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ANALYSIS OF LAW NUMBER 28 OF 2014 COPYRIGHT ON PLAGIARISM TEST AMONG UNIVERSITIES ON LEGAL PROTECTION OF SCIENTIFIC PAPERS

Novayani Purba [a*)], Ramadani[a)]

[a)] *Universitas Islam Negeri Sumatera Utara Medan, Deli Serdang, Indonesia*

[*)]*Corresponding Author: novayanipurba345@gmail.com*

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Abstract. Plagiarism is often the most frequently faced thing by all universities, especially among final students who make scientific work. Law Number 28 of 2014 concerning Copyright itself states that scientific work is the object of protection from the law, In this study the author uses a statutory approach and a concept approach because it is considered relevant to the type of author's research which is normative juridical. The results showed that in the analysis of Law Number 28 of 2014 concerning Copyright against plagiarism tests among universities themselves is an effort to protect the copyright of the author. However, plagiarism testing itself is only an effort to reduce the chances of plagiarism, not to overcome and eradicate plagiarism as a crime of copyright infringement. The plagiarism test itself is the minimum form of effort in overcoming copyright infringement committed among universities. Legal protection against plagiarism among universities itself is not only carried out by plagiarism tests alone. Copyright infringement with plagiarism if only punished by a delay in the trial is considered not too meaningful. Eligibelization is a program from Kemenristekdikti as an effort to protect law against copyright infringement. However, this plagiarism test according to Law Number 28 of 2014 concerning Copyright has still not been able to overcome legal protection from copyright infringement. Eligibleization is an ideal form of legal protection among universities in reducing the number of copyright violations that occur in plagiarism of student scientific works.

Keywords: plagiarism; university; fiqh siyasah

I. INTRODUCTION

The issue of plagiarism is nothing new. Plagiarism has become a threat to the integrity of science. In early 2018, the Ombudsman, which is a public service supervisory agency, reported one of the top officials of the high school who was suspected of plagiarism in three of his scientific works. The ombudsman used the Turnitin app and found 72% similarities among some of the papers. Even though long before this report was made, on July 22, 2017, the Ministry of Research, Technology and Higher Education (*Kemenristekdikti*) had provided clarification regarding the alleged plagiarism. Kemenristekdikti stated that although there are some substantive similarities in the abstract, introduction, and conclusion, the articles are not indicated plagiarism **[1] [2] [3]**. In the scientific realm, manuscripts that are proven to be plagiarism can lead to withdrawal or cancellation of publication, even to lawsuits. **[4]**. Controversies and debates regarding plagiarism cases should be addressed positively for Indonesian scientists and writers. The cases that occur can be a lesson and build efforts to prevent plagia-rism. Not many academics understand the limits of plagiarism, this was revealed when the author's experience provided plagiarism material in several workshops on writing scientific papers. This means that it is possible that plagiarism can be caused by accidental or unintentional plagiarism rather than deliberate/intentional plagiarism. **[5]** It can also occur because of carelessness (not careful), ignoring the source of thoughts, and not quoting properly (inadvertent plagiarism). In particular, this paper will describe other types of plagiarism, the causes of plagiarism, and explain efforts that can be made to prevent plagiarism in writing scientific articles. **[6].** Plagiarism which is the plagiarism or recognition of abag of other people's work that often occurs among students and students because it is intended to work on educational purposes for example in making papers, assignments, writing essays and other scientific works . In addition, according to Ir. Balza Achmad, M.Sc.E, plagiarism is doing something as if someone else's work is our work and acknowledging the work is ours. This happens to students because of various circumstances, such as not having enough time to produce their own papers, not having the ability to produce their own work, thinking that readers cannot know it, and especially for students thinking that the supervisor will not know about plagiarism and may not even care about it, and pretending not to know and do not understand plagiarism **[7] [8]**.

Plagiarism can occur due to the way of quoting or plagiarizing which is often known as block copy paste against other people's work in small or large quantities. The work can come from textbooks, scientific magazines, and download articles from the internet or cite the work of friends without including the name of the original author of the source of information that has been used. Plagiarism is not only carried out by students, but also carried out among students and

