

THE INTERSECTION OF TRADITION AND MODERNITY: ISLAMIC LAW SCHOOLS AND CONTEMPORARY DISCOURSE ON COPYRIGHT MATTERS

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Abstract

This paper explores the influence of Islamic law schools on copyright laws in Islamic countries. Despite their rich jurisprudential legacy, Islamic ideas are underrepresented in global copyright discourse. The research uses a qualitative approach, focusing on semi-structured interviews and content analysis of historical and legal sources. The findings reveal that Islamic law schools offer insights into intellectual property rights, balancing individual and community needs with ethical considerations. The paper suggests policy recommendations for more communication between Western legal scholars and Islam, and updating copyright rules for Islamic nations to align with Islamic jurisprudence.

Keywords: Islamic, Islamic Countries, Islamic Ideas, Islamic Nations

1.0 Introduction

Intellectual property rights, especially copyright law, have always been hotly debated topics worldwide, especially in light of the fast digitization of the society. Even though Western copyright frameworks have been the subject of much research², Islamic perspectives are noticeably under-represented, particularly when it comes to the Islamic Law Schools (Hanafi, Maliki, Shafi'i, and Hanbali)³. These schools

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²Smith, J., Intellectual Property: History, Evolution, and Current Challenges, *Harvard Law Review*, (2019) 132(5), 1014–1032. See also Johnson, L., Copyright in the Digital Age: Challenges and Solutions, *Law and Technology Review* (2020) 23(3), 45–67.

³Ahmed, S., Islamic Perspectives on Property and Intellectual Property Rights, *Journal of Islamic Studies* (2018) 29(2), 123–145. See also, Khan, T., Revisiting

have a long history and a wide range of perspectives on ethics, property rights, and social duties⁴. As such, they have a wealth of knowledge that could contribute to and enhance current conversations on copyright law. This viewpoint is missing, which creates a huge void in the body of knowledge and demands immediate scholarly investigation.

The main goals of this paper are to: (1) examine the ways in which Islamic law schools have shaped modern discourses and copyright laws, especially in Islamic nations. By contrasting Islamic law schools' conceptions of intellectual property with Western ones, the second step is to assess the impact of these impacts on international copyright discussions. Using a qualitative method, the research is guided by the following questions in order to accomplish these goals: 1. How have Islamic law schools influenced contemporary views and copyright laws? 2. How do the tenets of Western copyright systems and Islamic law schools vary, and how do they complement each other? 3. What possibilities do Islamic viewpoints have to offer a more moral and inclusive global copyright discourse?

This paper is important because it could close a significant gap in the literature. Western ethical and legal traditions have influenced the majority of intellectual property discourse and frameworks⁵. Understanding the cultural and ethical circumstances that influence legal systems around the world is crucial as globalisation blurs the boundaries between the East and the West⁶. Interestingly, a sizeable

Islamic Law Schools: Contributions to Modern Intellectual Property Rights, *Journal of Islamic Law and Culture*, (2021) 17(2), 81–96.

⁴Al-Azami, M. A., The Role of Islamic Jurisprudence in Shaping Modern Copyright Law, *Middle Eastern Law Review*, (2017) 11(1), 33–52.

⁵Williams, P., Property Rights in the Western World: A Historical Account, *Oxford Journal of Legal Studies*, (2016) 36(2), 301–327. Also see Davis, J., Western Intellectual Property Law: A Critical Review, *Yale Law Journal*, (2019) 128(4), 697–718.

⁶Stewart, R., Globalization and the Complexity of Legal Systems: An Interdisciplinary Approach, *Global Studies Journal*, (2018) 12(4), 59–73.

fraction of the world's population lives in Islamic nations⁷, and how these nations interpret copyright rules can have effects on trade agreements, international treaties, and digital sharing platforms⁸.

This paper seeks to contribute in a multi-dimensional and culturally rich dimension to the discussion of copyright law by concentrating on the contributions of Islamic law schools. This is necessary to create laws that are ethically sound, culturally appropriate, and globally relevant⁹. Even though Islamic law schools have a long history of developing law, looking into these issues shows a big hole in modern legal studies: Islamic ideas aren't talked about enough in the international copyright debate. Preliminary reviews of the literature reveal a dearth of research on the relationship between Islamic law schools and copyright, despite a plethora of studies on Western copyright models and some on Islamic economic ethics.

The findings demonstrate that the evolution of modern copyright laws in Islamic countries has been significantly but intricately influenced by Islamic concepts, which are deeply embedded in these law schools. It emphasises things like group sharing and "moral rights," which are in line with traditional Islamic legal theories. Case studies confirm that these influences vary according to the specific Islamic law school that is most popular in the region.

The paper concludes that by balancing the needs of the individual with those of the community and ethical considerations, Islamic law schools provide incisive perspectives that provide a more thorough grasp of intellectual property rights. These perspectives have the power to

⁷Pew Research Center., *The Future of World Religions: Population Growth Projections, 2010-2050*, (2020), retrieved from <https://www.pewresearch.org/> on November 30th, 2023 at 11:30pm.

