

THE ROLE OF THE GOVERNMENT IN OVERCOMING PLAGIARISM AND THEFT OF INTELLECTUAL PROPERTY RIGHTS

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Abstract

The purpose of writing this article is to find out the government's role in overcoming rampant plagiarism among academics and theft of intellectual property rights in Indonesia. Plagiarism and intellectual property rights are essentially the same as other material property rights, namely giving rights to creators or owners to benefit from the investment of their intellectual work in the field of industrial property and copyrighted works which are called copyrights. Cases of plagiarism and violations of intellectual property rights in Indonesia cannot be underestimated. As a result of these violations, not only will the country suffer losses and threaten investment flows, but Indonesia may also be threatened with an embargo on its export products. Technological developments, especially developments in digital technology, are considered to support the growth of plagiarism and violations of intellectual property rights. The method used is descriptive analysis, where this article tries to interpret and describe the existing data with the situation that occurs to get the relationship between objects. Law enforcement in the field of intellectual property rights is highly dependent on the enforcement process in general, so if the law enforcement process is generally good, law enforcement on intellectual property will also be good.

Keywords: Government; Plagiarism; Intellectual property rights; Law Enforcement

1 INTRODUCTION

Entering the era of the Industrial Revolution 4.0 with various existing challenges has required us to be able to adapt. One way to adapt to changes is to always innovate. Innovation is changes for the better. Global Innovation Index In 2020, Indonesia's Global Innovation Index (GII) is ranked 85th out of 131 countries in the world, with a score of 26.49 (maximum 100), below the average score of 30.9 (Murdiastuti, et al., 2021). GII is used to look at the multidimensional aspects of innovation based on 80 indicators which are grouped into innovation inputs and outputs. Indonesia's ranking has not changed since 2018. In the Southeast Asia region, Indonesia's position is only better than Cambodia and Myanmar (Cornell University, INSEAD, 2020).

To be able to create innovation, organizations must be supported by the ability of Human Resources (HR) to innovate in the workplace (De Jong & Den Hartog, 2010). The successful implementation of the ideas developed by HR is influenced by the innovative behaviour of

employees (Scott & Bruce, 1994). Innovative behaviour is not something that is genetic, but something that can be learned and can be taught to employees (Dyer et al., 2011). As time goes by, all things can be done easily and practically, especially with increasingly sophisticated technological advances. However, this technological advancement has also opened opportunities for plagiarism and rampant theft of intellectual property rights to works, be they scientific works, works of art, literary works, and so on.

According to the Regulation of the Minister of National Education No.17 of 2010, plagiarism is an act intentionally or unintentionally in obtaining or trying to obtain credit or value for a scientific work, by quoting part or all the works and/or scientific works of other parties that are recognized as scientific works, without properly and adequately stating the source. Plagiarism has types, including self-plagiarism expressed by Irving Hexan as quoted by Henry Soelistyo that self-plagiarism is publishing one's own work more than once and recycling text for publication again without any statement that the work has been recycled. repeat. Both actions are essentially the same, namely cheating readers because readers only want to know new information, it turns out that the information they receive is old information (Sulistyo, 2011). In the world of education, plagiarism is closely related to the integrity of the academic community. A student's sharp thinking is gradually honed to become a graduate who is highly moral, honest, independent, knowledgeable, and full of self-confidence through a long and expensive process of adult learning (andragogy). While in education, every student experiences a process of intellectual and psychological transformation, after completion they become wiser, smarter, and smarter so that they can become the successors of the nation who advance the country. The act of plagiarism makes a person lazy to think, does not dare to take responsibility in facing new challenges. The tendency to seek convenience by taking other people's work and recognizing it as a personal work makes morale fade (Wibowo, 2012)

Cases of plagiarism are now a hot topic in the college environment. Almost all public and private universities are promoting the handling of plagiarism which is the theft of other people's writings. Plagiarism is taking other people's writings and ideas without mentioning the source and being recognized as one's own work. Plagiarism has become a culture of students who are working on coursework or those who are just working on their final assignment (thesis and dissertation). This happens due to a lack of self-efficacy and self-confidence of students in carrying out assignments from lecturers, so that they deliberately take other people's writings with the aim of getting good grades (Suryana, 2016).

Reducing the occurrence of plagiarism is the obligation of every educational institution, especially universities. Because plagiarism is the theft of other people's written works which can reduce academic integrity. Every institution must be able to take decisive action in reducing and eradicating plagiarism (Rispariyanto, 2020). This case of plagiarism is closely related to the development of Intellectual Property Rights (IPR) in following the current developments. The more sophisticated and modern the technology is, the more innovations will emerge in various fields, especially in the field of intellectual property rights (Prawira, 2019).

