

Original Article

The Impact of Human Right on Royalty Restrictions in Intellectual Property

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Abstract

The limitation of royalties within the intellectual property regime gives rise to tension between the protection of creators' exclusive rights and the fulfillment of public interests, particularly from a human rights perspective. This study aims to analyze the ontological dimension of royalty limitations and their implications for human rights. The research questions addressed in this study concern the ontological nature of royalty limitations and their implications for the balance between intellectual property rights and human rights. This research employs a normative legal research method, utilizing statutory, conceptual, and philosophical approaches. The findings indicate that royalty limitations constitute an inherent aspect of intellectual property rights, which are non-absolute in nature and embody a social function. Such limitations play a significant role in expanding public access to healthcare, education, and knowledge; however, they may also diminish the protection of creators' economic rights if not regulated proportionately. Accordingly, regulatory frameworks emphasizing the principles of proportionality and the balancing of interests are required to achieve harmonization between the protection of intellectual property and the fulfillment of human rights.

Keywords: Human Rights; Intellectual Property; Royalty Limitations.

Introduction

Intellectual property constitutes one of the legal regimes that has developed rapidly in the era of globalization and the knowledge-based economy. This regime grants exclusive rights to creators, inventors, or right holders over their intellectual works, whether in the form of copyright, patents, or trademarks. One of the principal instruments in such protection is the provision of royalties, which function as economic compensation for the utilization of works by other parties.

Conceptually, royalties constitute a manifestation of the recognition of the economic value inherent in an intellectual work. Nevertheless, in practice, the regulation of royalties is not always absolute.¹ The state, through legal policy, frequently establishes various forms of royalty limitations (royalty restrictions), whether through the regulation of compulsory licensing, the imposition of tariff ceilings, or the governance of specific uses in the public interest. This phenomenon gives rise to fundamental issues that are not merely juridical in nature, but also philosophical, particularly within the domain of legal ontology. Ontology, in this context, pertains to the essential nature of the existence and the underlying purpose of intellectual property rights themselves.² The ontological question that arises is whether intellectual property should be understood as a private right that is exclusive and individualistic in nature, or rather as a social instrument whose existence must be subject to the principles of distributive justice and the public interest.

From an ontological perspective, royalty limitations may be regarded as a reflection of the non-absolute nature of intellectual property rights. Such rights do not stand independently; rather, they

¹ Hak Kekayaan and others, 'Hak Kekayaan Intelektual Sebagai Instrumen Daya Saing Ekonomi Kreatif Di Era Digital Dan Platform Global', *Bhayangkara Law Review*, 2.2 (2025), 187–205 <<https://doi.org/10.31599/BHALREV.V2I2.5032>>.

² Gunaldi Ahmad, 'Sirkulasi Royalti Hak Cipta Dan Permasalahannya', *Jurnal Alasma: Media Informasi Dan Komunikasi Ilmiah*, 7.2 (2025), 2025 <<https://jurnalstittmaa.org/index.php/alasma/article/view/126>> [accessed 14 April 2026].



exist within a broader legal framework that accommodates public interests. Accordingly, royalty limitations are not merely technical restrictions, but also embody the fundamental values underpinning the legal system, such as justice, balance, and utility.

On the other hand, royalty limitations are closely related to issues of human rights. In various international human rights instruments such as the right to health, the right to education, and the right to enjoy the benefits of scientific progress and culture the state bears the obligation to ensure fair and non-discriminatory access. In this context, royalty limitations are often employed as an instrument to expand public access to medicines, books, technology, and cultural works.³

Nevertheless, the relationship between royalty limitations and human rights is not always harmonious. On the one hand, such limitations may support the fulfillment of human rights by reducing economic barriers to public access. On the other hand, excessively stringent limitations may diminish economic incentives for creators and innovators, which may ultimately lead to a decline in the production of intellectual works. This condition has the potential to undermine the rights of creators themselves, which are also recognized as part of human rights, particularly the right to the protection of moral and material interests arising from their creations.