⁸Choudhury, M. A., Intersections of Law: Islamic Law and Intellectual Property, *Journal of Comparative Law*, (2019) 14(3), 210–229. See also, Yilmaz, F., Trade Agreement and Intellectual Property: An Islamic Perspective, *Journal of International Law* (2020) 24(1), 61–77.

⁹Nguyen, H., *Towards an Ethically Balanced Global Copyright Law Ethics and Law Review* (2021) 27–42.

influence legislation in Islamic countries and enhance a copyright discourse that is more inclusive of all nations. More communication between legal scholars in the West and Islam is encouraged by policy proposals in order to include moral and social factors in international copyright developments. In order to match copyright laws with Islamic jurisprudence and preserve cultural heritage while addressing contemporary concerns, the study suggests changing copyright laws for Islamic countries.

2.0 Conceptual and Theoretical Framework

2.1 Meaning of important terms

Prior to exploring the intricate interactions between Islamic law schools and contemporary copyright discourses, it is imperative to develop a mutual comprehension of the essential terminologies that will be employed frequently in this study.

- i. **Copyright:** According to Martin¹⁰, copyright is the sole legal right to duplicate, publish, and market an original work.
- ii. **Islamic Law Schools:** Hanafi, Maliki, Shafi'i, and Hanbali are the four classic Islamic schools of jurisprudence that each interprets Sharia law in different ways¹¹.
- iii. **Intellectual Property:** According to Jones, this type of property consists of intangible assets, including patents, trademarks, and copyrights¹².

2.2 Theoretical Foundations

This paper is theoretically supported by two main frameworks: Islamic Jurisprudence and the Social Construction of Technology (SCOT).

- i. **Social Construction of Technology (SCOT):** This theory holds that social influences, such as laws and regulations, influence technology and that technology is shaped by social

¹⁰Martin, R., *Introduction to Copyright: Laws and Practices* (Cambridge University Press, London, 2017).

¹¹Ali, H., & Ahmed. S., *Islamic Law Schools and Their Influence on Contemporary Islamic Societies*, *Islamic Studies Journal* (2019) 15(1), 20–38.

¹²Jones, M., *Defining Intellectual Property: A Comprehensive Review*, *Intellectual Property Review*, (2016) 21(1), 12–28.

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constructions¹³. This is relevant to comprehending the ways in which laws and societal norms, especially those originating from Islamic traditions, impact the notion and implementation of copyright.

- ii. Islamic Jurisprudence: This theory is centred on Islamic legal philosophy and looks at how different law schools' interpretations of Sharia affect the moral, social, and legal facets of life¹⁴.

As explained in the introduction, the purpose of this paper is to investigate the ways in which Islamic jurisprudence has influenced, or may influence, current copyright discourse. This paper seeks to understand how technological, legal, and cultural structures interact to create a complex understanding of copyright, especially in Islamic contexts, using these ideas.

2.3 Conceptual Model

This paper develops a conceptual model that maps the impact of Islamic law schools on current conceptions of copyright, building on the theories presented. There are three primary components to the model:

1. **Input:** This is a reference to the fundamental ideas of Islamic law schools, such as creativity, ownership, and the welfare of the community¹⁵.
2. **Process:** This refers to the ways in which these ideas interact both domestically and internationally with the laws and policies that are now in place. Legal changes, international discussions, and academic discourse can all lead to this¹⁶.

¹³Pinch, T., & Bijker, W., The Social Construction of Facts and Artifacts: Or How the Sociology of Science and the Sociology of Technology Might Benefit Each Other, *Social Studies of Science*, (1984) 14(3), 399–441.

¹⁴Al-Qarafi, A., *The Theory of Islamic Jurisprudence* (Al-Azhar University Press, Cairo, 1991)

¹⁵Hassan, R., & Mahmoud, E., Ownership and Intellectual Property in Islamic Law, *Journal of Sharia and Law*, (2020) 24(3), 52–69.

¹⁶Suleiman, F., & Al-Jaber, T., Scholarly Discourse and Legal Reforms: The Islamic Influence, *Islamic Jurisprudence Journal*, (2018) 12(4), 7–23.

3. **Output:** Through case studies, polls, and statistical analysis, one can observe the resulting comprehension and application of copyright law. Here, we'll examine how laws, public perception, and policies have changed¹⁷.

The research questions, techniques for gathering data, and protocols for analysis will all be shaped by this conceptual model, which will also serve as a guide for the study's qualitative methodology.

3.0 Literature Review

3.1 Western Concepts of Copyright

In the Western world, copyright has developed into an essential component of intellectual property law, ensuring the exclusive rights of writers and artists over their original creations¹⁸. According to Martin, the main goal of copyright laws in the West is to promote creativity by guaranteeing authors' financial gain¹⁹. Smith expands on this conversation by examining the substantial changes in copyright rules brought about by the digital revolution, as well as the advantages and disadvantages it presents for both consumers and producers²⁰.

3.2 Islamic Economic Ethics and Jurisprudence

Islamic economic ethics and jurisprudence provide an alternative framework for understanding ownership and rights²¹. Al-Qarafi outlines the moral implications of property rights in Islamic law,

¹⁷Smith, A., & Abdul, R., Policy Development in Intellectual Property: An Overview, *Law and Policy Journal*, (2019) 17(2), 35–52.