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university educators in developed countries is inseparable from plagiarism. **[9] [10].** Plagiarism is a form of misuse of intellectual property rights belonging to others, where the work is presented and recognized unlawfully as the result of an individual's personal work. According to Evida, plagiarism is an act that is not commendable and can even be said to be intellectual theft that is carried out intentionally and unintentionally, namely by citing the work of others without mentioning the original source **[11].** Generally, students are less aware that they often commit plagiarism when writing final assignments as evidenced by the act of taking opinions and content of other people's essays or writings without mentioning the source. This is considered as one of the acts of plagiarism that goes against the principle of honesty and can be considered a form of crime **[12].** Someone who commits acts or acts of plagiarism tends to have a lazy nature, the intention to get good grades in an easy way without effort, cheating, getting pressure, fear of failure so that they prefer to take shortcuts and have the wrong thought that everyone has the opportunity to cheat or plagiarize and the opportunity needs to be used. One of the things that causes someone to commit plagiarism is ignorance about plagiarism because they have never been taught about the meaning, consequences, and how to avoid plagiarism. Related to this, the role of institutions is needed in socializing plagiarism **[12]**

Law Number 28 of 2014 concerning Copyright states that written works are also part of the copyright that must be protected. This is written in Article 12 of Law Number 28 of 2014 concerning Copyright which states that published papers are part of copyright. In his explanation that published papers are written works originating from official institutions such as universities, institutes, publishing institutions, to certain legal entities. In carrying out copyright protection, the university itself applies plagiarism tests to all the works of its students both alone and with lecturers. The plagiarism test itself is a form of effort to emphasize plagiarism cases for student scientific work as the final project. However, the current condition that there are more and more scientific works on the internet that are very accessible makes students open opportunities to commit plagiarism. This is also experienced by all universities considering that students today more often copy and paste all works so they don't have to think again. This research uses the type of legal research conducted by the author is normative juridical legal research, related to the starting point for the analysis of Law Number 28 of 2014 concerning Copyright on plagiarism tests among universities on scientific works for student final projects. The approach used is a statutory approach and a concept approach. The final result of this study is an analysis of the legislation that is the object of discussion on the issues being discussed and related to plagiarism cases.

II. RESEARCH METHODS

This type of research is normative juridical research. Normative juridical research is research that provides a systematic explanation of the rules governing a given legal category, analyzes the relationships between regulations explaining areas of difficulty and possibly predicting future development **[13]**. Normative legal research, whose other name is doctrinal legal research, is also known as library research or document study because this research is conducted or aimed only at written regulations or other laws. In essence, research **[14]** is carried out by examining literature or secondary data consisting of primary law, secondary law and non-legal law. The problem approach to normative juridical research is a conceptual approach, a case study approach. The specification of this study uses a descriptive analytical type, namely research that provides accurate data about a condition or other symptoms **[15]**. Research which in addition to providing an overview, writing and reporting on an object or an event will also draw general conclusions from the issues discussed regarding Law Number 28 of 2014 concerning Copyright against plagiarism tests in universities themselves as an effort to protect copyrights of creators.

III. RESULTS AND DISCUSSION

Analysis Of Law Number 28 Of 2014 Concerning Copyright On Plagiarism Test Of Written Works Among Universities On Legal Protection Of Scientific Papers

Officially, Intellectual Property Rights or IPR were called Intellectual Property Rights (IPR) which translates into Intellectual Property Rights or Intellectual Property Rights. In GBHN in 1993 and 1998 translated the term Intellectual Property Rights with Intellectual Property Rights, but Law Number 25 of 2000 concerning the National Development Program of 2000-2004 which is a further elaboration of GBHN in 1999-2004 translates the term Intellectual Property Rights with Intellectual Property Rights, abbreviated as IPR. The term Intellectual Property Rights is derived from the literature of the Anglo Saxon Legal system **[16].** In fact, the word "ownership" is more appropriate than the word "wealth" to translate Intellectual Property Rights (IPR). The word possession has a more special scope when compared to the word wealth. Indeed, the word "property" can be interpreted as wealth, but it can also be interpreted as property.

The framer of the law uses the term IPR as an official term in Indonesian legislation, while some legal writers use the term Intellectual Property Rights and some use the term IPR. In the concept of wealth, every item always has an owner called the owner of the goods and every owner of goods has the right to his property which is commonly called property rights. From this sense, the term property refers more to a person's right to an object concretely and does not refer to a very broad property. Substantively, the definition of Intellectual Property Rights can be described as property rights that arise or are born due to human intellectual abilities. IPR is categorized as property rights considering that IPR ultimately produces intellectual works in the form of; knowledge, art, literature, technology, where in realizing it requires sacrifices of energy, time, cost, and thought. That is, the plagiarism test itself is actually a form of legal protection of intellectual property rights mandated in Law Number 19 of 2002 concerning Copyright. Law Number 28 of 2014

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concerning Copyright itself mandates that registered written works are a form of protected copyright so that efforts to implement Law Number 28 of 2014 concerning Copyright in universities, one of which is the plagiarism test and the rule should be implemented before the publication or trial of the scientific work. This plagiarism case also occurred at the Faculty of Economics and Business, Gadjah Mada University, which was carried out by Anggito Abhimanyu and also at the Department of International Relations of Parahyangan University, Anak Agung Banyu Perwira. This case made both people have to give up their academic degrees even though both people were graduate students.

