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Intellectual Property Rights Law Reform Based on *Maqāṣid al-Sharī'ah* as a Model for Green Business-Based Creative Industry Protection to Support Sustainable Development

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Abstract:

This research is motivated by the normative tension between the intellectual property rights (IPR) legal regime, which is oriented towards exclusive rights and economic certainty, and the demands of social welfare and sustainable development. Although IPR functions as an instrument to incentivize innovation, its normative structure tends to result in unequal access and the dominance of capitalist actors, and it has not explicitly integrated the principle of sustainability. This article aims to reconstruct a model for IPR legal reform based on *maqāṣid al-sharī'ah* as a normative framework capable of balancing rights protection, distributive justice, and ecological sustainability. The research method employed is normative legal research with a statutory, conceptual, and comparative approach, which is analysed through the construction of *maqāṣid al-sharī'ah*. The results show that the Indonesian IPR regime still adheres to an *exclusivist-proprietarian* paradigm that protects individual ownership and economic benefits but has not yet internalised the principles of *maṣlahah*, *adl*, and sustainability. The integration of *maqāṣid* produces a normative model that repositions exclusive rights as conditional rights subject to the public interest, the distribution of benefits, and environmental protection. The conclusion confirms that IPR remains valid as a protection of property and intellect, but must be limited by the principles of social justice and sustainability. The limitation of this study lies in the normative approach that has not examined empirical implementation. The implication of this research is the need to reorient IPR law towards a more inclusive and sustainable system. The novelty of this article lies in the use of *maqāṣid al-sharī'ah* as a framework for the

normative reconstruction of IPR that comprehensively integrates economic, social, and ecological dimensions.

Keywords: intellectual property; law; *maqāsid al-sharī'ah*; creative industry; sustainable development.

Introduction

Current global development is characterized by tensions between the drive for economic innovation and demands for social justice and environmental sustainability.¹ In this context, intellectual property rights (IPR) serve as a strategic legal instrument that encourages creativity through the granting exclusive rights.² However, this exclusive nature also has the potential to create monopolies that limit public access and the equitable distribution of benefits.³ Therefore, sustainable development demands a restructuring of the role of IPR to align with social and environmental interests.⁴ The creative industry is highly affected by the design of IPR laws due to its dependence on ideas, intellectual works, and digital innovation. Studies show that green innovation increasingly shifts from closed R&D models to more open licensing practices during commercialization, especially in universities and start-ups. This shift requires collaborative IP strategies that balance exclusivity with knowledge sharing to accelerate sustainability.⁵ However, weak IPR protection reduces creators' incentives, while overly strong protection risks reinforcing the dominance of large actors, highlighting the need for a balanced regulatory approach.

Empirical evidence indicates that IPR protection can positively influence green innovation through increased R&D investment and foreign capital inflows, particularly in private and export-oriented industries.⁶ At the same time, excessive strengthening of IPR protection may weaken the effectiveness of environmental

¹ Leah Temper et al., 'The Global Environmental Justice Atlas (EJAtlas): Ecological Distribution Conflicts as Forces for Sustainability', *Sustainability Science* 13, no. 3 (May 2018): 573–84, <https://doi.org/10.1007/s11625-018-0563-4>; Laura Scherer et al., 'Trade-Offs between Social and Environmental Sustainable Development Goals', *Environmental Science & Policy* 90 (December 2018): 65–72, <https://doi.org/10.1016/j.envsci.2018.10.002>.

² Shan Liu and Chun Zhong, 'Green Growth: Intellectual Property Conflicts and Prospects in the Extraction of Natural Resources for Sustainable Development', *Resources Policy* 89 (February 2024): 104588, <https://doi.org/10.1016/j.resourpol.2023.104588>.

³ Roger D. Blair and Wenche Wang, 'Monopoly Power and Intellectual Property', in *The Cambridge Handbook of Antitrust, Intellectual Property, and High Tech* (Cambridge University Press, 2017), 204–21, <https://doi.org/10.1017/9781316671313.012>; Peter S. Menell, 'Property, Intellectual Property, and Social Justice: Mapping the next Frontier', *Brigham-Kanner Prop. Rts. Conf. J.* 5 (2016): 147.

⁴ Shan Liu and Chun Zhong, 'Green Growth: Intellectual Property Conflicts and Prospects in the Extraction of Natural Resources for Sustainable Development', *Resources Policy* 89 (February 2024): 104588, <https://doi.org/10.1016/j.resourpol.2023.104588>.

⁵ Pratheeba Vimalnath et al., 'Intellectual Property Strategies for Green Innovations - An Analysis of the European Inventor Awards', *Journal of Cleaner Production* 377 (December 2022): 134325, <https://doi.org/10.1016/j.jclepro.2022.134325>.

⁶ Yihao Cao et al., 'How Do Intellectual Property Rights Affect Green Technological Innovation? Empirical Evidence from China', *Sustainability (Switzerland)* 15, no. 10 (2023): 1–17, <https://doi.org/10.3390/su15107762>.



regulations, suggesting the importance of balanced green IPR policies.⁷ Nevertheless, these dynamics are rarely analysed from the perspective of social welfare and distributive justice.

The primary legal issue addressed in this research is how IPR reform can avoid monopolistic tendencies and be directed toward supporting social welfare. This issue becomes even more complex when IPR is applied in the context of green business, which demands both innovation and environmental responsibility. IPR reform should not be judged solely on its economic effectiveness, but also on its normative legitimacy. Accordingly, this research asks how IPR reform can be justified and designed with a welfare-oriented approach. Previous research generally demonstrates that IPR protection plays a significant role in promoting green innovation and environmental performance, particularly by strengthening innovation incentives and technological development. Empirical studies in China show that stronger IPR protection increases corporate green technology innovation by stimulating R&D investment, attracting foreign capital, and enhancing human capital and financial capacity, with stronger effects on private firms, exporters, and knowledge-intensive sectors.⁸ Similarly, policy interventions such as IP model cities have been found to improve green total factor productivity (GTFP) through technological progress, industrial upgrading, and investment inflows.⁹ However, the relationship between IPR and sustainability is not always linear. While both environmental regulations and IPR protection can encourage green innovation, excessive strengthening of IPR may weaken the effectiveness of environmental policies, indicating the need for balanced and adaptive green IP governance.¹⁰ In this context, IPR functions as a double-edged mechanism, simultaneously acting as a driver of innovation and a potential constraint on technology diffusion, depending on institutional design.

Critical scholarship further highlights structural limitations of the current global IPR regime, particularly for developing countries. The prevailing system, largely influenced by advanced economies, tends to restrict knowledge dissemination and technological access, thereby potentially hindering inclusive innovation and sustainable development.¹¹ Moreover, the concentration of patent ownership in developed countries, especially in emerging and digital technologies, creates asymmetries in global innovation systems and limits the flow of green technologies

⁷ Yusen Luo, Liang Xu, and Chao Wu, 'Effects of Environmental Regulation and Intellectual Property Protection on Green Technological Innovation: Evidence from China', *SAGE Open* 15, no. 1 (2025): 1–16, <https://doi.org/10.1177/21582440251323433>.

⁸ Cao and others; Xingneng Xia, Tao Huang, and Sheng Zhang, 'The Impact of Intellectual Property Rights City Policy on Firm Green Innovation: A Quasi-Natural Experiment Based on a Staggered DID Model', *Systems*, 11.4 (2023) <<https://doi.org/10.3390/systems11040209>>.

⁹ Ke Mao and Pierre Failler, 'Does Stronger Protection of Intellectual Property Improve Sustainable Development? Evidence from City Data in China', *Sustainability (Switzerland)*, 14.21 (2022), 1–15 <<https://doi.org/10.3390/su142114369>>.

¹⁰ Luo, Xu, and Wu.

¹¹ Cao and others; Xingneng Xia, Tao Huang, and Sheng Zhang, 'The Impact of Intellectual Property Rights City Policy on Firm Green Innovation: A Quasi-Natural Experiment Based on a Staggered DID Model', *Systems*, 11.4 (2023) <<https://doi.org/10.3390/systems11040209>>.



necessary to achieve the Sustainable Development Goals (SDGs).¹² These findings underscore the need for reforming international IPR frameworks by increasing flexibility, revising patent regimes for public goods technologies, and reducing excessive protection barriers. Beyond these structural concerns, recent research also emphasises the integration of IPR with sustainable business practices. Studies show that linking IPR with corporate social responsibility (CSR) and creative green strategies encourages firms to adopt sustainability-oriented IP management beyond purely financial objectives.¹³ In the creative industry, intellectual capital and green innovation have been shown to enhance financial performance and resource efficiency, with sustainability acting as a key mediating factor.¹⁴ Furthermore, aligning IPR with sustainable business models, such as through the SBM-IP Canvas, enables firms to generate economic, social, and environmental value simultaneously.¹⁵ Strengthened IPR systems are also found to be positively correlated with the development of green economies and environmentally oriented innovation ecosystems¹⁶, while the emerging concept of Green IPR provides a strategic legal framework to balance innovation protection with public access across sectors, thereby supporting sustainable development.¹⁷

Much of the empirical literature on IPR still focuses on the technocratic relationship between legal protection and innovation, without positioning IPR as part of a welfare-oriented legal framework grounded in justice and the public interest. The integration of IPR reform, the creative industry, and green business within a single normative framework remains limited, and studies linking these issues with an Islamic legal perspective are relatively scarce. Therefore, this research is significant because it positions IPR not merely as an economic instrument, but as a legal instrument that must contribute to social welfare and environmental sustainability. By employing the *maqāṣid al-sharī'ah* approach, this study seeks to provide normative justification for IPR reform to make it more equitable, inclusive, and oriented towards collective welfare.