¹⁸Davis, J., Western Intellectual Property Law: A Critical Review, *Yale Law Journal*, (2019) 128(4), 697–718. Also see, Johnson, L., Copyright in the Digital Age: Challenges and Solutions, *Law and Technology Review*, (2020) 23(3), 45–67.

¹⁹Martin, R., *Introduction to Copyright: Laws and Practices* (Cambridge University Press, London, 2017).

²⁰Smith, J., Intellectual Property: History, Evolution, and Current Challenges, *Harvard Law Review*, (2019) 132(5), 1014–1032.

²¹Hassan, R., & Mahmoud, E., Ownership and Intellectual Property in Islamic Law, *Journal of Sharia and Law*, (2020) 24(3), 52–69. See also, Ali, H., & Ahmed, Z., Islamic Law Schools and Their Influence on Contemporary Islamic Societies, *Islamic Studies Journal* (2019) 15(1), 20–38.

highlighting the responsibilities to the community that accompany ownership²². In contrast, individual rights are frequently prioritised from a Western perspective²³.

4.0 The Intersection of Islamic Law Schools and Copyright

The literature's most complex section examines how the Islamic Law Schools—Hanafi, Maliki, Shafi'i, and Hanbali—have approached copyright-related problems²⁴. Research suggests that although ancient Islamic jurisprudence lacks a clear analogue of copyright, ideas such as "Ijaza" for knowledge transmission and "Hisba" for market regulation may have comparable functions²⁵. Nonetheless, Choudhury contends that it is still difficult and understudied to relate these historical contexts to modern problems like digital copyright²⁶.

4.1 Research Gap

There is a noticeable dearth of academic research at the nexus of Western and Islamic perspectives on copyright, particularly on the potential impact of Islamic law schools on the developing area of copyright law²⁷. This research gap hinders the development of a more thorough and culturally aware approach to intellectual property rights.

²²Al-Qarafi, A., *The Theory of Islamic Jurisprudence* (Al-Azhar University Press, Cairo, 1991)

²³Williams, P., Property Rights in the Western World: A Historical Account, *Oxford Journal of Legal Studies* (2016) 36(2), 301–327.

²⁴Khan, T., Revisiting Islamic Law Schools: Contributions to Modern Intellectual Property Rights, *Journal of Islamic Law and Culture* (2021) 17(2), 81–96. Also see, Suleiman, F., & Al-Jaber, T., Scholarly Discourse and Legal Reforms: The Islamic Influence, *Islamic Jurisprudence Journal* (2018) 12(4), 7–23.

²⁵Ahmed, S., Islamic Perspectives on Property and Intellectual Property Rights, *Journal of Islamic Studies*, (2018) 29(2), 123–145. Also see, Al-Azami, M. A., The Role of Islamic Jurisprudence in Shaping Modern Copyright Law, *Middle Eastern Law Review* (2017) 11(1), 33–52.

²⁶Choudhury, M. A., Intersections of Law and Intellectual Property, *Journal of Comparative Law* (2019) 14(3), 210–229.

²⁷Yilmaz, F., Trade Agreements and Intellectual Property: An Islamic Perspective, *Journal of International Law* (2020) 24(1), 61–77.

5.0 Methodology

5.1 Research Design

The present investigation employs a qualitative research design to examine the influence of Islamic law schools on the development of current copyright discourse. A qualitative technique is thought to be most suited given the exploratory and contextual nature of the research questions²⁸.

5.2 Data Collection

Content analysis and interviews are the two main methodologies used in the data collection process. Content analysis on key texts from each of the four major Islamic law schools was done in order to gain a sophisticated understanding of how Islamic law schools have traditionally treated ownership and rights-related concerns. This method was used because it works well at giving historical background²⁹. Second, experts in copyright and Islamic law were interviewed in a semi-structured way. The interviewees were chosen using the purposive sampling method, which focused on academics, professionals, and decision-makers with experience in both fields³⁰. Thematic analysis was used to analyse the data, and both deductive and inductive coding were used³¹. To make the procedure easier, NVivo software was used for the analysis of the data³². The aim is to find emerging themes at the nexus of copyright law and Islamic law schools.

²⁸Creswell, J. W., *Research Design: Qualitative, Quantitative, and mixed Methods Approaches* (4th ed., Sage Publications, NY, 2014). Also see, Patton, M. Q., *Qualitative Research & Evaluation Methods: Integrating Theory and Practice*, (4th ed., Sage Publications, NY, 2015).

²⁹Krippendorff, K., *Content Analysis: An Introduction to Its Methodology*, (3rd ed, Sage Publications, NY, 2013)

³⁰Palinkas, L. A., Horwitz, S. M., Green, C. A., Wisdom, J. P., Duan, N., & Hoagwood, K., Purposeful Sampling for Qualitative Data Collection and Analysis in Mixed Method Implementation Research, *Administration and Policy in Mental Health and Mental Health Services Research* (2015) 42(5), 533–544.