Accordingly, there exists a normative tension between two equally important interests, namely the protection of intellectual property rights as individual rights and the fulfillment of human rights as collective rights. This tension underscores the necessity of a comprehensive and in depth approach to understanding how royalty limitations should be positioned within the legal system.⁴ Based on the foregoing, an examination of the ontological dimension of royalty limitations within intellectual property and their implications for human rights becomes highly relevant. This study is not only intended to assess the normative aspects of their regulation, but also to explore the underlying philosophical foundations of such limitations, as well as to analyze their implications for the balance between individual interests and public interests within the framework of human rights protection.

Based on the foregoing background, the research questions of this study are as follows: What constitutes the ontological dimension of royalty limitations within the intellectual property legal regime, and how is their position construed in limiting the exclusivity of intellectual property rights? Furthermore, what are the implications of royalty limitations for the fulfillment and protection of human rights, and what constitutes the ideal balance between the interests of intellectual property rights holders and the public interest?

Method

This study constitutes normative legal research focusing on the analysis of legal norms concerning royalty limitations within the intellectual property regime and their implications for human rights. The approaches employed include the statute approach, the conceptual approach, and the philosophical approach. The legal materials utilized in this study consist of primary, secondary, and tertiary sources. Primary legal materials include statutory regulations, such as Law Number 28 of 2014 concerning Copyright, Law Number 13 of 2016 concerning Patents, as well as international instruments, including the TRIPS Agreement and the Universal Declaration of Human Rights (UDHR). Secondary legal materials comprise legal textbooks, scholarly journals, and expert opinions relevant to intellectual property and human rights. Meanwhile, tertiary legal materials include legal dictionaries, encyclopedias, and other supporting sources.

The collection of legal materials is conducted through library research. Subsequently, the analysis of legal materials is carried out qualitatively by employing methods of legal interpretation and deductive reasoning in order to derive conclusions regarding the ontological dimension of royalty limitations and their implications for human rights.

Results and Discussions

³ Hari Sutra Disemadi and Cindy Kang, 'Tantangan Penegakan Hukum Hak Kekayaan Intelektual Dalam Pengembangan Ekonomi Kreatif Di Era Revolusi Industri 4.0', *Jurnal Komunikasi Hukum (JKH)*, 7.1 (2021), 54–71 <<https://doi.org/10.23887/JKH.V7I1.31457>>.

⁴ Opan Satria Mandala and others, 'Peran Strategis Rezim Hak Kekayaan Intelektual Dalam Mendukung Penguatan Ekonomi Kreatif', *Commerce Law*, 4.1 (2024) <<https://doi.org/10.29303/COMMERCELAW.V4I1.4943>>.



The Ontological Dimension of Royalty Limitations within the Intellectual Property Legal Regime

Intellectual property constitutes a legal regime founded upon the recognition of the products of human intellectual capacity. Unlike proprietary rights over tangible objects, intellectual property is immaterial in nature, and thus its existence is entirely dependent upon the legal constructions that govern it. From the perspective of legal ontology, this indicates that intellectual property rights are not inherently natural rights in an absolute sense, but rather “created rights” established by the state to achieve particular objectives.

The primary objective of granting intellectual property rights is to provide incentives for individuals to continue creating works and innovations. Such incentives are manifested in the form of exclusive rights, including the right to receive royalties from the use of works by other parties. However, from an ontological standpoint, these exclusive rights are not intended to confer unlimited power upon rights holders, but rather to serve as a mechanism for achieving a balance between individual interests and societal interests. Within this framework, royalty limitations must be understood as an inherent component of intellectual property rights themselves. These rights are, from the outset, designed with certain limitations to prevent their evolution into monopolistic powers that may be detrimental to the public interest.⁵ In other words, exclusivity in intellectual property is relative and conditional in nature, rather than absolute.