¹² Ke Mao and Pierre Failler, 'Does Stronger Protection of Intellectual Property Improve Sustainable Development? Evidence from City Data in China', *Sustainability (Switzerland)*, 14.21 (2022), 1–15 <<https://doi.org/10.3390/su142114369>>.

¹³ Abbe E. L. Brown, Nicholas Gervassis, and Rumbidzai Mukonoweshuro, 'Corporate Social Responsibility, Intellectual Property and the Creative Industries', in *Research Handbook on Intellectual Property and Creative Industries* (Edward Elgar Publishing, 2018), <https://doi.org/10.4337/9781786431172.00037>.

¹⁴ Mithilesh Gidage and Shilpa Bhide, 'Exploring the Nexus between Intellectual Capital, Green Innovation, Sustainability and Financial Performance in Creative Industry MSMEs', *Journal of Enterprising Communities: People and Places in the Global Economy* 19, no. 3 (June 2025): 457–84, <https://doi.org/10.1108/JEC-07-2024-0134>.

¹⁵ Roberto Hernández-Chea et al., 'Integrating Intellectual Property and Sustainable Business Models: The SBM-IP Canvas', *Sustainability* 12, no. 21 (October 2020): 8871, <https://doi.org/10.3390/su12218871>.

¹⁶ Peini Huo and Feng Liu, 'A Study on the Dynamic Relationship between Intellectual Property Rights and Green Economy Development in China.', *Journal of Neuroscience, Psychology, and Economics* 17, no. 2 (June 2024): 110–18, <https://doi.org/10.1037/npe0000187>.

¹⁷ Raj Kumar Yadav and Asheesh Yadav, 'Green Intellectual Property Rights: A Sustainable Approach to Innovation and Environmental Protection', preprint, 2025, <https://doi.org/10.2139/ssrn.5198470>.



This research aims to analyze the role of IPR in realizing social welfare, formulate a *maqāṣid al-sharī'ah*-based IPR reform model relevant to green business practices in the creative industry, and develop policy recommendations aligned with the sustainable development agenda. The *maqāṣid* framework, particularly the principles of *maṣlahah*, justice ('*adl*), and protection of property (*ḥifẓ al-māl*), is used to evaluate the ethical and social orientation of IPR, including the dimension of environmental protection as part of contemporary *maqāṣid* development. The uniqueness of this research lies in the integration of IPR, Islamic law, and sustainability, thereby contributing theoretically to the development of Islamic legal thought and practically through policy recommendations that support social justice and sustainable development.

Method

This research adopts a normative legal (doctrinal) approach that focuses on analysing the legal norms governing intellectual property rights (IPR) within the framework of legal reform.¹⁸ The selection of this research design is based on the study's emphasis on "legal reform" and "protection models," such that the object of analysis consists of legal norms rather than the behavior of industry actors or empirical field data. Furthermore, the use of the *maqāṣid al-sharī'ah* framework situates this research within the realm of normative-theoretical analysis aimed at formulating legal concepts oriented towards social welfare. The concepts of green business and sustainable development in this study function as normative contexts that reinforce the direction of legal reform, rather than as empirical variables.

This research employs several approaches: a conceptual approach to formulate the concept of welfare-based IPR reform and interpret the principles of *maqāṣid al-sharī'ah*,¹⁹ such as *maṣlahah*, '*adl*, and *ḥifẓ al-māl* and sustainability; a statute approach to analyze the applicable IPR regulations and identify the need for legal reform; and a legal policy (law reform) approach to design a model of IPR legal protection that bridges positive law, *maqāṣid* values, and sustainable development goals. The sources of legal materials consist of primary legal materials in the form of IPR laws and regulations in Indonesia (Copyright Law, Patent Law, Trademark and Geographical Indications Law, Industrial Design Law, and implementing regulations), regulations related to the creative and green economy, and international legal instruments such as TRIPS Agreement and the WIPO convention; Secondary legal materials include scientific literature on IPR reform, *maqāṣid al-sharī'ah*, the creative industries, and green business. Tertiary legal materials consists of legal dictionaries, encyclopedias, and regulatory indexes to ensure terminological consistency.

Legal materials were collected through library research using a documentation method, involving systematic identification and inventorying of relevant legal

¹⁸ Peter Mahmud Marzuki, *Penelitian hukum* (Jakarta: Kencana, 2007).

¹⁹ Nasrullah Nasrullah et al., 'Reconstructing Mining Governance through Maqasid Al-Sharia: Towards Natural Resource Management Public Welfare Oriented', *Syariah: Jurnal Hukum Dan Pemikiran* 25, no. 1 (August 2025): 97–112, <https://doi.org/10.18592/sjhp.v25i1.18046>; Nur Ushmi Usthyawati, Muhaimin Muhaimin, and Bangkit Budi Satriya, 'Fulfillment of Wife's Rights after Divorce in the Perspective of Legal Justice Theory and Maqashid Shari'ah Cum-Mubadalah', *Sakina: Journal of Family Studies* 9, no. 3 (August 2025): 293–305, <https://doi.org/10.18860/jfs.v9i3.15981>.



documents and scientific literature.²⁰ The analysis of legal materials is carried out qualitatively and normatively using several legal reasoning patterns: deductive analysis to derive the general principles of *maqāṣid al-sharī'ah* into IPR evaluation criteria and formulate a legal reform model; normative comparative analysis to identify tensions between IPR objectives, social welfare, and sustainable development; prescriptive analysis to formulate a legal reform model and policy recommendations; and limited normative causality analysis to explain the relationship between IPR protection, innovation, and its implications for social welfare and the environment. The legal interpretation techniques applied include grammatical interpretation to determine the meaning of texts in IPR regulations, systematic interpretation to situate IPR norms within the broader legal system and connect them with economic, environmental, and public policy laws, and teleological or sociological interpretation to assess the objectives of IPR law and its alignment with the principles of social welfare and sustainable development. In addition, historical and comparative interpretations are employed to enrich the analysis and to formulate a more adaptive and equitable direction for legal reform.

Result and Discussion

Normative Issues of Intellectual Property Rights from a Welfare Perspective

In Law Number 28 of 2014 concerning Copyright,²¹ the Considering section states that copyright “has a strategic role in supporting national development” and that the development of the creative economy “needs to be encouraged and protected.” This formulation demonstrates a teleological orientation towards the growth of the creative economy. Normatively, Article 1 number 1 states that “Copyright is the exclusive right of the creator,” reinforced by Article 4 (“Copyright is an exclusive right consisting of moral rights and economic rights”), and Article 8 which emphasises that economic rights are “the exclusive right... to obtain economic benefits.” Article 9 paragraph (3) even states “Any person who without permission... is prohibited from duplicating and/or using commercially,” thereby reinforcing a limited monopoly structure based on authorisation. The protection mechanism is emphasized in Articles 95–96 (the right to file a lawsuit for compensation) and Article 113 (the threat of imprisonment and fines of up to billions of rupiah). The exception in Article 43 allows use for education or research “as long as it does not harm the legitimate interests of the Creator”, indicating that flexibility remains subordinate to the economic interests of the rights holder.

A similar structure is found in Law Number 13 of 2016 concerning Patents,²² where Article 1 number 1 states that a patent is “an exclusive right granted by the state to an inventor,” and Article 19 grants the patent holder the right to prohibit other parties from making, using, selling, or importing their invention without approval. Protection lasts for 20 years (Article 22), demonstrating a long-term protection model for inventions as economic assets. In Law Number 20 of 2016

²⁰ Aldo Redho Syam and others, ‘Leadership Behaviour of a Boarding School in Indonesia’, *Pegem Journal of Education and Instruction*, 13.1 (2022) <<https://doi.org/https://doi.org/10.47750/pegegog.13.01.12>>.

²¹ Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta LN 2014 No. 266

²² Undang-Undang Nomor 13 Tahun 2016 tentang Paten LN 2016 No. 176



concerning Trademarks and Geographical Indications,²³ Article 1 number 1 states that a trademark is “an exclusive right granted by the state to the owner of a registered trademark,” so that registration is constitutive and becomes a gateway to access protection. Similarly, Law Number 31 of 2000 concerning Industrial Design²⁴ provides that industrial design rights are granted exclusively to the holder of the registered design. This pattern, reinforced by various implementing regulations regarding registration, licensing, and enforcement, demonstrates a strong orientation towards exclusivity, private ownership, and administrative legal formalism.

From this normative structure, it can be observed that IPR norms systematically protect creators or rights holders as the primary legal subjects. The protected values are certainty of ownership, exclusivity, and economic benefits. The parties who benefit most are business actors or corporations with capital capacity, the ability to manage registration, and the resources to conduct litigation. Civil lawsuit mechanisms and criminal sanctions implicitly require costs, access to lawyers, and the ability to provide evidence, so the effectiveness of protection is closely linked to capital control and litigation capacity. From the legal power structure perspective, the Indonesian IPR regime tends to produce more optimal protection for large-capital actors compared to small creators or traditional communities.

When compared to the welfare framework in Law Number 24 of 2019 concerning the Creative Economy,²⁵ which in Article 3 affirms the objective of "improving public welfare and national competitiveness," a teleological divergence become apparent. Welfare law emphasises the distribution of social benefits and collective empowerment, whereas IPR Law emphasises the protection of individual rights and market certainty. National policy documents on the green economy and sustainable development place environmental sustainability as a key principle, but this principle is not explicitly internalised within IPR norms. In the international context, the 1994 Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)²⁶ establishes minimum standards for IPR protection and provides flexibility, such as compulsory licensing. Meanwhile, the World Intellectual Property Organization (WIPO) conventions also emphasize the protection of exclusive rights as an instrument of innovation.²⁷ On the other hand, the principles of the Sustainable Development Goals (SDGs) encourage inclusive and sustainable innovation. This comparison demonstrates that despite the flexibility afforded by international law, Indonesian national law has not yet progressively utilised it to advance the sustainability agenda.

