesians (Wulandari et al. 2016).

In the long term, the implementation of Pro bono Publico Preferential can also create new ethical awareness among the younger generation, especially creative industry players. Amid an increasingly dominant culture of individualism and commercialization, the presence of legal instruments that encourage social orientation can be a strong counterweight. It is an indirect form of moral and legal education that encourages the growth of a creative generation that is not only productive, but also socially responsible.

By strengthening the social and ethical aspects of copyright, pro bono publico preferentially bridges the duality between individual rights and public interest in the modern legal system. The scheme reflects the spirit of progressive law, which emphasizes the importance of the balance between legal norms and human values, between protection of rights, and strengthening of social solidarity.

4. Conclusion

This study asserts that the incompatibility between the declarative principle in copyright law and the constitutive principle in waqf law has created a space of normative disharmony that has not been adequately addressed by the positive legal system in Indonesia. On the one hand, copyright as a form of intellectual property is automatically protected without requiring a formal registration process. However, the waqf mechanism requires concrete formal legality through the waqf ledge designed to guarantee the validity of the transfer of rights. This conceptual tension creates stagnation in the effort to develop a productive waqf based on non-physical assets, such as copyrights.

The concept of Preferential Pro bono Publico emerges as an innovative solution that does not contradict the basic principles of the prevailing law, but rather offers a functional administrative scheme to bridge the two legal regimes. It introduces a special administrative record-keeping path that affirms the transfer of copyright for social purposes, such as waqf, without changing the characteristics of the declarative system underlying copyright protection. This approach not only successfully resolves legal-formal issues but also makes a significant contribution to the development of progressive legal theory, responsive law, and contemporary Islamic law.

Moreover, the implementation of this concept expands the horizon of Islamic philanthropy by integrating the potential of intellectual property as a legitimate and productive waqf object. The implications include strengthening distributive justice, increasing the social participation of creative actors, and institutional reform in intellectual property and waqf sectors. The scheme also revives social values in legal practice, making law not only a protector of rights but also a tool for the redistribution of social benefits within an inclusive framework of justice.

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