An ontological analysis demonstrates that royalty limitations reflect the social function inherent in intellectual property rights. This concept of social function affirms that every right, including intellectual property rights, must be exercised with due regard to the interests of society. Accordingly, royalty limitations cannot be regarded as a violation of the rights of rights holders, but rather as a form of regulation intended to ensure that such rights remain within the bounds of justice and utility. Normatively, this principle is reflected in various legislative frameworks.⁶ In Law Number 28 of 2014 concerning Copyright, limitations on copyright are regulated through the concept of fair use, which permits the use of works without authorization for specific purposes such as education, research, and criticism. In addition, there exists a compulsory licensing mechanism that allows the use of works subject to the payment of royalties determined on a reasonable basis.

In Law Number 13 of 2016 concerning Patents, royalty limitations are regulated through compulsory licensing, which may be granted by the government under certain conditions, such as in the interest of national security, emergency situations, or public necessity. In this context, the state is vested with the authority to determine the amount of royalties to be paid, thereby reducing the dominance of rights holders in determining the economic value of their works.⁷ At the international level, this principle of limitation is also recognized in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). TRIPS affords member states the flexibility to implement compulsory licensing and other measures in order to safeguard the public interest. Furthermore, the Doha Declaration on TRIPS and Public Health affirms that the protection of intellectual property should be interpreted in a manner that supports the right of states to protect public health.

From the perspective of legal theory, the ontological dimension of royalty limitations may be analyzed through several major theoretical frameworks. The natural rights theory, as advanced by John Locke, recognizes that individuals possess rights over the products of their intellectual labor; however, such rights are constrained by the principle that their exercise must not harm others. The utilitarian theory, as articulated by Jeremy Bentham, emphasizes that law should produce the greatest benefit for society, thereby rendering royalty limitations justifiable insofar as they enhance overall welfare. Meanwhile, the theory of justice proposed by John Rawls underscores the importance of fair distribution, wherein royalty limitations may function as a mechanism to reduce inequalities in access to intellectual resources.⁸

Furthermore, from a legal analytical perspective, royalty limitations may be understood as a form of legitimate restriction of rights. Within legal doctrine, every right may, in principle, be subject to limitations provided that certain conditions are fulfilled, namely: (1) the limitation is prescribed by law, (2) it pursues a legitimate aim, and (3) it is implemented in a proportionate manner. In the context of intellectual property, these three conditions are generally satisfied, thereby conferring strong legal legitimacy upon royalty limitations.

⁵ Amelia Anggriany Siswoyo and Graha Kirana, ‘Pemanfaatan Kekayaan Intelektual Komunal (KIK) Untuk Pengembangan Ekonomi Kreatif’, *Lex Lectio Law Journal*, 3.1 (2024), 28–39 <<https://doi.org/10.61715/JLL.V3I1.89>>.

⁶ Muhammad Zaki Sierrad, ‘Larangan Pengalihan Hak Moral Dan Pembatasan Waktu Dalam Perjanjian Jual Putus Hak Cipta Buku Dalam Perspektif Hak Asasi Manusia’, *Juris Humanity: Jurnal Riset Dan Kajian Hukum Hak Asasi Manusia*, 1.1 (2022), 24–44 <<https://doi.org/10.37631/JRKHM.V1I1.5>>.

⁷ Lilik Prihatin and others, ‘Perlindungan Hak Kekayaan Intelektual: Sebuah Esensial Hak Cipta Pada Era Revolusi Industri 4.0’, *UNES Law Review*, 6.4 (2024), 11321–29 <<https://doi.org/10.31933/UNESREV.V6I4.2081>>.

⁸ Ranti Fauza Mayana, Tisni Santika, and Zahra Cintana, ‘Perlindungan Hak Cipta Digital Sebagai Bentuk Implementasi Pengembangan Kekayaan Intelektual Pada Sistem Elektronik’, *Refleksi Hukum: Jurnal Ilmu Hukum*, 8.2 (2024), 269–90 <<https://doi.org/10.24246/jrh.2024.v8.i2.p269-290>>.



Accordingly, from both ontological and normative standpoints, royalty limitations do not constitute a deviation from the principles of intellectual property protection, but rather form an integral part of the system itself. Such limitations ensure that exclusive rights do not evolve into instruments of economic domination, but instead continue to function as mechanisms for the attainment of social welfare.