Intellectual Property Rights (HKI) stem from copyright. The concept of copyright is a translation of the concept of copyright in English. It literally means "copy right". This copyright was created along with the invention of the printing press by Gutenberg. Previously, the process of making a copy of a written work required almost the same effort and cost as the process of making the original work. Initially, the monopoly right was given directly to publishers to sell printed works. When legal regulations regarding copyright began to be enacted in 1710 with the Statute of Anne in England, the right was given to the author, not the publisher. The regulation also includes consumer protection which guarantees that publishers cannot control the use of printed works after a sale and purchase transaction has taken place. In addition, the regulation also regulates the validity period of exclusive rights for copyright holders, which is 28 years (Quraisy, 2011).

HKI is a form of appreciation given by the state for the hard work and thoughts of people who produce new works or inventions, so that they are entitled to exclusive rights and legal protection (Achmad & Roisah, 2020). The exclusive rights referred to in this case are the rights of inventors/creators to exercise or prohibit other people without their consent from making, using, exporting, importing, selling, or distributing a work/invention. However, in practice, there are still many problems and challenges in enforcing laws related to IPR in Indonesia, especially in the era of the industrial revolution 4.0.

2 METHODOLOGY

This research is analytical descriptive in nature, which means that this research is included in the scope of research that examines and explains precisely and analyses existing regulations through a statutory approach related to intellectual property rights, especially copyrights for digital works. The method used is a normative juridical research method which is carried out by examining and interpreting theoretical matters relating to principles, conceptions, doctrines, and legal norms, as well as laws related to regulation of copyright in the context of IPR. This

is a scientific research procedure to find the truth of reality and based on scientific logic from the normative side. The material in this study was taken from secondary data collected through library research in which references came from laws regarding intellectual property rights, especially laws related to copyright, online editions of books and journals, as well as articles related to intellectual property rights and intellectual property rights. create digital works.

3 FINDINGS AND DISCUSSION

According to the Regulation of the Minister of National Education No.17 of 2010, plagiarism is an act intentionally or unintentionally in obtaining or trying to obtain credit or value for a scientific work, by quoting part or all of the work and/or scientific works of other parties that are recognized as scientific works, without properly and adequately stating the source. The scope of plagiarism can appear in various versions. Some do it simultaneously, some do it in part, and some only do one act of stealing other people's ideas as follows (R. Masri Sareb Putra, 2011: 12-13):

- a. Take someone else's work and call it your own,
- b. Rewriting the work of others and publishing it,
- c. Hiring or using the services of other people to write a work or purchasing written works and then publishing them under their own name,
- d. Using someone else's idea and publishing it under your own name,
- e. Using the words spoken by others as is and publishing them under their own name,
- f. Paraphrasing and/or summarizing people's ideas and words, publishing them in their own name,
- g. Using written works obtained from other people and then publishing them under their own name,
- h. Using written works purchased and/or downloaded from the internet and then publishing them in their own name,
- i. Copy information or data from electronic sources (web, web pages, other electronic sources/databases) and use them as their own.

Types of plagiarism can be explained by how to do it. There are three types of plagiarism, namely patchwriting, inappropriate paraphrasing, and summaries. The main points of these three types of plagiarism are whether the author copies, changes, and abbreviates other people's writings using proper citation and paraphrasing rules. Patchwriting is copying text that has been

published or posted on the internet without mentioning the original source (Roig, 2003). According to Roig, these actions include using synonyms and shortening/lengthening phrases. An example of patchwriting is when an article or journal writer takes the contents of other people's writings or articles that are spread on the internet and claims them as his own writing without any information on where he got the writing or article. Instead, a writer must be careful to quote writing that is spread on the internet, because there are no boundaries, and it is not easy to filter out accurate and reliable information. What's more, for example on blogs or unofficial sites it is rather difficult to ensure that an article that we quote is the original work of the author and it may turn out that the author of the blog has also patchwriting other people's writings before.

Inappropriate paraphrasing, like patchwriting, but the original source is still mentioned, only a few changes are made without quotation marks indicating the form of a direct quote (Cooper, 2016). Quotations themselves are simply interpreted as a form of writing (sentences or paragraphs) that is not the result of our own thoughts but comes from other people. In writing scientific papers, it is common to make direct and indirect quotations. The difference between these two types of quotations lies in whether we make changes (indirect quotations) or the same (direct quotations) as the original writing and still mention the original source. Inappropriate paraphrasing occurs when the author makes an indirect quote, instead of using a sentence he made himself with the same main idea as the original source (paraphrasing), but this type of plagiarism only replaces, adds, or subtracts several words in 1 sentence/paragraph with still include the source citation.