Using the *argumentum ex silentio* approach, it can be confirmed that not a single article in the Copyright Law, Patent Law, Trademark Law, or Industrial Design Law explicitly provides specific incentives for green innovation, facilitates small creators through affirmative mechanisms, or requires environmentally friendly licenses for the public interest. There are no normative phrases that mention "environment," "sustainability," or "green innovation" as the basis for protection or exceptions. The

²³ Undang-Undang Nomor 20 Tahun 2016 tentang Merek dan Indikasi Geografis LN 2016 No. 252

²⁴ Undang-Undang Nomor 31 Tahun 2000 tentang Desain Industri LN. 2000 No. 243

²⁵ Undang-Undang Nomor 24 Tahun 2019 tentang Ekonomi Kreatif LN. 2019 No. 212

²⁶ Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)

²⁷ Convention Establishing the World Intellectual Property Organization (1967).



absence of these norms indicates that the design of Indonesian IPR law still adheres to a classical proprietary paradigm and has not yet been integrated with the legal objectives of ecological welfare. Therefore, there is scope for legal reform to shift the orientation from exclusive protection to a more inclusive, socially just, and sustainable development-aligned IPR model.

The description of the exclusivity orientation in the Indonesian IPR regime is essentially textually and systematically accurate when read from the normative construction of its sectoral laws. In Law Number 28 of 2014 concerning Copyright, the “Considering” section indeed positions copyright as a strategic instrument for national development and strengthening the creative economy, which teleologically indicates an orientation towards creativity-based economic growth. The affirmation of “exclusive rights” in Article 1 number 1, Article 4, and Article 8, as well as the prohibition in Article 9 paragraph (3) against unauthorised duplication or commercial use, systematically constructs a limited monopoly structure based on permission. The civil lawsuit mechanism (Articles 95–96) and severe criminal sanctions (Article 113) show that the state provides strong enforcement tools to protect the interests of rights holders. The exception in Article 43 which is required “as long as it does not harm the reasonable interests of the Creator” confirms that flexibility remains in the subordination of the economic interests of rights holders. The same pattern is also reflected in Law No. 13 of 2016 concerning Patents, Law No. 20 of 2016 concerning Trademarks and Geographical Indications, and Law No. 31 of 2000 concerning Industrial Designs, all of which establish registration-based exclusive rights as the foundation of protection. Thus, it can be dogmatically justified that the Indonesian IPR regime is oriented towards exclusivity, certainty of ownership, and protection of economic value.

However, when the normative description of intellectual property rights (IPR) is examined through secondary legal materials, more complex nuances emerge. The relationship between the global IPR system and the Sustainable Development Goals (SDGs) remains ambiguous, primarily due to the absence of explicit indicators linking IPR protection to specific SDG targets, including within the institutional framework of the World Intellectual Property Organization.²⁸ This suggests that the lack of environmental or sustainability provisions in Indonesian IPR law is not an isolated national deficiency but reflects a broader structural characteristic of the global IPR regime, which historically prioritises exclusivity and economic protection. Moreover, IPR is inherently ambivalent, functioning both as a driver of innovation and as a barrier to access, depending on how it is designed and implemented within governance frameworks.²⁹ Consequently, while exclusivity can create structural barriers, it also holds potential to support sustainability if embedded within appropriate policy mechanisms.

²⁸ Sara Bannerman, ‘The World Intellectual Property Organization and the Sustainable Development Agenda’, *Futures* 122 (September 2020): 102586, <https://doi.org/10.1016/j.futures.2020.102586>.

²⁹ Bitu Amani, Caroline B. Ncube, and Matthew Rimmer, ‘Conclusion: “Blueprints for a Better World”: The Future of Intellectual Property and Sustainable Development’, in *The Elgar Companion to Intellectual Property and the Sustainable Development Goals* (Edward Elgar Publishing, 2024), 582–610, <https://doi.org/10.4337/9781803925233.00033>.



This ambivalence is further clarified through the concept of green intellectual property, which frames IPR as a strategic resource in sustainable economic development. Rather than being inherently unjust, exclusivity can serve as an incentive for environmentally friendly innovation when guided by adaptive and policy-oriented frameworks.³⁰ The Responsible Intellectual Property Strategy (R-IPS) reinforces this perspective by demonstrating that selective licensing and strategic allocation of rights can generate positive social and environmental outcomes without dismantling the core structure of exclusive rights.³¹ Therefore, evaluating Indonesia's IPR regime requires distinguishing between the neutrality of legal norms and the policy directions that shape their application. In this sense, the issue lies not in the existence of exclusivity itself, but in how it is operationalised within broader governance systems.

Furthermore, the relationship between IPR and sustainable development must be understood within a broader socio-economic framework. The creative economy, for instance, has the potential to align with sustainable human development by simultaneously strengthening economic, social, and cultural dimensions.³² This challenges the assumption that the economic orientation of IPR law inherently contradicts welfare objectives. Instead, the core issue lies in the absence of explicit integration between IPR protection and socio-ecological goals. Contemporary scholarship emphasises the need for a new normative framework that reorients IPR towards sustainability and global justice, particularly in the post-pandemic context.^{33,34} The absence of affirmative norms on green innovation, open licensing, and protection for small creators in Indonesian law therefore reflects a broader normative gap also observed in global discourse.

Accordingly, the conclusion that Indonesian IPR law remains rooted in a classical proprietary paradigm can be normatively justified, as it is grounded in principles of exclusivity and ownership protection. However, this characterisation must be refined in light of contemporary scholarship. The IPR system is not inherently opposed to sustainability; rather, it is structurally ambivalent and highly dependent on policy integration. The central tension is not simply between exclusivity and welfare, but between economic incentive structures and the unfulfilled demand for socio-ecological integration within legal frameworks. Therefore, the Indonesian IPR regime may be understood as consistent with the

³⁰ Aldona Małgorzata Dereń and Jan Skonieczny, 'Green Intellectual Property as a Strategic Resource in the Sustainable Development of an Organization', *Sustainability* 14, no. 8 (April 2022): 4758, <https://doi.org/10.3390/su14084758>.

³¹ Pratheeba Vimalnath et al., 'Responsible Intellectual Property Strategy for Sustainability Transition - An Exploratory Study', *World Patent Information* 73 (June 2023): 102195, <https://doi.org/10.1016/j.wpi.2023.102195>.

³² Guilherme Nobre, 'Creative Economy and Sustainable Human Development', *Economía Creativa*, no. 6 (2016): 85–106.

³³ Felipe de Andrade, 'Remodelling IP Rights for Global Justice, Innovation and Sustainability', *Journal of Intellectual Property Law and Practice* 19, no. 10 (September 2024): 793–96, <https://doi.org/10.1093/jiplp/jpae060>.

³⁴ Taina Pihlajarinne, Jukka Mähönen, and Pratyush N. Upreti, *Intellectual Property Rights in the Post Pandemic World: An Integrated Framework of Sustainability, Innovation and Global Justice* (Edward Elgar Publishing, 2023).



global architecture of IPR, in which sustainability and welfare remain external policy considerations rather than fully institutionalised legal principles.³⁵

Incompatibility of IPR with the Principles of Sustainable Development

The objectives of intellectual property rights (IPR) in Indonesian positive law can be traced from the normative construction of sectoral legislation, including Law No. 28 of 2014 on Copyright, Law No. 13 of 2016 on Patents, Law No. 20 of 2016 on Trademarks and Geographical Indications, and Law No. 31 of 2000 on Industrial Designs. These laws consistently frame IPR protection as a strategic instrument for national development and economic competitiveness. The central principle underlying this regime is the granting of “exclusive rights,” which function as limited monopolies allowing creators, inventors, and rights holders to exploit their works economically while excluding others without authorisation. Consequently, IPR law is oriented towards legal certainty, economic incentives for innovation, and the creation of a favourable investment climate. The registration-based system further reinforces this orientation, as legal recognition of rights depends on formal administrative procedures, emphasising exclusivity and the commodification of intangible assets as capital.

In contrast, the concept of social welfare in legal theory is grounded in the welfare state paradigm, which positions law as a mechanism for distributing benefits and protecting the public interest. From a distributive justice perspective, legal systems should ensure equitable allocation of resources and not disproportionately favor capital-intensive actors. The public interest principle requires that private rights be limited when they conflict with societal needs. Within the framework of *maqāṣid al-sharī'ah*, law is directed toward achieving *maṣlahah* (public good) and *'adl* (justice), encompassing not only the protection of individual rights but also broader social welfare,³⁶ including access to knowledge, protection of vulnerable groups, and sustainability for future generations. This orientation integrates social and ecological dimensions, making it normatively broader than the property-centered logic of conventional IPR regimes.

Sustainable development, particularly as articulated in the Sustainable Development Goals (SDGs), introduces an additional normative framework that emphasizes balance among economic growth, social inclusion, and environmental protection. The principle of sustainability requires integrating ecological considerations into development policies, while intergenerational justice demands that current development does not compromise the rights of future generations. In this context, equitable access to innovation, environmental protection, and socio-economic balance become interconnected objectives. International IPR regimes, such as the TRIPS Agreement, establish minimum standards of protection while also allowing flexibility for public interest considerations. Similarly, frameworks under

³⁵ Bannerman, ‘The World Intellectual Property Organization and the Sustainable Development Agenda’; Amani, Ncube, and Rimmer, ‘Conclusion: “Blueprints for a Better World”: The Future of Intellectual Property and Sustainable Development’.