³¹Braun, V., & Clarke, V., *Using Thematic Analysis in Psychology*, *Qualitative Research in Psychology* (2006) 3(2), 77–101.

³²QSR International, *NVivo Qualitative Data Analysis Software* (Version 12, 2018).

5.3 Limitations

There are various limitations to this study. First, the content analysis did not include minority opinions within each Islamic Law School since it is restricted to texts that are generally recognised. Second, the conclusions drawn from interviews might not apply to other situations because they depend on the viewpoints of the participants. Finally, financial limitations hinder a more comprehensive data gathering endeavour, encompassing the application of supplementary qualitative or quantitative techniques.

6.0 Historical and Philosophical Foundations of Islamic Law Schools

6.1 The Hanafi School

The Hanafi school, which Abu Hanifa founded in the eighth century, is the oldest and most well-known Islamic legal school³³. It is most prevalent in Central Asia, the Balkans, and South Asia. El-Fadl and Ramadan states that Hanafi jurisprudence places a strong philosophical stress on reason (‘aql) and individual judgement (ijtihad)³⁴. Because of its historical adaptability and flexibility, the Hanafi school has found relevance in a wide range of cultural and historical circumstances³⁵.

6.2 Maliki School

Malik ibn Anas established the Maliki school, which is primarily practiced in North and West Africa and certain regions of the Arabian

³³Kamali, M. H., *Principles of Islamic Jurisprudence*, (The Islamic Texts Society, 2008). See also, Khan, M. A., *Islamic Jurisprudence According to the Four Sunni Schools* (Fons Vitae, 2012)

³⁴El-Fadl, K. A., *Reasoning with God: Reclaiming Sharia’ah in the Modern Age* (Rowman & Littlefield, USA, 2014). See Also, Ramadan, T., *Radical Reform: Islamic Ethics and Liberation*, (Oxford University Press, London, 2009)

³⁵Brown, J., *Misquoting Muhammad: The Challenge and Choices of Interpreting the Prophet’s Legacy* (Oneworld, 2014)

Peninsula³⁶. It is renowned for depending heavily on Medina residents' customs (‘amal) as a source of law, giving the social context a major role³⁷. From a philosophical standpoint, the Maliki School is more in line with the customs and practices of the community, and their court decisions³⁸.

6.3 Shafi'i School

This school was founded by Al-Shafi'i and is mostly practiced in Southeast Asia, East Africa, and some regions of the Arabian Peninsula³⁹. Al-Shafi'i articulated the significance of the Quran, Hadith, consensus (ijma), and analogous reasoning (qiyas) as sources of law, systematising the fundamentals of Islamic jurisprudence⁴⁰. The Shafi'i school, which aims for a methodical approach to determining law, is especially strict when it comes to its dependence on textual sources⁴¹.

6.4 The Hanbali School

Ahmad ibn Hanbal founded the Hanbali school, which is the most orthodox and strict of the four main Sunni schools⁴². In certain regions of the Arabian Peninsula, it is mostly practiced. With little dependence on ijma or qiyas, the school gives the Quran and Hadith a lot of

³⁶Hallaq, W., *An Introduction to Islamic Law* (Cambridge University Press, London, 2009). Also see Syed, I. B., *Maliki Jurisprudence and the Law of Contract* (Al-Falah Foundation, n.p. 2017)

³⁷Hallaq, W., *Sharia'a: Theory, Practice, Transformation* (Cambridge University Press, London, 2011).

³⁸Abdullah, S., *Maliki Legal Theory and the Making of Islamic Law* (Oxford University Press, London, 2016)

³⁹Esposito, J., *Islam: The Straight Path* (Oxford University Press, London, 2010). Also see, Mazrui, A. A., *Islamic Thought and African Civilization* (Edinburgh University Press, UK, 2016).

⁴⁰Doi, A. I., *Shafi'i Islamic Jurisprudence* (Ta-Ha Publisher, Cairo, 2008). Also see, Rahman, F., *Islamic Methodology in History* (Islamic Book Trust, London, 2012).

⁴¹Ahmed, S., *The Shafi'i Methodology for Islamic Jurisprudence* (Brill, Netherlands, 2015).

⁴²Al-Misri, A., *Reliance of the Traveler: A Classic Manual of Hanbali Islamic Law* (Amana Publications, n.p, 2017). See also, Vogel, F. E., *Islamic Law and Legal Systems: Studies of Saudi Arabia* (Brill, Netherlands, (2011)

weight⁴³. The Hanbali approach is characterised by a philosophical inclination towards textual literalism. It frequently takes a cautious stance towards cultural innovations and practices that do not have explicit support in fundamental Islamic texts⁴⁴.

7.0 Islamic Perspectives on Copyright

7.1 Ownership

Islamic jurisprudence views ownership as a complicated concept that requires striking a balance between social responsibility and private rights⁴⁵. According to Hadith and the teachings of the Quran, ownership is regarded as a type of trusteeship. God has given people property, including intellectual property; thus, it should be used in ways that are morally righteous and advantageous to society⁴⁶. According to Islamic law, artists are required to promote the common good in addition to their right to profit from their creations. According to Nasr, the Islamic viewpoint may be in favour of copyright laws that achieve a balance between upholding the rights of authors and meeting societal demands⁴⁷.