The concept of implementing rules in fiqh siyasah is comprehensive. Unlike other concepts that are more directed towards physical and material understanding, the purpose of the enactment of laws and their application in fiqh siyasah is more than that. For fiqh siyasah, human implementation should only pursue one main goal, namely: the welfare of the ummah. Therefore, the concept of implementing Law Number 28 of 2014 concerning Copyright by applying plagiarism test rules in fiqh siyasah can be said to be an effort to protect the rights of every community, especially students and lecturers who have registered papers. If viewed from siyasah dusturiyah, then the act of carrying out a plagiarism test after a trial is an act that is contrary to the mandate of Law Number 28 of 2014 concerning Copyright. The implementation and implementation were not carried out properly at all. If the plagiarism test is carried out before registration for the trial, the indication is that students may exchange all the results of plagiarism with the work of their own thoughts. However, if plagiarism is carried out after the trial, then of course the result of the trial is a presentation of the results of plagiarism without any change in words or quotations at all. In Law Number 28 of 2014 concerning Copyright, it clearly explains that written works published either in the form of theses, theses, or dissertations or journals, the paper has actually been protected by Law Number 28 of 2014 concerning Copyright so that it is not plagiarized by random people without permission. One of these prevention efforts is to implement Law Number 28 of 2014 concerning Copyright to conduct plagiarism tests. Law Number 28 of 2014 concerning Copyright also explains that scientific papers are also part of the object of protection. This is explained in Article 40 paragraph (1) in point A states that "Protected works include Works in the fields of science, art, and literature, consisting of: a. books, pamphlets, faces of published written works, and all other written works. From this explanation, it can be understood that scientific works are also part of creations protected by Law Number 28 of 2014 concerning Copyright. In his understanding, every object in the form of patented scientific papers such as journals, skirpsies, theses, dissertations, and other research results is also protected by this law.

The Regulation of the Minister of National Education Number 17 of 2010 is fairly short, only consists of 15 articles and came into effect as of August 16, 2010. There are several keywords that are important to look at in this regulation. First, the word "plagiarism" (should be "plagiarism") which is defined as the act of intentionally or unintentionally obtaining or trying to obtain credit or value for a scientific work, by citing part or all of the work and / or scientific work of another party that is recognized as his scientific work, without stating the source precisely and adequately. Second, the word "plagiarist" means a natural person who plagiarized, each acting for himself, for a group or for and on behalf of an entity. If the two definitions of the terminology above are examined by the elements, then what is called plagiarism is an action:

1. NORM SUBJECT: an individual person (plagiarist; in the context of higher education, means it can be a person or group of students, lecturers, researchers, and/or education staff), acting for themselves/groups, or on behalf of a body.
2. OPERATOR NORM: prohibited.
3. NORM OBJECT: citing part or all of the work and/or scientific work of other parties that are recognized as their scientific work;
4. NORM CONDITIONS: (a) intentionally or unintentionally; (b) in order to obtain or attempt to obtain credit or value for a scientific work.

What is meant by quoting as mentioned in the object of the above norm? This ministerial regulation provides reference, but does not limit it, only that. The details are as follows: (1) referring to and/or quoting terms, words and/or sentences, data and/or information from a source without mentioning the source in the citation note and/or without stating the source adequately; (2) refer to and/or quote randomly terms, words and/or sentences, data and/or information from a source adequately; (3) use the source of ideas, opinions, views, or theories without adequately stating the source; (4) formulate in one's own words and/or sentences from a source words and/or sentences, ideas, opinions, views, or theories without adequately describing the source; (5) submit a scientific work produced and/or published by another party as its scientific work without stating the source adequately. Let us compare the provisions in the ministerial regulation with the provisions in Article 1 point 23 of Law No. 28 of 2014 on Copyright. There is a definition of piracy, namely the unauthorized reproduction of works and/or related rights products and the widespread distribution of the duplicated goods to obtain economic benefits. Who is the perpetrator of this hijacking? If we refer to Article 113 paragraph (4), Article 116 paragraph (4), Article 117 paragraph (3), and Article 118 paragraph (2), the perpetrator of piracy is a person. In Article 1 point 27, a person is defined as an individual or legal entity. If we derivate again the normative elements, then the perpetrators of piracy (copyright pirates) are as follows:

1. SUBJECT OF NORMS: NATURAL PERSONS OR LEGAL ENTITIES.
2. OPERATOR NORM: prohibited
3. NORM OBJECT: duplicating the work and/or related rights product
4. NORM CONDITIONS: (a) unlawfully; (b) the widespread distribution of the duplicated goods; and (c) to obtain economic gain.