³⁶ Miftahul Huda, Aditya Prastian Supriyadi, and Ramadhita, ‘Productive Waqf Law Reform: A Solution to Support Indonesian Local Economy amid Contemporary Global Recession’, *MILRev: Metro Islamic Law Review* 4, no. 1 (June 2025): 319–59, <https://doi.org/10.32332/milrev.v4i2.10210>.



the World Intellectual Property Organization (WIPO) recognize the need to balance private rights with broader societal goals, indicating that exclusivity is not absolute but subject to normative limitations.

Conceptually, a fundamental divergence emerges between the objectives of IPR and those of welfare and sustainability. Indonesian IPR law emphasizes ownership certainty, exclusivity, and economic incentives, whereas welfare-oriented frameworks prioritize equitable distribution, public access, protection of marginalized groups, and environmental sustainability. While IPR relies on limited monopolies to stimulate innovation, welfare paradigms seek to restrict monopolistic tendencies to safeguard public interest. This divergence reflects a broader tension between individual rights and socio-ecological responsibilities, as IPR frameworks prioritise market certainty while sustainable development calls for a balance between economic, social, and environmental considerations.

This divergence gives rise to normative tensions, particularly when the exclusivity inherent in IPR restricts access to knowledge and technologies essential for social welfare and environmental protection. Registration-based systems and litigation mechanisms tend to favor actors with greater financial and legal resources, potentially marginalizing small-scale innovators and communities. Moreover, Indonesian IPR law has not explicitly incorporated principles of sustainability or intergenerational justice into its normative structure, leaving these concerns largely within separate policy domains. As a result, while IPR law promotes innovation through economic incentives, it does not inherently ensure equitable access or ecological responsibility. This structural gap highlights the need for legal reform that integrates principles such as *maṣlahah*, distributive justice, public interest, and sustainability into the IPR framework.

However, a more nuanced analysis based on secondary legal materials reveals that the relationship between IPR and sustainable development is not purely antagonistic. Empirical studies demonstrate that strong IPR protection can support innovation-driven economic transformation, enhance regional competitiveness, and contribute to sustainable urbanisation³⁷. These findings suggest that exclusivity and legal certainty, which are central to IPR regimes, can function as prerequisites for technological innovation, including innovations that support SDG 9 (industry and innovation) and SDG 11 (sustainable cities). Therefore, the characterization of IPR as solely a tool for capital accumulation is incomplete, as it can also generate indirect socio-ecological benefits under appropriate policy conditions.

Nevertheless, comparative studies highlight the ambivalent nature of IPR systems. Developed countries often view strong IPR protection as a driver of innovation and economic growth, while developing countries tend to emphasise concerns related to access and technology transfer.³⁸ This divergence underscores the

³⁷ Xing Gao, Jin Zhu, and Bao-Jie He, 'The Linkage between Sustainable Development Goals 9 and 11: Examining the Association between Sustainable Urbanization and Intellectual Property Rights Protection', *Advanced Sustainable Systems* 6, no. 3 (March 2022), <https://doi.org/10.1002/adsu.202100283>.

³⁸ Bitá Amani, Caroline B. Ncube, and Matthew Rimmer, 'Introduction: "The People's Agenda": A History of Intellectual Property and Sustainable Development', in *The Elgar Companion to Intellectual Property and the Sustainable Development Goals* (Edward Elgar Publishing, 2024), 1–36, <https://doi.org/10.4337/9781803925233.00007>.



potential of IPR to exacerbate global inequalities. Indeed, the international IPR system has been criticised for being more effective in facilitating wealth accumulation than in addressing poverty and inequality, necessitating a shift toward human-centered development frameworks³⁹. These findings reinforce the argument that the property-based paradigm of IPR has not been fully aligned with broader social welfare and poverty reduction goals, including SDG 1.

Recent global discourse further reflects a shift from strict protection of exclusive rights toward a more balanced approach that integrates access to knowledge, education, and health. Scholars argue that IPR should be understood within a broader framework of knowledge governance, which emphasises the importance of human rights, including the right to access knowledge.^{40 41} Moreover, IPR has been recognized as relevant across all 17 SDGs, highlighting its systemic impact on sustainable development.⁴² This perspective underscores that the core issue is not the existence of exclusive rights per se, but rather how these rights are governed and balanced with public interest considerations. The dual role of IPR as both a driver of innovation and a potential barrier to access highlights the need for regulatory flexibility⁴³.

Furthermore, effective IPR management can support broader economic and social objectives, including innovation ecosystems, entrepreneurship, and job creation, thereby contributing to SDG 8 (inclusive economic growth) and SDG 17 (global partnerships).^{44 45} International institutions have also taken steps to align IPR with development goals, as evidenced by initiatives such as the Committee on Development and Intellectual Property and the Technology Facilitation Mechanism within the United Nations system.⁴⁶ These developments indicate a gradual shift toward integrating IPR with sustainable development agendas, emphasizing the importance of collaboration, knowledge sharing, and policy coherence.

In conclusion, while Indonesian IPR law remains normatively grounded in a paradigm of ownership protection and economic incentives, this framework must be

³⁹ J. Janewa Osei-Tutu, 'Intellectual Property's Role in Eliminating Poverty: SDG 1', in *The Elgar Companion to Intellectual Property and the Sustainable Development Goals* (Edward Elgar Publishing, 2024), 37–49, <https://doi.org/10.4337/9781803925233.00008>.

⁴⁰ Matthew Rimmer, *A Submission on Intellectual Property and the United Nations Sustainable Development Goals*, 2018.

⁴¹ Margaret Chon, 'Recasting Intellectual Property in Light of the UN Sustainable Development Goals: Toward Global Knowledge Governance', *Am. U. Int'l L. Rev.* 34 (2018): 763.

⁴² Caroline B. Ncube, 'Moving from Mirages to Miracles: Intellectual Property, Human Rights and the Global Partnership for Sustainable Development', *GRUR International* 72, no. 7 (June 2023): 629–30, <https://doi.org/10.1093/grurint/ikad051>.

⁴³ Md Tanweer Alam Sunny and R. P. Chaudhary, 'The Role of Intellectual Property in Achieving Global Sustainability Goals', *ABC Academic Bank of Credit AI Artificial Intelligence BDI Beck Depression Inventory CAI Computer-Aided Instruction CAL Computer-Aided Learning*, 2024, 156.

⁴⁴ Yang YunQi and Grace T. R. Lin, *Bridging the Gap: Intellectual Property Rights and Sustainable Development Goals in Innovation Ecosystems*, 2023.

⁴⁵ Covenant Onyemauwa, 'The Crucial Role Of Intellectual Property In Achieving Sustainable Development Goals: Importance, Challenges And Solutions. By Onyemauwa Covenant Ugonna', *SSRN Electronic Journal*, ahead of print, 2025, <https://doi.org/10.2139/ssrn.5193921>.

⁴⁶ Hans Morten Haugen, 'Why Are Intellectual Property Rights Hardly Visible in the United Nations Sustainable Development Goals?', in *Intellectual Property and Sustainable Markets* (Edward Elgar Publishing, 2021), <https://doi.org/10.4337/9781789901351.00007>.



understood within a broader and more dynamic context. IPR is not inherently incompatible with social welfare and sustainability; rather, its impact depends on institutional design, regulatory flexibility, and the integration of human rights and environmental considerations. The key challenge lies in achieving a balance between maintaining innovation incentives and ensuring equitable access, distributive justice, and ecological sustainability.⁴⁷ Thus, the relationship between IPR and welfare is not a binary opposition but a matter of governance, requiring a reconfiguration of legal frameworks to align economic, social, and environmental objectives.

***Maqāṣid al-Sharī'ah* as a Framework for IPR Reform**

Maqāṣid al-sharī'ah in this study is conceptualised not merely as a doctrinal articulation of the objectives of Islamic law, but as an evaluative and analytical framework for assessing the rationality, legitimacy, and moral orientation of positive legal regimes, including intellectual property rights (IPR). At its core, *maqāṣid* encompasses the preservation of religion (*ḥifẓ al-dīn*), life (*ḥifẓ al-naḥs*), intellect (*ḥifẓ al-'aql*), lineage (*ḥifẓ al-nasl*), and property (*ḥifẓ al-māl*), which contemporary scholarship has expanded into a comprehensive framework for justice, welfare, and social sustainability. Within this framework, the protection of property is classified as a fundamental necessity (*ḍarūriyyāt*), underscoring its normative centrality and applicability to modern legal constructs such as intellectual property.⁴⁸ Consequently, *maqāṣid* serves as a critical lens to evaluate whether the IPR regime promotes *maṣlahah* (collective benefit) and *'adl* (justice), or instead reinforces structural inequality and social harm.

From a conceptual perspective, IPR can be justified within *maqāṣid* through the principles of *ḥifẓ al-māl* and *ḥifẓ al-'aql*. Intellectual creations possess economic value and utility, thereby qualifying as *māl* (property) that deserves protection, while simultaneously representing the outcome of human intellect that must be safeguarded against unauthorised use.⁴⁹ Copyright, for instance, is categorized as *al-ḥuqūq al-mālīyah* due to its transferability and economic value.⁵⁰ However, *maqāṣid* does not merely legitimize ownership; it also imposes ethical and social limitations. Protection of intellectual property must not generate monopolistic practices, inequality, or environmental degradation. Scholars emphasise that exclusivity is acceptable only

⁴⁷ Achmad Agus Priyono, 'Uncovering Islamic Financial Literacy: A Case Study of Islamic Economics and Banking Students', *Islamic Economic Management and Entrepreneurship*, 1.1 (2026).

⁴⁸ Ahmad Syukran Baharuddin ASB and others, 'An Appraisal of Maqāṣid Al-Sharī'ah Classic and Recent Literature: Systematic Analysis', 2019.