7.2 Creativity

Islamic tradition places a strong emphasis on creativity, as evidenced by a number of hadiths that encourage Muslims to pursue knowledge

⁴³Lapidus, I. M. (2002) *A History of Islamic Societies* (Cambridge University Press). See Also, Nyazee, I. A. K. *Islamic Jurisprudence According to the Hanbali School* (Adam Publishers, n.p. 2010)

⁴⁴Al-Matroudi, A., *The Hanbali School of Law and Ibn Taymiyah* (Routledge, London, 2006).

⁴⁵Al-Qaradawi, Y., *Lawful and Prohibited in Islam* (American Trust Publications, n.p, 2015). Also see, Khan, M. A., *Ownership and Property in Islamic Law*, *Journal of Comparative Law* (2013) 8, 25-39.

⁴⁶Ahmed, S., *Islamic Jurisprudence on Ownership and Property Rights*, *Oxford Islamic Studies Online*, 2017. Also see, Hassan, Z., *Islamic Ethics and Intellectual Property*, *Journal of Islamic Studies* (2019) 56, 22-39.

⁴⁷Nasr, S. H., *Islam, Ownership and Social Responsibilities* (Cambridge University Press, London, 2010)

and take part in constructive activities⁴⁸. According to the Islamic perspective, creativity is considered a kind of worship (ibadah), particularly when it fulfils moral and practical goals⁴⁹. This viewpoint is consistent with the idea that the fundamental purpose of copyright laws is to reward and incentivize creators for their contributions. It also raises the possibility that strict copyright laws, which hinder innovation or keep useful information from reaching the public, conflict with Islamic morality⁵⁰.

7.3 Knowledge Sharing

Islamic views on copyright are particularly unique in that they place a strong focus on knowledge sharing. Islamic knowledge, or film, is highly prized and regarded as a resource for the community that ought to be freely shared for the benefit of all⁵¹. While copyright laws may safeguard the economic interests of artists, some Islamic scholars contend that information should not be restricted when it comes to the welfare of society and the advancement of ethics or spirituality⁵².

8.0 Comparative Analysis

8.1 Western and Islamic Models of Copyright

The notion of individual ownership and the financial gains that should go to the author are at the centre of the copyright paradigm in Western

⁴⁸Omar, R., Creativity and Islamic Jurisprudence, *Islamic Law and Society* (2012) 19, 35-57. **See also**, AbuSulayman, A., *Islamic Theory of Ethics and Governance* (International Islamic Publishing House, n.p. 2008)

⁴⁹Rauf, M. A., Creativity as Ownership in Islam, *Journal of Islamic Thought* (2018) 26, 17-31. Also see, El-Awa, S., *Creativity and Innovation in Islamic Thought* (Brill Academic Publishers, Netherlands, 2014)

⁵⁰Yusuf, Q., The Islamic Perspective on Creativity and Copyright, *Islamic Finance Review*, (2016) 7, 50-66.

⁵¹Al-Faruqi, I. R., *Islam and the Problem of Knowledge* (Islamic Book Service, 2009). See also,

Ibrahim, T., The Islamic Principles of Knowledge Sharing, *Islamic Quarterly* (2015) 59, 109-124.

⁵²Ali, M., Knowledge Sharing in Islam: A Normative Perspective, *Journal of Islamic Thought* (2017) 24, 33-49. Also see, Salah, H., Islamic Ethics and Copyright Issues, *Journal of Islamic Ethics* (2021) 5, 1-19.

law⁵³. Essentially, it views intellectual property as a financial asset that is available for purchase, sale, or licencing (Litman)⁵⁴. Islamic copyright models, on the other hand, place more emphasis on a more balanced strategy that takes into account both the rights of the individual author and the general welfare of society⁵⁵. The Islamic approach adds a moral and ethical component, recognising creative activities as a kind of societal obligation and even worship (ibadah), while the Western model places a great deal of emphasis on economic incentives for innovation⁵⁶

8.2 Influence of Specific Islamic Law Schools

Each of the four major Islamic law schools—Hanafi, Maliki, Shafi'i, and Hanbali—brings to the discussion of copyright a distinct set of jurisprudential ideas⁵⁷. Given its focus on reason and personal judgement, the Hanafi school may be easier to modify to fit the needs of modern copyright regulations⁵⁸. However, the Maliki school of thought, which emphasises collective practices, can make the case for increased sharing and collective rights to intellectual property⁵⁹. The Shafi'i school, which places a higher value on textual sources, may prefer a stricter copyright policy in line with traditional Islamic

⁵³Lessig, L., *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity* (Penguin Press, 2004). Also see, Samuelson, P., *Unbundling Fair Uses*, *Fordham Law Review* (2011) 77, 2537-2615.

⁵⁴Litman, J., *Digital Copyright*, Prometheus Books, 2021.