Plagiarism does violate the copyright of others, but it does not necessarily fall into the category of copyright piracy.

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A student who makes a final project to submit to his lecturer for grading, likely copies from a reference, but he does not list the reference. Because there is no reference, the statement in the final project gives the impression of coming from the student. First, we can begin to discuss it from the subject or target of the norm. Perpetrators of plagiarism are natural persons, while perpetrators of piracy are extended not only to individuals, but also legal entities. The term "legal entity" here actually needs to be clarified even more, considering that not all business entities must be legal entities. Even more troublesome, not all legal entities have to be business entities because there are public legal entities such as state institutions or government agencies. They are also open to copyright piracy of other people's work. The debate can continue over the word "doubling" in the example case above. Is the taking of one or more paragraphs, sentences, phrases, and/or terminology from others without mention of the source a duplication? According to Article 1 point 12 of the Copyright Law, duplication is "The process, deed, or means of duplicating one or more copies of the work and/or phonograms in any way and in any form, permanently or temporarily." It must be admitted that this definition is not a good definition because for the definiendum "doubling" there is the word "doubling" in the definition. However, we can say that the act of doubling is a replication of someone else's pre-existing work. Citations may be interpreted exclusively as a replication. It's just that indirect quotation (paraphrase), which departs from someone else's idea but is expressed in a different editorial composition, may then be considered not a replication.

Another thing is about spread. The actions of students submitting assignments to be graded by lecturers, not in order to be widely distributed. In piracy, this element is important to observe. If there is no widespread distribution, it is not piracy. Lastly, about motives. In plagiarism, the motive is to obtain credits (e.g. in order to advance to academic positions) and grades (e.g. test scores). Meanwhile, in piracy, the motive is economic gain. For a student, high test scores may ultimately boil down to the speed at which he graduates as an undergraduate and then earns a salary from a job that requires a bachelor's degree. However, the causality relationship between antecedent and consequent is too far-fetched to draw the conclusion that the student's plagiarism was economically motivated. In the end, we can conclude that the realm of plagiarism regulated in the Regulation of the Minister of National Education Number 17 of 2010 has not really entered the criteria for violations of the law in the form of piracy according to the Copyright Law. Sanctions for piracy according to the Copyright Act are criminal sanctions. Plagiarism stipulated in the ministerial regulation does not include criminal sanctions at all. The types of sanctions (if carried out by students) tend to lead to ethical-organizational and administrative sanctions, which can be in the form of reprimands, written warnings, delays in granting some student rights, cancellation of the grades of one or several courses obtained by students, honorable dismissal from status as students, dishonorable dismissal from status as students, to cancellation of diplomas if students have graduated from a program.

Law Number 28 of 2014 concerning Copyright stipulates that written works are included with copyrights protected by the law. That is, plagiarism of someone else's work in the form of a final project, has actually violated Law Number 28 of 2014 concerning Copyright and can be sanctioned for his actions. However, with the presence of plagiarism test rules using applications implemented by universities, only reducing the level of possibility of plagiarism does not mean proving that the work is palgiated from someone else's work. The plagiarism test is only considered to reduce the possibility of plagiarism of other people's work, not as evidence that someone has not committed plagiarism. The plagiarism test is not the basis that there is no plagiarism activity in a work, it is likely that the work is plagiarized but has been paraphrased or rewritten with words that are changed but have the same intention.