⁴⁹ Mohd Izzat Amsyar Mohd Arif and Hisham Hanapi, 'The Concept of Intellectual Property As Al Mal: An Islamic Perspective Approach', *International Journal of Educational Best Practices* 1, no. 1 (2017): 102–8; Ezieddin Elmahjub, 'An Islamic Perspective on the Theories of Intellectual Property', in *Copyright Perspectives: Past, Present and Prospect* (Springer, 2015), 51–84; Hani Sholihah, 'Intellectual Property Rights from an Islamic Legal Perspective', *Al-Afkar, Journal For Islamic Studies* 9, no. 1 (2026): 1305–17.

⁵⁰ Tarmidzi Tarmidzi et al., 'Reconstructing the Concept of Copyright as Al-Ḥuqūq Al-Mālīyah in Islamic Law', *Invest Journal of Sharia & Economic Law* 5, no. 2 (December 2025): 227–51, <https://doi.org/10.21154/invest.v5i2.11552>; Anindya Aryu Inayati and Muhammad Asro, 'Reconstructing The Concept Of Copyright As Al-Ḥuqūq Almālīyah In Islamic Law.', *Invest Journal of Sharia & Economic Law* 5, no. 2 (2025).



insofar as it does not produce harm to society, and that *maqāṣid* inherently includes ecological considerations through the prevention of damage (*dar' al-mafāsid*) and the preservation of life and resources.⁵¹

Functionally, the application of *maqāṣid* to IPR transforms its legal meaning from a purely economic instrument into a normative system oriented toward collective welfare. Exclusivity, which forms the foundation of modern IPR regimes, is reinterpreted as a conditional principle rather than an absolute right. The legitimacy of IPR protection depends on its ability to balance individual rights with public interests and social benefit. This perspective challenges the dominant utilitarian approach in Western IPR theory, which tends to prioritise economic incentives over equitable access.⁵² Within a *maqāṣid*-based framework, IPR is justified when it promotes innovation and prevents exploitation, but becomes problematic when it restricts access to knowledge or exacerbates inequality. Islamic economic thought further reinforces this position by emphasising the integration of profit with ethical values, requiring legal systems to be evaluated not only in terms of efficiency, but also in terms of justice and sustainability.⁵³

An evaluative analysis of the contemporary IPR regime reveals a significant tension between the principle of exclusivity and the broader objectives of *maqāṣid*. In Indonesian positive law, IPR is primarily structured around exclusive rights, supported by registration, licensing, and enforcement mechanisms. While this framework aligns with the principle of *hifẓ al-māl* in protecting ownership, it also risks creating monopolies and restricting public access to essential knowledge and technology. Such outcomes contradict the principles of *maṣlaḥah* and *'adl*, particularly when they hinder access to socially beneficial innovations.⁵⁴ Research on communal intellectual property suggests that integrating *maqāṣid* can lead to more inclusive and equitable legal models that balance individual rights with collective interests.⁵⁵ Furthermore, the expansion of intellectual property into digital domains

⁵¹ Suud Sarim Karimullah, 'Exploration of Maqasid Al-Shariah Concepts in The Development of Islamic Economic Policies', *Mu'amalah: Jurnal Hukum Ekonomi Syariah* 2, no. 2 (December 2023): 153–72, <https://doi.org/10.32332/muamalah.v2i2.7747>; Meirison Meirison and Zerly Nazar, 'Intellectual Property Rights and Monopoly in the Perspective of Islamic Jurisprudence', *Al-Ahkam* 31, no. 1 (April 2021): 49–68, <https://doi.org/10.21580/ahkam.2021.31.1.6656>; Laila Barqawi and Mohammad Abu Baker, 'The Correlation Between Islamic Law And Modern Intellectual Property Law.', *Corporate Law & Governance Review* 7, no. 3 (2025); Norita Mohd Nasir, Mahendhiran Sanggaran Nair, and Pervaiz Khalid Ahmed, 'Environmental Sustainability and Contemporary Islamic Society: A Shariah Perspective', *Asian Academy of Management Journal* 27, no. 2 (December 2022), <https://doi.org/10.21315/aamj2022.27.2.10>.

⁵² Tauratiya et al., 'Maqāṣid Al-Sharī'ah and Copyright Protection: A Critical Examination of Copyright Regulation in Indonesia', *Asy Syar'iyyah: Jurnal Ilmu Syari'ah Dan Perbankan Islam* 10, no. 2 (December 2025): 110–34, <https://doi.org/10.32923/zdsgrc57>.

⁵³ Khaliq Ahmad and Datuk Abdelaziz Berghout, *Islamic Finance and Sustainable Development: Balancing Spirituality, Values and Profit* (Taylor & Francis, 2025).

⁵⁴ Meirison and Nazar, 'Intellectual Property Rights and Monopoly in the Perspective of Islamic Jurisprudence'; Barqawi and Abu Baker, 'The Correlation Between Islamic Law And Modern Intellectual Property Law.'

⁵⁵ Hari Sutra Disemadi et al., 'Revitalizing Intellectual Property Rights in Indonesia: A Maqasid al-Sharia Perspective on Communal Ownership', *Al-Istinbath: Jurnal Hukum Islam* 9, no. 2 (November 2024): 625–48, <https://doi.org/10.29240/jhi.v9i2.11039>.



highlights the need for ethical constraints to prevent exploitation and ensure fair distribution of benefits ⁵⁶.

Overall, *maqāṣid al-sharī'ah* provides both a legitimising and corrective framework for modern IPR systems. It recognises intellectual property as a legitimate form of property and intellectual output deserving protection, while simultaneously imposing ethical boundaries to ensure that such protection aligns with justice, collective welfare, and environmental sustainability. The central normative challenge lies in preventing the absolutisation of exclusivity, which may undermine access, equity, and ecological balance. Thus, *maqāṣid* is not antithetical to IPR; rather, it reorients the system towards a balanced model in which legal protection is conditioned upon its contribution to the public good, social justice, and sustainable development.

Model of IPR Law Reform Based on Maqāṣid al-Sharī'ah

The model for reforming intellectual property rights (IPR) law based on *maqāṣid al-sharī'ah* can be conceptualised as a normative reconstruction derived from structural problems within the modern IPR regime, particularly its inconsistency with welfare and sustainability objectives. The Indonesian IPR system is fundamentally built on strong exclusive rights, ownership-based protection, administrative registration, and enforcement mechanisms dependent on litigation capacity and capital.⁵⁷ Such a structure prioritises legal certainty and economic benefits, while systematically privileging well-resourced actors and potentially generating unequal access to knowledge and innovation. When contrasted with the principles of social welfare and sustainable development, such as equitable benefit distribution, public access, protection of vulnerable groups, and environmental sustainability, a clear normative tension emerges.⁵⁸ In this context, *maqāṣid al-sharī'ah* provides an evaluative framework that legitimizes IPR protection under *ḥifẓ al-māl* and *ḥifẓ al-'aql*, while simultaneously establishing ethical limits to prevent inequality, collective harm, and ecological damage.⁵⁹ Accordingly, the reform model repositions exclusive rights from absolute entitlements to conditional instruments subject to *maṣlaḥah* and *'adl*, ensuring that IPR contributes to collective well-being and sustainability.

⁵⁶ Syikma Riyadlil Jannah Syikma Riyadlil Jannah, 'Hifz Al-Khususiyah: A Contemporary Fiqh Analysis of Personal Data Theft from the Perspective of Property Rights and Maqashid Sharia', *International Conference on Interdisciplinary Gender Studies* 7, no. 1 (2025): 191–200; Arminsyah Arminsyah, 'Maqasid Al-Shariah in Contemporary Legal Systems: An Analysis of Digital Rights and Privacy Protection', *Al-Qadha: Jurnal Hukum Islam Dan Perundang-Undangan* 12, no. 2 (July 2025): 289–308, <https://doi.org/10.32505/qadha.v12i2.11178>.

⁵⁷ Ayu Mustika Pamungkas and Hikam Hulwanullah, 'Celebrity Persona: Can Intellectual Property Law in Indonesia Provide Adequate Protection?', *Jambura Law Review* 7, no. 1 (January 2025): 197–224, <https://doi.org/10.33756/jlr.v7i1.27579>.

⁵⁸ Edi Kurniawan, 'Governing the Market through Fatwa: The Political Economy of the Indonesian Ulema Council's Fatwa on the Prioritization of Domestic Products', *Law and Social Justice in Society*, 1.1 (2025).

⁵⁹ Baharuddin ASB et al., *An Appraisal of Maqāṣid Al-Sharī'ah Classic and Recent Literature: Systematic Analysis*; Karimullah, 'Exploration of Maqasid Al-Shariah Concepts in The Development of Islamic Economic Policies'; Meirison and Nazar, 'Intellectual Property Rights and Monopoly in the Perspective of Islamic Jurisprudence'.



Methodologically, this reform model adopts a teleological approach that transforms the function of IPR from a purely economic instrument into a mechanism of socio-ecological justice. Its normative objective extends beyond policy considerations to the broader aim of law itself, namely the realization of collective welfare through fair, inclusive, and sustainable legal structures. Within this framework, IPR serves not only as an incentive for innovation but also as a tool for distributing social benefits and safeguarding the public interest, consistent with welfare state principles, distributive justice, and intergenerational justice. This perspective aligns with contemporary scholarship demonstrating that IPR can both enable and hinder the achievement of the Sustainable Development Goals (SDGs), depending on its institutional design.⁶⁰ It also highlights the need for explicit integration of sustainability and global justice considerations into IPR frameworks.⁶¹ Thus, the model seeks to construct an IPR system that balances individual rights protection with public access, equitable benefit distribution, and environmental sustainability.