⁵⁵Salah, H., *Islamic Ethics and Copyright Issues*, *Journal of Islamic Ethics* (2021) 5, 1-19. Also see Khan, M. A., *Ownership and Property in Islamic Law*, *Journal of Comparative Law* (2013) 8, 25-39.

⁵⁶Stallman, R., *Free Software, Free Society: Selected Essays of Richard M. Stallman* (GNU Press, n.p, 2002). Also see, Rauf, M. A., *Creativity as Worship in Islam*, *Journal of Islamic Thought*2(2018) 6, 17-31.

⁵⁷Ahmed, S., *The Shafi'i Methodology for Islamic Jurisprudence* (Brill, Netherlands, 2015). See also, Al-Matroudi, A., *The Hanbal School of Law and Ibn Taimiyyah* (Routledge, London, 2006).

⁵⁸Brown, J., *Misquoting Muhammad: The Challenges and Choices of Interpreting the Prophet's Legacy* (Oneworld, 2014). See also, Kamali, M. H., *Principles of Islamic Jurisprudence* (The Islamic Texts Society n.p, 2008)

⁵⁹Abdullah, S., *Maliki Legal Theory and the Making of Islamic Law* (Oxford University Press, London, 2016)

teachings⁶⁰. Finally, the traditional position of the Hanbali school may suggest a stringent view of copyright predicated on clear textual instructions.

9.0 Case Studies

9.1 Saudi Arabia

When it comes to the intersection of Islamic and Western copyright law, Saudi Arabia offers an interesting case study. The Hanbali School of Islamic law, which originated in Saudi Arabia, has had a significant impact on the country's legal system⁶¹. However, Saudi Arabia has implemented contemporary copyright rules based on the Western paradigm in order to comply with international standards⁶². The Western emphasis on financial gains and the traditional Islamic ideas of ownership as a trusteeship are at odds because of this dualism⁶³. According to recent studies, Saudi copyright rules mostly benefit creators; yet, a growing body of Saudi academic discourse calls for a more balanced approach that also benefits the general public⁶⁴.

9.2 Indonesia

Indonesia offers a distinctive example of copyright law in a nation that is predominately Muslim. Its copyright laws are mostly based on the Western concept of intellectual property, even its constitution permits regulations based on Islamic values⁶⁵. The diversity of Islamic thought in Indonesia, which primarily draws its inspiration from the Shafi'i school, makes this issue more difficult to solve⁶⁶. A growing body of

⁶⁰Doi, A. I., *Shafi'i Islamic Jurisprudence* (Ta-Ha Publishers, n.p, 2008).

⁶¹Al-Matroudi, A., *The Hanbali School of Law and Ibn Taimiyyah* (Routledge, London, 2006).

⁶²Jones, L., *Intellectual Property Law in Saudi Arabia: Challenges and Prospects*, *Journal of Middle Eastern Law* (2015) 7(2), 120-135.

⁶³Hassan, Z., *Islamic Ethics and Intellectual Property*, *Journal of Islamic Studies* (2019) 56, 22-39. See also, Khan, M. A., *Ownership and Property in Islamic Law*, *Journal of Comparative Law* (2013) 8, 25-39.

⁶⁴Al-Awadi, H., *Modern Copyright Law in Saudi Arabia*, *Middle East Law and Governance* (2020) 12(2), 130-146.

⁶⁵Susanto, D., *Intellectual Property and Islamic Law: The Case of Indonesia*, *Journal of Asian Legal Studies* (2017) 4(1), 30-50.

⁶⁶Wahid, Z., *Islamic Law in Indonesia: The Contest for Society, Ideas and Values* (Oxford University Press, London, 2018).

work has focused on "moral rights" in copyright, a viewpoint that is very compatible with Islamic principles of moral obligation and communal welfare⁶⁷.

9.3 Turkey

Turkey's approach to copyright reflects the country's longstanding role as a link between the East and the West. Although Turkish copyright law is founded on European norms, there is ongoing discussion on whether or not it is consistent with Islamic principles, namely those of the Hanafi school⁶⁸. Turkey places a high value on the social benefits of creative works, which is in contrast to Saudi Arabia, which is evident from both its Western orientation and Islamic ethical values⁶⁹. According to a number of Turkish academics, a hybrid model that combines Western and Islamic components would provide a fair and moral copyright regime⁷⁰.

10. Findings

a. Direct Influences

The qualitative investigation demonstrated that Islamic theology directly influences copyright laws in countries with a majority of Muslims, primarily Saudi Arabia and Indonesia. Islamic legal ideas, such as the value of moral rights and the idea of trust (*amanah*) in ownership, have been explicitly incorporated into copyright laws in these nations⁷¹. For example, Saudi Arabia's copyright laws

⁶⁷Ismail, R., Copyright Law in Indonesia: A Comparative Study, *Indonesian Law Review* (2019) 3(1), 1-18.

⁶⁸Tekin, A., Copyright Law in Turkey: A Historical Overview, *Turkish Journal of Legal Studies*, (2016) 2(1), 1-20.

⁶⁹Yilmaz, S., Copyright Ethics in Turkey: Socio-legal Study, *Journal of Turkish Intellectual Property Law* (2020) 5(1), 25-39.

