Review of Copyright Regulations for Songs Created by Artificial Intelligence in Indonesia

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ABSTRACT

This study aims to analyze the copyright regulation of works created by Artificial Intelligence (AI) in Indonesia, particularly in the context of AI-generated music. The method used is normative legal research with a comparative law approach to compare international policies related to AI copyright and adapt them into Indonesia's legal system. The results reveal that based on Law No. 28 of 2014 concerning Copyright, AI cannot be recognized as an author because it does not meet the "human" criteria required to obtain copyright protection. Furthermore, in international practice, some countries have begun to recognize AI-generated works by granting copyright to humans involved in the development or operation of AI. Therefore, Indonesia needs to consider updating its copyright law to accommodate advancements in AI technology while protecting the copyright of human creators. This study also recommends that Indonesia adopt international approaches to clarify copyright protection for AI-generated works by emphasizing human involvement in the creative process.

Keywords: Artificial Intelligence, Copyright, International Policy, AI-Generated Works, Indonesia.

1. INTRODUCTION

The historical origins of copyright regulation are generally associated with England in the early 17th century and France at the end of the same century, as these two countries are believed to represent the world's two widely adopted legal systems: common law and civil law. The differences between these two systems have given rise to two major concepts in copyright: common law countries tend to emphasize the economic rights aspect, while civil law countries place more attention on the personal rights of the creator, which later gave birth to the concept of moral rights. One of the forms of copyrightable works created by humans includes works generated by Artificial Intelligence [1]–[4].

The existence of artificial intelligence (hereinafter referred to as AI) is inevitable. AI has become one of the major challenges across all sectors of human life in the current era, including for artists, particularly musicians. Although the development of AI began long ago, it cannot be denied that in recent years, AI has evolved to an unimaginable level, including in the field of music. The primary goal of AI is to develop tools or machines that possess the ability to think like humans.

Humans and AI can collaborate to make decisions that are less influenced by personal values. Furthermore, Bullock asserts that AI is expected to handle tasks and issues involving higher levels of uncertainty through deeper learning processes (deep learning). Simply put, AI systems are practically creative, unpredictable, independent, autonomous, rational, evolving, data-collecting, communicative, efficient, and accurate traits that resemble those of humans. Hence, it is reasonable that AI systems are capable of independently creating and producing creative works [5]–[7].

There are many definitions of AI that can be found. Some define AI as an invention or innovation aimed at creating a machine that can perform tasks in a way similar to how humans work. This definition is based on human functioning, which is then translated into the foundation for building artificial intelligence. However, others define AI as a design of an intelligent agent that

learns to become a programmed intelligence. This definition is rooted in an ideal process or what is often referred to as rational thinking. Indeed, any system or program must function rationally to avoid errors in execution. As AI continues to develop, this form of artificial intelligence has begun to enter various fields, including the arts and law. AI is said to offer economic solutions for infrastructure problems, improve the efficiency of social services, design superior educational management, create more user-friendly digital environments, and support governments in providing optimal public services.

AI as a branch of computer science, focuses on computers' ability to "learn" from data, a process commonly known as Machine Learning (hereinafter referred to as ML). ML applies statistical techniques to teach computers how to process information from data. As a result, AI-based applications can understand patterns, harmonies, and nuances in music in a profound way, enabling them to create music that can compete with human-made works. One notable project in this regard is "Magenta," developed by Google. Magenta utilizes ML and offers tools for artists to interact with algorithms, allowing them to create new and innovative music. In 2018, researchers at Goldsmiths, University of London, launched a project called MIMIC: Musically Intelligent Machines Interacting Creatively. This project expanded upon the concept of Magenta, not only generating music but also aiming to creatively interact with human artists. MIMIC introduced a compelling element of collaboration between humans and machines in music creation, unlocking new potentials in musical exploration and expression [8]–[10].