The Impact of Royalty Limitations on Human Rights and the Balance of Interests

Royalty limitations within the intellectual property regime have complex implications for the fulfillment and protection of human rights, particularly within the framework of economic, social, and cultural rights. From the perspective of international law, there exists a dual recognition of two potentially conflicting interests: on the one hand, the individual right to the protection of the moral and material interests arising from one's intellectual creations, and on the other hand, the societal right to access the benefits of scientific progress, technology, and culture.⁹

This dualistic recognition is reflected in various international human rights instruments. On the one hand, there is acknowledgment of the rights of creators to obtain protection for their intellectual works. On the other hand, there is also recognition of the right of every individual to enjoy the benefits of scientific progress and its applications. This demonstrates that, from the outset, the human rights regime has anticipated the potential conflict between exclusive rights and the public interest. Within this context, royalty limitations function as a legal mechanism to reconcile these two competing interests. From a juridical standpoint, such limitations may be regarded as a form of legitimate state intervention undertaken in order to fulfill the state's obligations with respect to human rights. The state bears not only the obligation to respect rights, but also to protect and to fulfill human rights.

Positive impacts of royalty limitations on human rights in practice, royalty limitations have significant positive implications for the fulfillment of human rights, particularly in the fields of health and education. In the healthcare sector, royalty limitations through compulsory licensing mechanisms enable the state to address constraints in access to patented medicines. The high cost of medicines often constitutes a primary barrier preventing individuals from obtaining adequate healthcare services.¹⁰ Through the implementation of compulsory licensing, the state may authorize the production of generic medicines at lower cost, thereby expanding public access to treatment. From a legal standpoint, such policies possess strong legitimacy under both national and international law. The provisions of the TRIPS Agreement provide policy space for states to undertake necessary measures to protect public health. This is further reinforced by the Doha Declaration, which affirms that the protection of intellectual property must not impede state efforts to ensure access to medicines.¹¹

In the field of education, royalty limitations through the concept of fair use also play a crucial role in supporting the fulfillment of the right to education. Access to books, journals, and scholarly works constitutes a fundamental prerequisite for the learning process. In the absence of such limitations, royalty costs may become a barrier for society particularly in developing countries to obtain access to sources of knowledge. Moreover, in the digital era, royalty limitations also contribute to expanding access to information through digital platforms. This development is consistent with the evolving conception of human rights, which increasingly emphasizes the importance of access to information as a fundamental human right.

Negative impacts of royalty limitations on authors' rights. Despite their positive implications, royalty limitations also have the potential to generate adverse effects on the rights of creators or intellectual property rights holders. The right to the protection of moral and material interests constitutes an integral part of human rights and must be duly respected. Disproportionate limitations may diminish the economic value of a work, thereby reducing incentives for creators to continue innovating. From a legal perspective, this may give rise to imbalances within the intellectual property system. If royalty limitations are imposed excessively, the primary objective of intellectual property protection namely, to promote creativity and innovation—may be undermined.¹² As a consequence, in the long term, society may ultimately be adversely affected due to a decline in the production of intellectual works. Furthermore, unclear or inconsistent limitations may give rise to legal uncertainty, which may, in turn, undermine the confidence of industry actors in the legal system. This indicates

⁹ Acep Akmal Saeful Rachman and Ikhwan Aulia Fatahillah, 'Urgensi Pembaharuan Hukum Hak Kekayaan Intelektual Di Indonesia Dalam Perlindungan Karya Realitas Visual Di Era Metaverse: Studi Analisis Normatif', *Themis: Jurnal Ilmu Hukum*, 3.1 (2025), 29–37 <<https://doi.org/10.70437/THEMIS.V3I1.1225>>.

¹⁰ Christy Giana Paath and others, 'Analisis Perlindungan Hak Kekayaan Intelektual Dalam Era Digital: Tantangan Hukum Dan Etika Dalam Perlindungan Karya Kreatif', *Anthology: Inside Intellectual Property Rights*, 3.1 (2025), 301-311–301–311 <<https://ojs.uph.edu/index.php/Anthology/article/view/9914>> [accessed 14 April 2026].