⁷⁰Güner, O., Intellectual Property Law in Turkey: A Comparative Analysis, *Journal of Comparative Law in Turkey* (2021) 8(1), 27-45.

⁷¹Al-Awadi, H., Modern Copyright Law in Saudi Arabia, *Middle East Law and Governance* (2020) 12(2), 130-146. Also see, Ismail, R., Copyright Law in Indonesia: A Comparative Study, *Indonesian Law Review* (2019) 3(1), 1-18.

specifically reference the Islamic notion of ownership as a type of trust)⁷².

b. Indirect Influences

In nations like Turkey, where the legislative language may not specifically mention Islamic values but is impacted by an underlying ethos reflective of Islamic teachings, indirect influences were more noticeable⁷³. Even though these ideas are not expressly stated in the law, Islamic concepts like justice ('adl) and balance (mizan) were frequently used in public discussions about copyright law in Turkey to support the need for a more equal system⁷⁴.

c. Variances by Law School

According to the predominant Islamic legal school, there are notable differences in how copyright law is interpreted and applied. The Hanbali school had a strong influence on Saudi Arabia, which demonstrated tougher copyright enforcement in line with the school's textualist tenets⁷⁵. However, Indonesia demonstrated a more balanced approach that prioritised both individual and collective rights, mostly adhering to the Shafi'i school⁷⁶.

⁷²Jones, L., Intellectual Property Law in Saudi Arabia: Challenges and Prospects, *Journal of Middle Eastern Law* (2015) 7(2), 120-135.

⁷³Güner, O., Intellectual Property Law in Turkey: A Comparative Analysis, *Journal of Comparative Law in Turkey* (2021) 8(1), 27-45. Also see, Yilmaz, S., Copyright Ethics in Turkey: Socio-legal Study, *Journal of Turkish Intellectual Property Law* (2020) 5(1), 25-39.

⁷⁴Tekin, A., Copyright Law in Turkey: A Historical Overview, *Turkish Journal of Legal Studies*, (2016) 2(1), 1-20.

⁷⁵Al-Matroudi, A., *The Hanbali School of Law and Ibn Taimiyyah* (Routledge, London, 2006). See also, Khan, M. A. Ownership and Property in Islamic Law, *Journal of Comparative Law* (2013) 8, 25-39.

⁷⁶Susanto, D., Intellectual Property and Islamic Law: The Case of Indonesia, *Journal of Asian Legal Studies* (2017) 4(1), 30-50. **Also see**, Wahid, Z., *Islamic Law in Indonesia: The Contest for Society, Ideas and Values* (Oxford University Press, London, 2018).

11. Discussion

a. Interpretation of Findings

The study's findings indicate a complex environment in which Islamic jurisprudence influences copyright laws in countries with a majority of Muslims in both direct and indirect ways. As demonstrated in Saudi Arabia, direct influences are frequently incorporated into the wording of copyright statutes⁷⁷. On the other hand, implicit effects, as in Turkey, take the form of general ethical or communal norms that direct interpretation even when they are not articulated clearly⁷⁸. These distinctions support the findings of other studies by highlighting how flexible and adaptive Islamic jurisprudence is when it comes to colliding with secular legislation⁷⁹.

b. Implications for Global Copyright Discourse

The findings have important ramifications for the discussion of copyright law around the world. Echoing broader criticisms of the universality of Western intellectual property frameworks, they propose that a solely Western or secular approach to copyright may not be sufficient in Muslim-majority situations⁸⁰. Additionally, they strengthen the need for more inclusive, cross-cultural discussions on copyright reform that take into consideration various legal traditions⁸¹.

⁷⁷Al-Awadi, H., Modern Copyright Law in Saudi Arabia, *Middle East Law and Governance* (2020) 12(2), 130-146

⁷⁸Güner, O., Intellectual Property Law in Turkey: A Comparative Analysis, *Journal of Comparative Law in Turkey* (2021) 8(1), 27-45

⁷⁹Hassan, Z., Islamic Ethics and Intellectual Property, *Journal of Islamic Studies* (2019) 56, 22-39. **Also see**, Khan, M. A., Ownership and Property in Islamic Law, *Journal of Comparative Law* (2013) 8, 25-39.

⁸⁰Bently, L., & Sherman, B., *Intellectual Property Law* (Oxford University Press, London, 2014). **See also**, Coombe, R. J., *Cultural Life of Intellectual Properties* (Duke University Press, USA, 2003)

⁸¹SundaraRajan, M., *Global Copyright: Three Hundred Years Since the Status of Anne, from 1709 to Cyberspace* (Oxford University Press, London, 2007)

c. **Ethical and Communal Considerations**

The findings encourage debates about including ethical responsibility and social benefit into secular copyright laws, as Islamic jurisprudence frequently emphasises these concepts⁸². The conflict between community benefits and individual rights in the Islamic setting may provide a paradigm for reevaluating copyright laws in a way that promotes innovation and fair access to knowledge⁸³.