The design criteria of this model are grounded in *maqāṣid* principles to ensure normative coherence and prevent speculative reconstruction. The principle of *ḥifẓ al-māl* affirms the legitimacy of protecting intellectual property as a form of lawful property, while recognising exclusive rights as necessary for incentivising creativity and innovation.⁶² However, these rights must be limited by *maṣlaḥah* and *‘adl* to avoid monopolistic practices that harm society.⁶³ The principle of *ḥifẓ al-‘aql* emphasises the protection of intellectual creation alongside the obligation to ensure access to knowledge, thereby preventing excessive exclusivity that restricts dissemination.⁶⁴ Furthermore, the principles of *ḥifẓ al-naḥs* and the ecological dimension of *maqāṣid* require that IPR does not hinder access to technologies essential for human safety and environmental protection, while supporting sustainable resource use.⁶⁵ Together with the principles of *maṣlaḥah* and *‘adl*, these criteria establish a balanced framework in which IPR functions not merely as an instrument of exclusivity, but as a mechanism for achieving social justice and ecological sustainability.

Based on the problem–solution mapping, Figure 1 identifies key points for reforming IPR towards a welfare-oriented framework. The dominance of absolute exclusive rights should be reconstructed into relative and conditional rights that

⁶⁰ Amani, Ncube, and Rimmer, ‘Conclusion: “Blueprints for a Better World”: The Future of Intellectual Property and Sustainable Development’.

⁶¹ de Andrade, ‘Remodelling IP Rights for Global Justice, Innovation and Sustainability’; Pihlajarinne, Mähönen, and Upreti, *Intellectual Property Rights in the Post Pandemic World: An Integrated Framework of Sustainability, Innovation and Global Justice*.

⁶² Arif and Hanapi, ‘The Concept of Intellectual Property As Al Mal: An Islamic Perspective Approach’; Elmahjub, ‘An Islamic Perspective on the Theories of Intellectual Property’.

⁶³ Barqawi and Abu Baker, ‘The Correlation Between Islamic Law And Modern Intellectual Property Law.’

⁶⁴ Sholihah, ‘Intellectual Property Rights from an Islamic Legal Perspective’.

⁶⁵ Norita Mohd Nasir, Mahendhiran Sanggaran Nair, and Pervaiz Khalid Ahmed, ‘Environmental Sustainability and Contemporary Islamic Society: A Shariah Perspective’; Muhamad Nurholis, ‘Islamic Law and Environmental Sustainability: Maqasid al-Sharia’s Perspective’, *Jurnal Mediasas: Media Ilmu Syari’ah Dan Ahwal Al-Syakhsyiyah* 8, no. 3 (August 2025): 541–48, <https://doi.org/10.58824/mediasas.v8i3.413>.



remain protected but can be limited when they conflict with the public interest and collective welfare. The current reliance on costly litigation mechanisms highlights the need for a more accessible protection system, particularly for small creators and communities, ensuring that legal protection is not restricted to well-resourced actors. Similarly, the formalistic registration system should be restructured to avoid becoming a structural barrier, especially for creative economy actors and holders of communal intellectual property, by promoting inclusivity and social justice.⁶⁶ Furthermore, the absence of explicit norms on green innovation within the IPR regime indicates the necessity of integrating ecological considerations into legal structures, positioning IPR as an instrument to promote environmentally sustainable innovation, in line with green intellectual property and responsible IP strategies.⁶⁷ Strengthening flexibility mechanisms is also essential to ensure public access and equitable benefit distribution, consistent with global IPR–SDGs discourse.⁶⁸

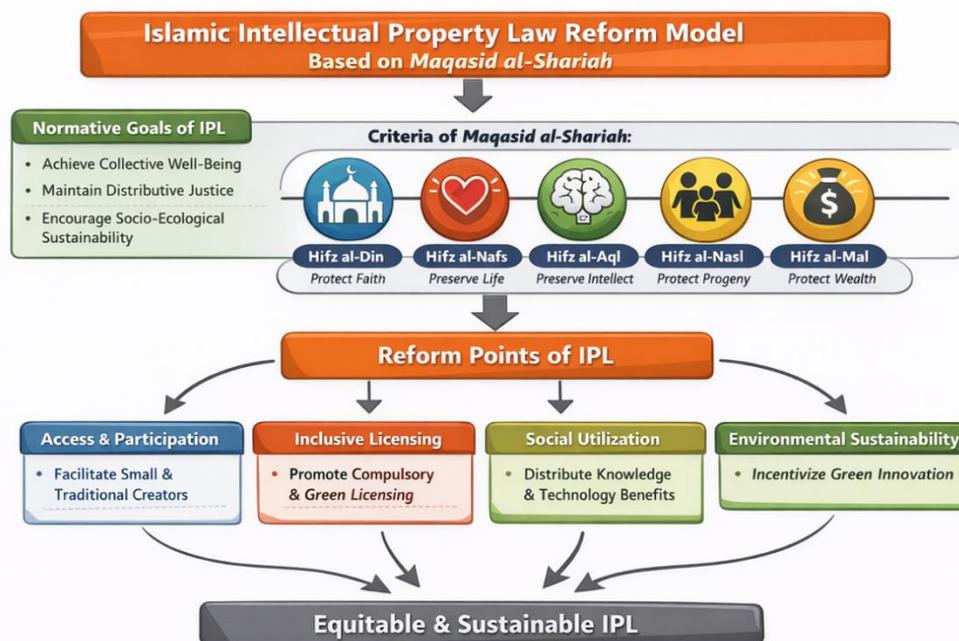


Figure 1. Islamic Intellectual Property Law Reform Model Based on Maqasid al-Shariah

Accordingly, the *maqāsid al-sharī'ah*-based IPR reform model represents a normative shift from an exclusive *proprietary* paradigm to a socio-ecological justice framework. This model does not abolish exclusive rights but repositions them within the broader objective of collective welfare. Intellectual property remains protected as part of safeguarding property and intellect, yet its application is conditioned by

⁶⁶ Disemadi et al., 'Revitalizing Intellectual Property Rights in Indonesia: A Maqasid al-Sharia Perspective on Communal Ownership'.

⁶⁷ Dereń and Skonieczny, 'Green Intellectual Property as a Strategic Resource in the Sustainable Development of an Organization'; Vimalnath et al., 'Responsible Intellectual Property Strategy for Sustainability Transition - An Exploratory Study'.

⁶⁸ Bannerman, 'The World Intellectual Property Organization and the Sustainable Development Agenda'.

principles of distributive justice, public access, and environmental sustainability. In this regard, *maqāṣid al-sharī'ah* functions not only as a source of normative legitimacy but also as a corrective mechanism that prevents exclusivity from evolving into socially harmful monopolies. Consequently, IPR reform is reconceptualised as a transformation of law's function from merely protecting individual rights to balancing the interests of individuals, society, and future generations thereby aligning legal structures with the goals of welfare and sustainable development.

Eligibility of Intellectual Property Rights for Green Innovation Incentives Based on Maqāṣid al-Sharī'ah

Determining the types of intellectual property rights (IPR) that are eligible for green innovation incentives is a crucial aspect of legal reform oriented towards sustainable development. Each IPR regime has different characteristics and economic functions, so not all have the same relevance to sustainability. Normative clarification is thus required regarding the scope of IPR that can be integrated with green incentive policies and the evaluative criteria that determine their eligibility. In this context, *maqāṣid al-sharī'ah* serves as a normative framework for assessing the contribution of IPR to collective welfare (*maṣlaḥah*), justice ('*adl*), and ecological sustainability, ensuring that IPR reform is oriented not only towards legal certainty but also towards socio-ecological objectives.⁶⁹

Functionally, patents constitute the form of IPR most directly relevant to green innovation because they protect technological inventions, such as renewable energy technologies and resource-efficiency solutions. Patent protection provides economic incentives through exclusive rights that encourage investment in research and development (R&D) and generate environmentally friendly innovations. Studies show that IPR protection can improve technological innovation and environmental performance if supported by appropriate policies.⁷⁰ From the perspective of *maqāṣid*, such protection aligns with *ḥifẓ al-māl* and *ḥifẓ al-'aql*; however, exclusivity must be limited so as not to hinder access to essential technologies, in accordance with the principles of *maṣlaḥah* and prevention of harm.⁷¹

In contrast, industrial design, trademarks, and copyrights have indirect relevance to green innovation. Industrial design contributes through eco-design, while brands contribute through eco-labeling, which influences sustainable

⁶⁹ Jasser Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach* (International Institute of Islamic Thought (IIIT), 2008); M. Umer Chapra, *The Future of Economics: An Islamic Perspective*, vol. 21 (Kube Publishing Ltd, 2016).

⁷⁰ Dong Chen and Shi Chen, 'Patent Protection Policy and Firms' Green Technology Innovation: Mediating Roles of Open Innovation and Human Capital', *Sustainability* 16, no. 5 (March 2024): 2217, <https://doi.org/10.3390/su16052217>; Aamir Javed et al., 'Assessing the Efficacy of Green Growth, Energy Efficiency, and Green Innovation for Environmental Performance in Top Manufacturing Nations in the Framework of Sustainable Development', *Quality & Quantity* 58, no. 6 (December 2024): 5829–63, <https://doi.org/10.1007/s11135-024-01918-6>; Achmad Alfian Kurniawan and Istiqomah Fadlillah, 'From Anthropocentric to Ecocentric Jurisprudence: A Maqasid-Based Reconstruction of Islamic Environmental Ethics toward Intergenerational Equity', *Al'Adalah* 28, no. 2 (December 2025): 105–26, <https://doi.org/10.35719/aladalah.v28i2.666>.