Summaries are abbreviating other people's writings without citing sources or not using citations properly (Cooper, 2016). Writers must be equipped with the ability to be able to convey the original author's thoughts in different words without losing their meaning. Cooper explained that the problem of plagiarism would be a crucial issue for writers who don't use English as their mother tongue, for example Indonesian writers who are more accustomed to using Indonesian. It is very likely that Indonesian writers will have difficulty quoting or summarizing English writings. When asked to write in Indonesian, it cannot be denied that there may be some Indonesian writers who only translate other people's writings from the original language into Indonesian, without properly quoting or paraphrasing.

In fact, the problem of plagiarism is not a new thing in Indonesia and even in the world. Internationally, several countries in the world have determined to tackle piracy or theft in the field of copyrighted works, including scientific works (authors) through an international

convention known as the 1886 Bern Convention concerning the International Convention for the Protection of Literary and Artistic Work which successively - successive revisions were held in 1908 in Berlin, 1928 in Rome, 1948 in Brussels, 1967 in Stockholm and 1971 in Paris. Indonesia itself has participated in this convention by ratifying it through Presidential Decree Number 18 of 1997. Indonesia's participation in this convention at the same time shows Indonesia's determination and commitment to upholding copyright infringement laws as well as showing the world that the Indonesian nation is a nation of creators and not a nation of imitators (Pandjaitan, 2017).

Related to this plagiarism, the Indonesian government through Law Number 20 of 2003 concerning the National Education System has given strict sanctions to perpetrators of plagiarism in the education sector. In Article 25 paragraph 2 of the law, it reads that university graduates whose scientific work is used to obtain academic, professional, or vocational degrees are proven to be plagiarism. Then regarding the punishment for acts of plagiarism it is continued in article 70 of the same law which reads that graduates whose scientific work is used to obtain academic, professional, or vocational degrees as referred to in Article 25 paragraph (2) are proven to be plagiarized and are subject to imprisonment. a maximum of two years and/or a maximum fine of Rp. 200,000,000.00 (two hundred million rupiah).

Table 1. Criteria for Plagiarism as a Crime

No	Plagiarism Act	Criteria as a Criminal Act	Applicable sanctions
1	Take someone else's work raw and call it as his own work.	Theft. Its element: taking something that is wholly or partly owned by another person with the intention of being privately owned against the law.	Article 362 of the KUHP.
2	Using works write obtained from someone else then publish it under his own name.	Embezzlement. Its elements: intentionally and unlawfully claiming to own something that is wholly or partly owned by someone else. Copyright. The elements: deliberately and without rights to publish someone else's creation.	Article 372 of the KUHP. Article 72 paragraph (1) jo. Article 2 paragraph (1) Law Number 19 Years 2002 concerning Copyright

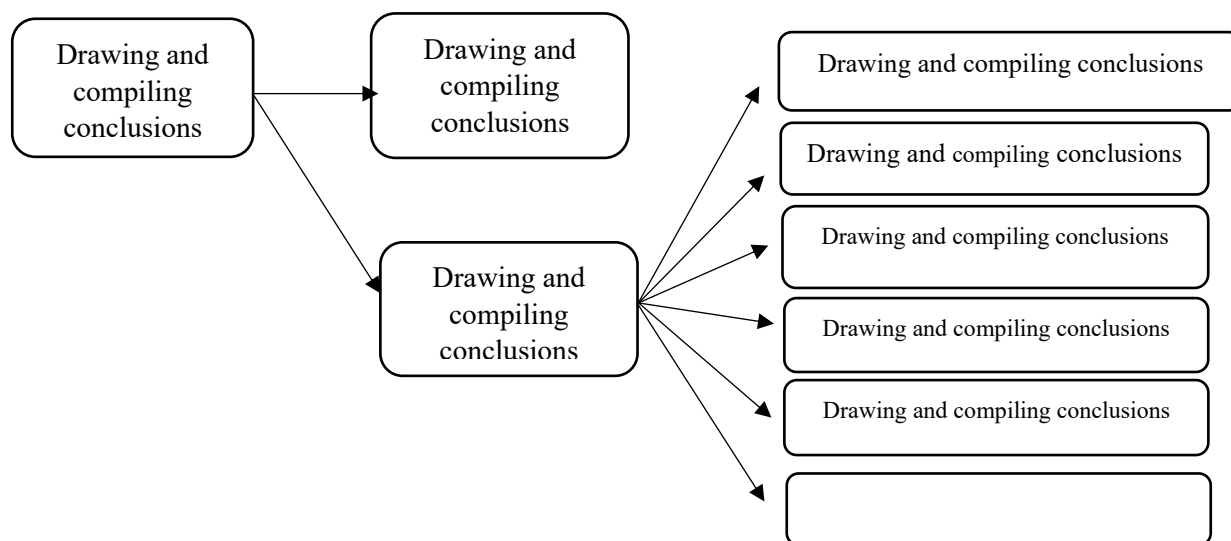
3	Hiring or use people another to write a work or purchasing written works then publish it under his own name.	Fraud. Its element: unlawfully benefiting oneself by using a false name by encouraging other people to hand over things to him. Copyright. The elements: deliberately and without rights to publish someone else's creation.	Article 378 of the KUHP. Article 72 paragraph (1) jo. Article 2 paragraph (1) Law Number 19 Years 2002 concerning Copyright.
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Source: Johan Pramudya Utama (2013).