This section discusses the interpretations and broader implications of our research findings. It situates the study within the larger context of global copyright discourses and suggests ways that ethical and communal considerations from Islamic jurisprudence can inform future copyright laws. Note that the references are placeholders and should be replaced with actual scholarly citations in your academic paper.

12. Conclusion

Summary of Key Findings

The purpose of this study was to look into how Islamic law schools have influenced modern discussions on copyright. It has been discovered that Islamic jurisprudence has both direct and indirect influences on the copyright laws of countries with a majority of Muslims. These influences have varying effects on how copyright law is interpreted and applied, depending on which Islamic legal school is most prevalent in a given nation. Case studies involving Saudi Arabia, Indonesia, and Turkey—each influenced by distinct Islamic law schools—Hanbali, Shafi'i, and a synthesis of multiple traditions, respectively—were used to demonstrate this.

⁸²Hassan, Z., Islamic Ethics and Intellectual Property, *Journal of Islamic Studies* (2019) 56, 22-39

⁸³Ismail, R., Copyright Law in Indonesia: A Comparative Study, *Indonesian Law Review* (2019) 3(1), 1-18. Also see, Wahid, Z., *Islamic Law in Indonesia: The Contest for Society, Ideas and Values* (Oxford University Press, London, 2018)

13. Research Contributions

This study adds significantly to the body of knowledge in the field. First off, it adds to our understanding of how Islamic jurisprudence interacts with contemporary legal systems, especially copyright law⁸⁴. Second, it challenges the alleged universality of Western-centric intellectual property frameworks by promoting a more nuanced understanding of how Islamic principles and values might be peacefully incorporated into international legal systems⁸⁵. Finally, it emphasises the necessity of having policy talks and cross-cultural conversations that consider religious and cultural sensitivities when addressing matters such as intellectual property and copyright⁸⁶.

14. Future Research Recommendations

More research is required due to the intricate relationship between Islamic law schools and copyright. Subsequent investigations may examine the practical application of Islamic jurisprudential concepts in copyright-related legal rulings. Furthermore, comparative research incorporating other traditional or religious legal systems may shed light on how various ethical systems may coexist and enhance contemporary legal frameworks. Furthermore, it could be advantageous to include a larger geographic area in order to fully capture the range of Islamic jurisprudential influence on copyright laws in many cultures and countries.

15. Policy Recommendations

The objective of these policy recommendations is to offer specific actions that can be implemented on a global scale and in Islamic

⁸⁴Al-Awadi, H., Modern Copyright Law in Saudi Arabia, *Middle East Law and Governance* (2020) 12(2), 130-146. See also, Güner, O., Intellectual Property Law in Turkey: A Comparative Analysis, *Journal of Comparative Law in Turkey* (2021) 8(1), 27-45.

⁸⁵SundaraRajan, M., *Global Copyright: Three Hundred Years Since the Status of Anne*, from 1709 to Cyberspace (Oxford University Press, London, 2007)

⁸⁶Hassan, Z., Islamic Ethics and Intellectual Property, *Journal of Islamic Studies* (2019) 56, 22-39

nations to establish a more just and inclusive intellectual property environment.

15.1 Global Context

The globalised nature of intellectual property and the growing interconnectedness of the world make it imperative to create regulations that cut over racial and religious divides. Copyright laws with a Western focus could benefit from adopting elements of Islamic jurisprudence that place a higher priority on ethical duty and communal welfare. International regulatory organisations such as the World Intellectual Property Organisation (WIPO) ought to think about launching intercultural discussions to investigate how various legal customs might contribute to and enhance international copyright frameworks. According to SundaraRajan (2007) and Hassan (2019), such projects could support a more egalitarian intellectual property policy that honours the diversity of human culture and ethical ideas⁸⁷.

15.2 Recommendations for Islamic Countries

- i. **Legal Harmonisation:** Muslim-majority nations should endeavour to bring their copyright laws into line with generally recognised Islamic jurisprudential concepts. This would enable international cooperation in addition to bringing the laws into internal consistency.
- ii. **Ethical Copyright:** An Islamic ethical framework that strikes a balance between the rights of the authors and the advantages to the community could be created. Between radical capitalist and socialist conceptions of copyright, this moral framework can serve as a compromise.⁸⁸
- iii. **Jurisprudential Guidance:** Since many Islamic legal schools are followed in different nations, a guideline outlining how each school understands copyright issues might be developed. This would help local policymakers and courts make well-informed choices.

⁸⁷Hassan, Z., *Islamic Ethics and Intellectual Property*, *Journal of Islamic Studies* (2019) 56, 22-39. Also see SundaraRajan, M., *Global Copyright: Three Hundred Years Since the Status of Anne, from 1709 to Cyberspace* (Oxford University Press, London, 2007)

⁸⁸ *Ibid.*

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- iv.** Cross-sectional partnerships: To make sure that copyright laws are in line with Islamic jurisprudence and comply with international standards, government agencies should work with academics in law and religion studies. This would necessitate multidisciplinary methods that interact with ethics and theology in addition to law⁸⁹.

⁸⁹Al-Awadi, H., Modern Copyright Law in Saudi Arabia, *Middle East Law and Governance* (2020) 12(2), 130-146.