⁷¹ Arif and Hanapi, 'The Concept of Intellectual Property As Al Mal: An Islamic Perspective Approach'; Barqawi and Abu Baker, 'The Correlation Between Islamic Law And Modern Intellectual Property Law.'



consumption behaviour. Copyright is generally only relevant in the context of scientific works or software related to environmental technology. Therefore, not all forms of IPR have the same urgency in green incentive policies, and their application needs to be tailored to their respective function and impact on sustainability.⁷²

Within the framework of *maqāṣid al-sharī'ah*, the eligibility of IPR is determined by its contribution to environmental welfare and protection (*ḥifẓ al-bi'ah*). Green incentives should be selectively granted to innovations that support clean energy, emission reduction, and resource efficiency. However, the modern IPR system remains environmentally neutral, as protection criteria do not consider ecological impacts into account, allowing environmentally unfriendly technologies to remain protected. This demonstrates the lack of integration between IPR and sustainability in global practice.⁷³ The absence of environmental standards has normative implications because it potentially contradicts the principles of sustainability and intergenerational justice. From a *maqāṣid* perspective, this can be criticized for not reflecting the principles of preventing harm and protecting life (*ḥifẓ al-nafs*).⁷⁴ Therefore, IPR reform needs to integrate ecological dimensions through incentive approaches, such as accelerated patent examination, reduced fees, and licensing priority for green innovations. Flexibility mechanisms, including compulsory and open licensing, may also expand access to technology and maintain a balance between exclusive rights and the public interest, ensuring that IPR functions as an instrument of social justice and ecological sustainability.⁷⁵

Normative Justification of IPR Renewal Model Based on Maqāṣid al-Sharī'ah

The *maqāṣid al-sharī'ah*-based IPR reform model has strong normative legitimacy because *maqāṣid* serves as a framework for assessing the objectives and benefits of law. Classical *maqāṣid* theory emphasises the protection of five essential interests (*al-ḍarūriyyāt al-khams*), including property (*ḥifẓ al-māl*), which forms the basis for recognizing intellectual property rights.⁷⁶ However, such protection is not absolute, as individual rights must be balanced with public interest (*maṣlaḥah 'āmmah*) and justice (*'adl*), ensuring that legal protection does not undermine collective welfare.⁷⁷ In contemporary thought, *maqāṣid* extends beyond protection to

⁷² Dereń and Skonieczny, 'Green Intellectual Property as a Strategic Resource in the Sustainable Development of an Organization'; Vimalnath et al., 'Responsible Intellectual Property Strategy for Sustainability Transition - An Exploratory Study'.

⁷³ Amani, Ncube, and Rimmer, 'Conclusion: "Blueprints for a Better World": The Future of Intellectual Property and Sustainable Development'; Bannerman, 'The World Intellectual Property Organization and the Sustainable Development Agenda'.

⁷⁴ Ferry Irawan Febriansyah and others, 'Digital Legal Transformation: Legal Strategies for Strengthening National Cybersecurity', *International Journal of Law and Society*, 5.1 (2026) <<https://doi.org/https://doi.org/10.59683/ijls.v5i1.357>>.

⁷⁵ Amani, Ncube, and Rimmer, 'Conclusion: "Blueprints for a Better World": The Future of Intellectual Property and Sustainable Development'; Bannerman, 'The World Intellectual Property Organization and the Sustainable Development Agenda'.

⁷⁶ Abū Ḥāmid al-Ġazālī, *Al-Mustasfā Min 'ilm al-Uṣūl*, 1904; Abu Ishaq Al-Shatibi, *Al-Muwafaqat Fi Usul al-Shariah* (Al-Maktabah Al-Tawfikia, 2003).

⁷⁷ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*; Mohammad Hashim Kamali, 'Shari'ah Law: An Introduction', *One World Publication*, 2008; Jamaludin Acmad Kholik, Qomarus Zaman, and Asmuliadi Lubis, 'Transforming Islamic Finance through Maqashid Syari'ah:



an evaluative and transformative framework for modern legal systems, including IPR. The principle of *maṣlahah* requires that law ensures equitable distribution of benefits, while *'adl* demands balance between exclusive rights and public access to knowledge and innovation. Consequently, IPR regimes that overemphasise exclusivity risk contradicting *maqāṣid* objectives if they restrict access to socially beneficial innovations.⁷⁸

Moreover, contemporary *maqāṣid* incorporates environmental protection (*ḥifẓ al-bi'ah*) as part of its objectives, emphasising sustainability and ecological balance. This development provides a normative basis for integrating environmental considerations into IPR reform, in which green innovation is regarded as essential to safeguarding human life and long-term welfare.⁷⁹ Accordingly, *maqāṣid*-based IPR reform promotes proportional limitations on exclusivity, broader access, and incentives for green innovation. Instruments such as compulsory licensing and public interest exceptions reflect *maṣlahah* and *'adl*, ensuring that IPR balances private rights, social welfare, and environmental sustainability.

Relevance of Models for Green Business-Based Creative Industries

The *maqāṣid al-sharī'ah*-based intellectual property rights (IPR) reform model has strong practical relevance in supporting green business-oriented creative industries, particularly for MSMEs and local creators. The creative sector depends on IPR protection to sustain economic value, yet it faces persistent challenges such as low legal awareness, weak enforcement, and complex registration systems.⁸⁰ By promoting inclusive protection, simplified procedures, and affordable access, this model enhances participation of small actors and strengthens the creative ecosystem.⁸¹ Moreover, flexible licensing mechanisms, including open licensing and green incentives, facilitate the diffusion of environmentally friendly innovations. Since rigid IPR systems may hinder collaboration and technology transfer, a more adaptive approach can promote sustainable innovation without undermining protection.⁸² The model also emphasises strengthening institutional capacity and human resources, as the effectiveness of IPR depends on absorptive capacity and

The Bahtsul Masail Approach', *Fenomena* 24, no. 2 (December 2025): 269–84, <https://doi.org/10.35719/fenomena.v24i2.626>.

⁷⁸ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*; M. H. Kamali, *Maqāṣid Al-Sharī'ah Made Simple* (International Institute of Islamic Thought, 2017).

⁷⁹ Auda, *Maqasid Al-Shariah as Philosophy of Islamic Law: A Systems Approach*; Chapra, *The Future of Economics: An Islamic Perspective*, vol. 21.

⁸⁰ S. Armansyah and R. .. Badru, 'Peran Hak Kekayaan Intelektual Dalam Meningkatkan Perlindungan Karya Kreatif Di Indonesia', *Journal of Multidisciplinary Inquiry in Science Technology and Educational Research* 2, no. 2 (2025): 3159–66.

⁸¹ Affful Ikhwan and others, 'Integrating Emotional and Spiritual Quotient (ESQ) with Prophetic Values in Human Resource Development', *Jurnal Akidah & Pemikiran Islam*, 27.1 (2025), 383–426 <<https://doi.org/10.22452/afkar.vol27no1.10>>.

⁸² Yue Liu et al., 'The Impact of Intellectual Property Rights Protection on Green Innovation: A Quasi-Natural Experiment Based on the Pilot Policy of the Chinese Intellectual Property Court', *Mathematical Biosciences and Engineering* 21, no. 2 (2024): 2587–607, <https://doi.org/10.3934/mbe.2024114>.



innovation capability.⁸³ Thus, *maqāṣid*-based IPR reform not only addresses legal barriers but also supports the practical development of green innovation.

Intellectual Property Rights, Social Welfare, and Sustainable Development

The *maqāṣid*-based IPR model contributes to social welfare and sustainable development by balancing protection, access, and environmental responsibility. Grounded in distributive justice, it ensures that innovation benefits are shared not only by rights holders but also by wider society, including small enterprises. Flexible licensing and access mechanisms enable more equitable knowledge distribution, aligning IPR with social welfare objectives. From a sustainability perspective, IPR can stimulate green innovation, including energy efficiency and emissions reduction, particularly when supported by appropriate policies.⁸⁴ It also encourages investment in research and development (R&D) and technological diffusion through collaboration. However, effective outcomes require alignment with environmental regulations and institutional capacity, as policy coherence significantly influences innovation performance.⁸⁵ Therefore, IPR reform must be integrated with sustainability frameworks so that IPR functions not only as a legal protection tool but also as a strategic instrument for achieving social welfare and environmental sustainability.

Mechanisms of Intellectual Property in Driving Green Innovation and SDGs

The relationship between intellectual property (IPR) protection and green innovation operates through interconnected causal mechanisms that can both encourage and constrain the development and diffusion of environmentally friendly technologies.⁸⁶ From the perspective of *maqāṣid al-sharī'ah*, these mechanisms are assessed not only in terms of economic efficiency but also in terms of their contribution to collective welfare (*maslahah*), justice (*adl*), and ecological sustainability (*ḥifẓ al-bi'ah*). Thus, IPR is positioned as an instrument that balances exclusive rights with public and environmental interests. The first mechanism is innovation incentives, whereby exclusive rights increase expected returns and encourage investment in R&D related to green technologies, such as renewable energy and low-carbon production. Empirical evidence suggests that IPR protection can improve green innovation performance and environmental outcomes when

⁸³ Binh Thi Thanh Truong and Phuong V. Nguyen, 'Driving Business Performance through Intellectual Capital, Absorptive Capacity, and Innovation: The Mediating Influence of Environmental Compliance and Innovation', *Asia Pacific Management Review* 29, no. 1 (March 2024): 64–75, <https://doi.org/10.1016/j.apmr.2023.06.004>.

⁸⁴ Chen and Chen, 'Patent Protection Policy and Firms' Green Technology Innovation: Mediating Roles of Open Innovation and Human Capital'; Javed et al., 'Assessing the Efficacy of Green Growth, Energy Efficiency, and Green Innovation for Environmental Performance in Top Manufacturing Nations in the Framework of Sustainable Development'.