Legal Protection On The Results Of Student Scientific Papers Among Universities

Access to information that is cornucopia, also changes student behavior in responding to information The information literacy movement, deserves to be carried out massively, both in the world of schools, universities, universities, and the wider community. Literacy is the ability to read and write, while information literacy is the ability to identify, determine the right choice of information, analyze and use it to solve life problems. Mastery of information literacy and electronic literacy skills is mandatory for librarians, teachers, teachers, and students, as well as staff involved in the learning **[17]**. These skills include knowledge of the resources available in digital libraries, compiling online reading lists, and moral issues related to knowledge of copyright and licensing of electronic resources. Foo's research in [18]. Secondary Schools (grades 7-10) shows that the closest people students ask questions to are classmates, friends, and teachers (30%), students' families (20%), librarians (10%), <10% do not consult, and 10% neglect assignments. Meanwhile, from Badriah's research in elementary schools it was found that the beginning of internet learning was mainly from parents (41.02%), siblings (30.76%), friends (17.94%), librarians and self-study / guides respectively (5.12%), and teachers (0%). Librarians contributed 91.6% to the introduction of catalog access alone. In fact, of all activities in the library, the most used source is the internet. That is, librarians did not contribute much to the introduction of electronic literacy and information literacy. Therefore, teaching information literacy needs to be done together, collaborating between students, teachers, librarians, and parents.

Several studies on information literacy are carried out in various countries with research subjects, students / students, teachers, and librarians. Survey research in Singapore at secondary schools (levels 7-10) shows, From the Big Six method, Information Synthesis (Counseling Style) and Information Evaluation (Information evaluation tools, plagiarism, and copyright) get the lowest scores. This means

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that students do not understand writing style, plagiarism issues, and copyright. Furthermore, according to Foo, this is understandable because this step takes longer to understand and matter habits. Therefore, it is necessary to provide information literacy materials early in basic education (levels 1-6) **[18].** The challenge continues, the world of higher education is retested with the practice of plagiarism, which is plagiarism that violates copyright. Forms of plagiarism include including information/data/ideas without mentioning the source (not common knowledge), verbatim, even quoting one's own writing without mentioning the source can be categorized as plagiarism. If that happens in a higher education society, that is, a scientific community bound by ethics and scientific norms that must be adhered to, then there are sanctions attached to it. Binding norms should apply, namely that knowledge obtained through research is assessed solely on the basis of its contribution to science, honest, impartial and disseminated to the community. If science is disseminated, it will be easier to trace the first source of information, especially the existence of information and communication technology that supports today. Anti-plagiarism software such as AIMOS (lib.ugm.ac.id) and Turnitin (turnitin.com), can be a short-term solution to regulate the momentary behavior of the academic community towards their writing. This software analyzes the level of similarity between the writings compiled with the writings that have ever existed, of course in the same language. Writing in different languages is still a gap to avoid detection by the software. The presence of this software on the one hand is considered as one of the interventions to change attitudes from plagiarism to plagiarism-free. Carbone termed it a "pedagogic placebo," which assumed that his students needed to be supervised and that his teachers were too busy to teach him how to write correctly and ethically. However, at least the presence of this software is welcomed in the world of higher education can be a detection of plagiarism and is expected to be able to change the habit of cheating other people's work without mentioning the original source **[19].**

Another way that can be taken to direct student behavior to become more information literate is to provide knowledge and information literacy skills. Research involving shari'ah and law students shows differences in behavior from students who do not get the knowledge and are familiarized with information literacy. Therefore, it is important to include this information literacy in the general college curriculum at the beginning of a student's college term. **[19].** When talking about legal protection for authors against plagiarism of their works, especially among universities, so far no university has been firm in cracking down on plagiarism except by being sanctioned in the form of repeated creation. In the study, the authors also found that some universities postponed the final hearing of a student because they found that the student was plagiarism. However, for the Ministry of Research, Technology and Higher Education began to create an Eligible program where this program was carried out to anticipate students who committed plagiarism in their final assignments. Indeed, the policy of using the Turnitin application itself is an anticipation to protect works from plagiarism, but in fact this protection is only done with the Eligibelization program.

IV. CONCLUSION

In the analysis of Law Number 28 of 2014 concerning Copyright against plagiarism tests among universities themselves, it is upala to protect the copyright of the author. However, plagiarism testing itself is only an effort to reduce the chances of plagiarism, not to overcome and eradicate plagiarism as a crime of copyright infringement. The plagiarism test itself is the minimum form of effort in overcoming copyright infringement committed among universities. Legal protection against plagiarism among universities itself is not only carried out by plagiarism tests alone. Copyright infringement with plagiarism if only punished by a delay in the trial is considered not too meaningful. Eligibelization is a program from Kemenristekdikti as an effort to protect law against copyright infringement. However, this plagiarism test according to Law Number 28 of 2014 concerning Copyright has still not been able to overcome legal protection from copyright infringement. Eligibleization is an ideal form of legal protection among universities in reducing the number of copyright violations that occur in plagiarism of student scientific works.

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