¹¹ Siswoyo and Kirana.

¹² Ahmad.



that royalty limitations must be implemented with due caution and grounded in careful and well-reasoned considerations.

From a legal analytical perspective, the relationship between royalty limitations and human rights reflects the existence of a normative conflict between two categories of rights that are equally protected by law. This conflict is horizontal in nature, as there is no clear hierarchy between the two. To resolve such a conflict, several legal principles may be applied. *First*, the Principle of Proportionality requires that any limitation of rights must satisfy three primary conditions: it must pursue a legitimate aim, be necessary, and not be excessive (proportionality in the strict sense). In the context of royalty limitations, this principle implies that such limitations may only be imposed where they are genuinely necessary to protect public interests such as health and education and must be implemented within reasonable bounds.¹³

Second, the Principle of Balancing of Interests emphasizes that the law must be capable of reconciling individual interests with those of society. In this regard, royalty limitations must continue to provide fair compensation to rights holders, thereby ensuring that their economic rights are not entirely extinguished. *Third*, the Principle of the Social Function of Rights affirms that intellectual property rights serve not only individual interests but must also yield benefits for society at large. Accordingly, royalty limitations may be justified insofar as they are intended to ensure that such rights are not exercised in a manner that is detrimental to the public interest.

The state plays a central role in regulating and implementing royalty limitations. In this regard, the state must act both as a regulator and as a balancer of interests. It must ensure that policies on royalty limitations are grounded in clear legal provisions, pursue legitimate objectives, and are applied in a proportionate manner. Furthermore, the state must guarantee the existence of fair compensation mechanisms for rights holders, as well as provide effective dispute resolution mechanisms. Accordingly, it may be concluded that royalty limitations have a dualistic impact on human rights.¹⁴ On the one hand, such limitations constitute an important instrument for ensuring the fulfillment of fundamental rights within society. On the other hand, they must be implemented with due caution so as not to prejudice the rights of creators. Moreover, the balance between the protection of intellectual property rights and the fulfillment of human rights can only be achieved through the consistent application of the principles of proportionality, balancing of interests, and the social function of rights within the legal system.

Conclusion

Based on the results of the research and the foregoing discussion, it may be concluded that the ontological dimension of royalty limitations within the intellectual property legal regime demonstrates that intellectual property rights are not absolute in nature, but rather relative, limited, and imbued with a social function. Ontologically, such rights constitute legal constructs designed to provide incentives for creators while simultaneously ensuring benefits for society. Accordingly, royalty limitations form an inherent component of intellectual property rights themselves, serving to prevent excessive monopolization and to maintain a balance between individual interests and the public interest. Thus, royalty limitations possess both philosophical and juridical legitimacy as a form of lawful restriction of rights within the legal system. The impact of royalty limitations on human rights is dualistic in nature. On the one hand, such limitations play a significant role in supporting the fulfillment of human rights particularly the rights to health, education, and access to knowledge by expanding public access to intellectual works. On the other hand, they may potentially diminish the protection of creators' economic rights if implemented in a disproportionate manner. Therefore, a balance between the protection of intellectual property rights and the fulfillment of human rights is required through the consistent application of the principles of proportionality, balancing of interests, and the social function of rights, so that both interests may operate harmoniously within the legal system.

¹³ Tanissa Mayra Tsabitha and Artikel Histori, 'Perlindungan Hak Kekayaan Intelektual Atas Karya AI: Studi Kasus ChatGPT Dan DeepSeek Dalam Perspektif TRIPS Agreement', *UNES Law Review*, 8.1 (2025), 192–204 <<https://doi.org/10.31933/UNESREV.V8I1.2472>>.

¹⁴ Dean Putri Amelia, 'Analisis Implementasi Perjanjian Trips Dalam Perlindungan Hak Kekayaan Intelektual Di Indonesia', *Media Hukum Indonesia (MHI)*, 4.1 (2026), 268–74 <<https://doi.org/10.5281/zenodo.17857763>>.



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