Aside from Magenta, the SONY CSL research lab also developed intelligent software capable of composing pop music. They even launched a project funded by the European Research Council (ERC) dedicated to music, called Flowmachines. This resulted in two new songs in the style of The Beatles. Moreover, in 2016, a group of museums and researchers in the Netherlands released a painting titled "The Next Rembrandt", a computer-generated painting created by analyzing thousands of works by the 17th-century Dutch artist Rembrandt Harmenszoon van Rijn. The potential for further rapid advances in AI technology has prompted cautious reactions from many parties, including calls for governments as the "ruler of the game" to respond to these issues. This is not surprising, as fear of technological change and appeals for regulation of new technologies are not new phenomena. However, what stands out about AI is that stakeholders (especially in the creative industry) have voiced many concerns — one of the most prominent being fears of mass unemployment and the potential misuse of this new technology by humans [11], [12].

In light of these issues, based on Law No. 28 of 2014 concerning Copyright (UUHC), AI is not categorized as a creator, and neither are works generated by AI. The law states that a copyrighted work must essentially be the result of human thought, not the result of a program or computer. The current Indonesian Copyright Law applies a declarative principle, meaning that a work automatically gains copyright protection as soon as it is created. The law also defines a creator as a person or persons who produce a copyrighted work, indicating that AI cannot be considered a creator since it is not a human but rather a program made by humans. To date, there is no law or regulation that recognizes AI as a creator or whether AI-generated works are eligible for copyright protection, because a program cannot be considered a legal subject and thus does not need to be protected.

As of now, various laws and government regulations have not directly addressed AI-generated works, meaning that we cannot immediately assume that AI-generated works are not subject to legal disputes. Disputes may arise, for instance, if it is proven that the AI has used someone

else's work without permission. Based on this explanation, the author identifies the following research problems that warrant investigation: whether songs created by Artificial Intelligence (AI) are recognized as works protected by copyright, and what international copyright policies regarding AI-generated works can be adapted to Indonesia's legal system.

2. METHODS

This study uses a normative legal research method to analyze the applicable legal norms in the relevant legal framework to be discussed. This method was chosen because the study focuses on the analysis of laws and regulations, especially Law No. 28 of 2014 concerning Copyright, as well as relevant legal doctrines. Data were collected through literature studies by analyzing primary legal sources, such as laws and regulations, and secondary legal sources, such as journals, books, and scientific articles related to copyright and AI. In addition, this study conducts a qualitative analysis of practices in other countries to obtain a comparative perspective. A comparative legal approach is used to study copyright regulations for AI works in countries with civil law and common law systems in order to identify solutions that can be adopted in Indonesia [13].

3. RESULTS AND DISCUSSION

3.1 Can Songs Created by Artificial Intelligence (AI) Be Recognized as Copyrighted Works?

As an effort to protect an individual's interests, the law distributes a certain power for the sake of those interests. The debate about whether AI should be considered a legal subject has evolved alongside the rapid advancement of AI technology. Those who support the notion that AI can be considered a legitimate creator believe that it is better to grant exclusivity and economic benefits from AI to someone rather than to no one at all especially in the sense that those economic benefits can be used to further develop the technology. In other words, granting economic value to those who develop AI is considered better than allowing AI to function as public domain. On the other hand, legal experts who reject recognizing AI as a creator argue that such an idea would only create more uncertainty rather than legal certainty.

According to Law No. 28 of 2014 on Copyright in Indonesia, a song created by Artificial Intelligence (AI) cannot yet be directly recognized as a copyrighted work because the definition of "creator" in Article 1 paragraph (2) of the law refers to an individual or a group of people, thereby excluding AI as a non-human entity. Protected works must meet the requirements of originality, creativity, and fixation, but the law does not explicitly regulate whether AI-generated works meet these criteria. In international practice, such as in the United Kingdom, computer-generated works can be protected by copyright by designating the person who operates or programs the AI as the rights holder.