Institutionally, the responsibility for preventing plagiarism is borne by university leaders. The responsibilities are described in job descriptions, both in the dimensions of direction, control, and administrative techniques. In principle, higher education leaders are responsible for overseeing the implementation of a code of ethics in writing scientific papers. The code of ethics, which, among other things, contains principles for the prevention and control of plagiarism. If it contains norms and rules, then periodically the code of ethics and style must be socialized to create an anti-plagiarism culture. Socialization and dissemination of the code of ethics is the task of higher education leaders, especially to increase understanding and awareness to respect and respect the work of others (Sulistyaningsih, 2017).

Regarding copyright, although it has been regulated in a law whose spirit refers to the philosophy of the Republic of Indonesia, namely Pancasila which for the first time is contained in Law no. 6 of 1982, but due to the demands of various parties (including foreign political pressure) then had to undergo several revisions. Even this last-named law, in fact, experienced many obstacles in its implementation. At the same time, the challenge to replace colonial law with Indonesian law has not been completed, new challenges have also arisen. The new challenge is that the Law on Independent Indonesian Products, which was originally intended to replace colonial law, is not yet ready to answer legal problems in Indonesian society.

Figure 1
Scheme of the Law on Intellectual Property in Indonesia



Source: Alfons (2017)

The protection of Intellectual Property Rights became more than a necessity after the GATT (General Agreement on Tariffs and Trade) was reached and after the Marrakech Conference in April 1994 it was also agreed that the GATT framework would be replaced with a world trade system known as the WTO (World Trade Organization) which the ratification was carried out by the Government of the Republic of Indonesia through Law no. 7 of 1994 concerning Ratification of the Agreement Establishing the World Trade Organization, promulgated in LNRI 1994 Number 57, November 2, 1994. In the institutional structure of the WTO there is a general council (General Council) which is under the Director General of WTO. This general council then oversees three councils, one of which is the TRIPs Council (Trade Related Aspects of Intellectual Property Rights) (H.S. Kartadjoemena, 1997.).

Protection of Intellectual Property Rights starts from the theory of natural law which states that Intellectual Property Rights are the absolute ownership. This theory encourages the need for protection of Intellectual Property Rights to advance and develop new ideas and innovations. Such protection requires the government's role in realizing its function as state government, where the authority lies with government agencies as state tools. This authority arises because it is attributively authorized by law or is a delegated authority. Protection of Intellectual Property Rights in relation to the role of the state is how the state realizes the ideals of law, which are further formulated as follows:

- a. The state protects the entire Indonesian nation and all of Indonesia's bloodshed based on unity,
- b. The state wants to realize social justice for all Indonesian people,
- c. People's sovereign state, based on democracy and deliberative representation,
- d. The state is based on the one and only God based on a just and civilized humanity.

4 CONCLUSION

The Indonesian government itself already has regulations regarding violations of plagiarism and theft of intellectual property rights. Plagiarism and Intellectual Property Rights are inseparable matters and have been regulated both criminally and civilly regarding violations of both. Most violations in plagiarism occur in the field of education, where students or even lecturers often commit plagiarism due to limited time to complete a scientific work which is the responsibility of a person, so they are encouraged to copy-paste other people's work, low interest in reading and interest in doing analysis of reference sources owned, lack of understanding of when and how to make citations, and lack of attention from teachers, lecturers and academic advisors to the problem of plagiarism.