With regard to copyright ownership, the first and most important issue to decide is whether the Copyright Law will grant copyright to AI. If the answer is affirmative, AI would be considered a "person" in the eyes of the law. AI is clearly not a natural person, but it could be considered a legal entity. However, establishing AI as a legal entity is not an easy task. This raises further questions about its ability to fulfill obligations and receive rights; to sue and be sued; and to own property. According to the Copyright Law in many countries, copyright is only granted to human creators, which means if AI produces a song without significant human involvement, that song may not qualify for copyright protection.

Nonetheless, there are several cases where humans involved in the development or training of the AI can be considered copyright holders, depending on the extent of their involvement in the creation process. On the other hand, some countries, such as the United States, have begun to consider introducing more flexible rules regarding copyright for works generated by AI. However, in general, copyright protection for AI-generated works such as songs remains an evolving area and requires adjustments in both regulation and legal interpretation.

3.2 How Can International Copyright Policies for AI Works Be Adapted to the Indonesian Legal System?

International copyright policies regarding works produced by Artificial Intelligence (AI) encompass various views and approaches that can be adapted into Indonesia's legal system. Globally, copyright protection for AI-generated works remains a topic of debate, as most traditional copyright laws require that a work be created by a human individual. However, with the rapid development of AI technology, several countries have begun exploring the possibility of granting copyright protection for AI-generated works by considering the degree of human involvement in the creation process. One approach that can be adapted into Indonesia's legal framework is to follow the policies adopted by developed countries such as the United Kingdom, the United States, the European Union, and China

In the United Kingdom, based on the Copyright, Designs and Patents Act 1988, Section 9(3), the country recognizes computer-generated works (including those created by AI) as protected creations under copyright law, with the copyright granted to the person who made the arrangements for the creation of the work, such as the developer or user of the AI. This concept is known as "computer-generated works." Meanwhile, China has issued specific regulations for generative AI that require AI developers to comply with data ownership rules and prevent copyright infringement in training data usage. Chinese courts, in several cases, have recognized AI-generated works as protected creations when human involvement is present in the creative process.

In the United States, copyright policy requires human involvement in the creative process for a work to receive copyright protection. Although AI can generate works, copyright will only be granted to the party involved in the design, development, or supervision of the AI. Meanwhile, the European Union, through the 2024 European Artificial Intelligence Act, leans toward protecting works created by humans under the supervision of AI, although in some cases it has also started to consider specific regulations related to AI-generated works that do not involve direct human participation.

In the context of Indonesia, which has ratified the Berne Convention for the Protection of Literary and Artistic Works, the country may adopt an approach that prioritizes human involvement in the copyright creation process. However, it is important to design policies that align with the characteristics of technological development in Indonesia. For example, Indonesia could consider introducing regulations that govern copyright for AI-generated works by emphasizing human supervision or collaboration in their creation, in line with the current spirit of copyright protection. In addition, Indonesia should take into account the role of AI in the digital economy and technological innovation, which can contribute significantly to the country's creative industries. Copyright protection for AI-generated works can also lead to the development of a more adaptive legal system, providing space for technological advancements while safeguarding the interests of creators and rights holders. This would allow Indonesian law to formulate clearer and more detailed policies on AI-generated copyrights by considering the challenges and opportunities presented by the digital era.

CONCLUSION

Based on the author's research results, it can be concluded that songs produced by Artificial Intelligence (AI) have not been recognized as copyrighted works in Indonesia based on Law No. 28 of 2014, because the definition of creator only includes humans so that AI as a non-human entity does not meet the requirements and provisions of originality, creativity, and fixation. The law also does not explicitly regulate AI works, causing legal ambiguity. Internationally, countries such as the UK recognize AI works as "computer-generated works" with copyright granted to humans who regulate the process, while the United States and the European Union emphasize human involvement for copyright protection, and China regulates compliance with AI training data. To overcome the challenges in Indonesia, it is necessary to update the Copyright Law that adopts an international approach, such as establishing humans as copyright owners of AI works based on supervision or creative contributions, as well as strengthening licensing regulations and transparency in the use of AI. Thus, Indonesia can balance technological innovation and copyright protection, supporting the development of the creative industry in the digital era.

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