Regarding Intellectual Property Rights, the protection of these rights must be carried out thoroughly and consistently because these rights have very important benefits, namely protecting the interests of creators or rights owners of copyrighted works, inventions, and trademarks that they have made from unauthorized use. In addition, intellectual property rights also encourage the creation of new innovations and developments, because owners of rights will feel more secure and valued in investing time, energy, and resources in creating new works. Finally, this right also increases the economic value of copyrighted works, inventions and trademarks that are protected by IPR, thus providing incentives for creators to continue creating new works and increasing product competitiveness in the market.

REFERENCES

- Achmad, A., & Roisah, K. (2020). *Status Hukum Ghostwriter dan Pemegang Hak Cipta dalam Plagiarisme Menurut Undang-Undang Hak Cipta*. Jurnal Magister Hukum Udayana (Udayana Master Law Journal).
- Alfons, Maria. 2017. *Implementasi Hak Kekayaan Intelektual dalam Perspektif Negara Hukum*. Jurnal Legislasi Indonesia, Vol. 14 No.03, September 2017.
- Cooper, H. 2016. *Ethical choices in research: Managing data, writing reports, and publishing results in the social sciences*. Washington, DC: American Psychological Association.

- Cornell University. INSEAD. 2020. *Global Innovation Index 2020: Who Will Finance Innovation*. Ithaca, Fontainebleau, and Geneva.
- De Jong, Jeroen and Deanne den Hartog. 2010. *Measuring Innovative Work Behaviour*. Creativity and Innovation Management. Volume 19 No. 1 2010. Blackwell Publishing, Ltd.
- Dyer, J. Gregersen, H., & Christensen, C.M. 2011. *The Innovator DNA: Mastering the Five Skills of Disruptive Innovators*. Boston, Massachusetts: Harvard Business Review Press.
- Kartadjoemena, H.S. 1997. *Gatt, WTO dan Hasil Uruguay Round*. Jakarta: UI Press.
- Murdiastuti, Herlina., Fendy Suhariadi., Rini Sugiarti. 2021. *Perilaku Inovatif Aparatur Sipil Negara: Sebuah Studi Pustaka*. Civil Service Vol. 15. No.2. November 2021.
- Pandjaitan, Hulman. 2017. *Sanksi Pidana Plagiarisme dalam Hukum Positif di Indonesia*. Jurnal Hukum tô-râ, Volume 3, No.2, Agustus 2017.
- Prawira, G.B.G., & Griadhi, N.M.A.Y. 2019. *Perlindungan Hukum Hak Cipta Atas Tindakan Modifikasi Permainan Video Yang Dilakukan Tanpa Izin*. Kertha Negara: Journal Ilmu Hukum.
- Putra, R. Masri Sareb. 2011. *Kiat Menghindari Plagiat (How to Avoid Plagiarism): Buku Pintar bagi Sivitas Akademika, Penulis, Pekerja Media, dan Industri Kreatif*. Jakarta: Indeks.
- Quraisy, Mujahid. 2011. *Hak Kekayaan Intelektual (HaKI) dalam Perspektif Hukum Islam*. Journal of Islamic Economics and Banking. Vol. 2 No.1.
- Rispariyanto, Anton. 2020. *Turnitin Sebagai Alat Deteksi Plagiarisme*. Jurnal Perpustakaan Vol.11 No.2.
- Roig, M. (2003). Avoiding plagiarism, selfplagiarism, and other questionable writing practices. Retrieved from <https://ori.hhs.gov/avoidingplagiarism-self-plagiarism-and-otherquestionable-writing-practices-guideethical-writing>.
- Scott, S.G., & Bruce, R.A. 1994. *Determinants of innovative behavior: A path model of individual innovation in the work place*. The Academy of Management Journal, 37(3).

- Soelistyo, Henry. 2011. *Plagiarisme: Pelanggaran Hak Cipta dan Etika*. Yogyakarta: Kanisius.
- Sulistyaningsih, Lilis. 2017. *Plagiarisme, Upaya Pencegahan, Penanggulangan dan Solusinya*. Jurnal Pustaka Ilmiah, Volume 3 Nomor 1, Juni 2017.
- Suryana, Ermis. 2016. *Self Efficacy dan Plagiarisme di Perguruan Tinggi*. Jurnal Tadrib Vol. II No. 2 Edisi Desember 2016.
- Utama, Johan Pramudya. 2013. *Tindak Pidana Plagiarisme Jasa Pembuatan Skripsi Sebagai Pelanggaran Hak Cipta*. Recidive: Jurnal Hukum Pidana dan Penanggulangan Kejahatan. Volume 2 No. 3 Desember 2013.
- Wibowo, Adik. 2012. *Mencegah dan Menanggulangi Plagiarisme di Dunia Pendidikan*. Kesmas: Jurnal Kesehatan Masyarakat Nasional Vol. 6 No. 5.
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