⁸⁵ Aimin Pan et al., 'Does Environmental Regulation Promote Green Technological Innovation of Companies? Evidence from Green Patents of Chinese Listed Companies', *International Journal of Low-Carbon Technologies* 19 (January 2024): 807–20, <https://doi.org/10.1093/ijlct/ctad078>.

⁸⁶ Erfin Walida Rahmania and others, 'Integration of Climate Change Education in Islamic Leadership Training Through Circular Economy Principles', *Al-Hayat: Journal of Islamic Education*, 9.4 (2025), 858–73 <<https://doi.org/10.35723/ajie.v9i4.160>>.



supported by appropriate policies.⁸⁷ This mechanism aligns with SDG 9, especially target 9.5, and reflects *ḥifẓ al-'aql* and *ḥifẓ al-māl in maqāṣid*.

In addition to providing incentives, IPR also facilitates technology diffusion through voluntary licensing, patent pools, and innovation collaborations. These mechanisms enable technology transfer to developing countries, thus supporting SDG 7 (target 7.a) on access to clean energy. The concept of a Responsible Intellectual Property Strategy demonstrates that selective licensing can generate economic and environmental benefits without disincentivising innovation.⁸⁸ Moreover, the patent system encourages knowledge disclosure, enabling cumulative innovation and global collaboration, in line with SDG 17. However, its effectiveness depends on the accessibility of information. Within the *maqāṣid* framework, this mechanism supports the *maṣlaḥah* and *ḥifẓ al-'aql* as long as it does not excessively restrict access.

However, IPR can also create structural barriers through high licensing fees, monopolistic practices, and limited access to technology, particularly in developing countries. This creates a trade-off between innovation incentives and public access, which can hinder SDGs 13 and 10.⁸⁹ In addition, the absence of normative integration between IPR and sustainability makes the IPR system ambivalent.⁹⁰ From a *maqāṣid* perspective, exclusivity that harms the public interest contradicts both '*adl*' and *maṣlaḥah*. Therefore, IPR reform must condition exclusive rights, so that protection is justified only when it simultaneously supports innovation, social welfare, and environmental sustainability.⁹¹

Implementation Limitations and Institutional, Regulatory, and Socio-Economic Barriers to Green Innovation in the IP Regime

Although the *maqāṣid al-sharī'ah*-based intellectual property (IP) reform model has a strong normative foundation and practical relevance, its implementation faces significant structural and systemic challenges. One major limitation lies in the need to harmonise national reforms with international regimes such as TRIPS, which emphasise strong protection of exclusive rights and may restrict national policy space in regulating access to innovation. This creates tension between global obligations and domestic goals of sustainability and social welfare. In addition, resistance from

⁸⁷ Gao, Zhu, and He, 'The Linkage between Sustainable Development Goals 9 and 11: Examining the Association between Sustainable Urbanization and Intellectual Property Rights Protection'; Chen and Chen, 'Patent Protection Policy and Firms' Green Technology Innovation: Mediating Roles of Open Innovation and Human Capital'; Sheila Kusuma Wardani Amnesti et al., 'From Regulation to Ethics: The Legal Effectiveness of Smart Village Policy through Village SDGs and Maqāṣid al-Sharīah', *Justicia Islamica* 22, no. 2 (November 2025): 247–76, <https://doi.org/10.21154/justicia.v22i2.11831>.

⁸⁸ Vimalnath et al., 'Responsible Intellectual Property Strategy for Sustainability Transition - An Exploratory Study'.

⁸⁹ Amani, Ncube, and Rimmer, 'Conclusion: "Blueprints for a Better World": The Future of Intellectual Property and Sustainable Development'; Bannerman, 'The World Intellectual Property Organization and the Sustainable Development Agenda'.

⁹⁰ Dereń and Skonieczny, 'Green Intellectual Property as a Strategic Resource in the Sustainable Development of an Organization'; Ncube, 'Moving from Mirages to Miracles: Intellectual Property, Human Rights and the Global Partnership for Sustainable Development'.

⁹¹ Muhja and Shahnaz.



large industry actors constitutes a substantial barrier, as corporations benefiting from strong IP protection tend to preserve exclusive rights to maintain market dominance. Policies promoting green innovation may even generate uneven impacts across sectors, depending on firm characteristics and industrial structures.⁹² Furthermore, limited institutional capacity in developing countries, including Indonesia, undermines effective implementation. Weak enforcement, limited resources, slow judicial processes, and low public awareness reduce the effectiveness of IP systems.⁹³ Financial constraints and limited access to technology also hinder green innovation, even when IP frameworks exist.⁹⁴

Beyond these general limitations, the effectiveness of IP in promoting green innovation is shaped by interconnected regulatory, institutional, structural, and socio-economic barriers. Regulatory frameworks often prioritise exclusivity and economic incentives without integrating environmental objectives, resulting in the absence of green incentives and the limited use of flexibilities such as compulsory licensing.⁹⁵ Institutional barriers include weak governance, inadequate coordination, and limited human resource capacity, which constrain the role of IP in fostering innovation.⁹⁶ Structurally, the concentration of IP ownership among large corporations creates unequal access to technology, disadvantaging SMEs and reinforcing global inequalities.⁹⁷ Socio-economic constraints, including high costs, limited financing, and low IP literacy, further restrict participation in innovation ecosystems.⁹⁸ These barriers are mutually reinforcing and require an integrated approach. From a *maqāṣid al-sharī'ah* perspective, overcoming these challenges is a normative imperative grounded in *maṣlahah*, *'adl*, and the prevention of harm, requiring policy instruments such as flexible licensing, targeted incentives, institutional strengthening, and capacity building to transform IP into a mechanism for inclusive and sustainable development.

⁹² Pan et al., 'Does Environmental Regulation Promote Green Technological Innovation of Companies? Evidence from Green Patents of Chinese Listed Companies'.

⁹³ Armansyah and Badru, 'Peran Hak Kekayaan Intelektual Dalam Meningkatkan Perlindungan Karya Kreatif Di Indonesia'; Yuli Yulianti, Deny Guntara, and Muhamad Abas, 'Kajian Yuridis Terhadap Perlindungan Hak Kekayaan Intelektual Di Era Digital Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta', *Unes Journal of Swara Justisia* 9, no. 2 (August 2025): 341–50, <https://doi.org/10.31933/4xbvra82>.

⁹⁴ Liu et al., 'The Impact of Intellectual Property Rights Protection on Green Innovation: A Quasi-Natural Experiment Based on the Pilot Policy of the Chinese Intellectual Property Court'.

⁹⁵ Pan et al., 'Does Environmental Regulation Promote Green Technological Innovation of Companies? Evidence from Green Patents of Chinese Listed Companies'; Bannerman, 'The World Intellectual Property Organization and the Sustainable Development Agenda'.

⁹⁶ Truong and Nguyen, 'Driving Business Performance through Intellectual Capital, Absorptive Capacity, and Innovation: The Mediating Influence of Environmental Compliance and Innovation'; Armansyah and Badru, 'Peran Hak Kekayaan Intelektual Dalam Meningkatkan Perlindungan Karya Kreatif Di Indonesia'.

⁹⁷ Amani, Ncube, and Rimmer, 'Introduction: "The People's Agenda": A History of Intellectual Property and Sustainable Development'; Janewa Osei-Tutu, 'Intellectual Property's Role in Eliminating Poverty: SDG 1'.

⁹⁸ Liu et al., 'The Impact of Intellectual Property Rights Protection on Green Innovation: A Quasi-Natural Experiment Based on the Pilot Policy of the Chinese Intellectual Property Court'; Truong and Nguyen, 'Driving Business Performance through Intellectual Capital, Absorptive Capacity, and Innovation: The Mediating Influence of Environmental Compliance and Innovation'.



Policy Implications

Based on the proposed model, intellectual property (IP) policy reform must be oriented towards social welfare and environmental sustainability through more inclusive and flexible mechanisms. Simplifying registration procedures and reducing costs are essential to improve access for MSMEs and local creators, while flexible licensing schemes, including mandatory licensing for environmentally friendly technologies, can expand access to innovation without eliminating incentives for rights holders.⁹⁹ In addition, governments need to provide fiscal and non-fiscal incentives, such as R&D subsidies, tax incentives, and IP-based financing programmes, to strengthen green innovation ecosystems. Recognising IP as an economic asset that can be used as collateral can also enhance access to financing for creative industries, although this requires clear regulatory frameworks to ensure legal certainty.¹⁰⁰ Furthermore, strengthening IP law enforcement is crucial, particularly in the digital era, through improved institutional capacity, the use of technology, and cross-sector collaboration. Regulatory frameworks must also adapt to technological developments, including digital works and artificial intelligence, to remain relevant and effective.¹⁰¹ Effective coordination between government, private sector, and society is essential to align IP policies with sustainable development goals. Overall, these reforms highlight the need for an integrative approach that positions IP not only as an economic instrument but also as a strategic mechanism to promote green innovation, social welfare, and a more inclusive and sustainable economic transformation.

Conclusion

This study aims to conduct normative analysis the role of intellectual property rights (IPR) in realizing social welfare, formulate a model for IPR legal reform based on *maqāṣid al-sharī'ah* that is relevant to green business practices in the creative industry, and develop policy recommendations that are aligned with the Islamic legal framework and the sustainable development agenda. The results of the normative analysis indicate that the IPR regime oriented towards exclusive rights and market mechanisms is not fully aligned with the goals of social welfare, distributive justice, and environmental sustainability. From the perspective of *maqāṣid al-sharī'ah*, IPR protection can be justified as part of *ḥifẓ al-māl*, but must be limited and guided by the principles of *maṣlaḥah*, *'adl*, and *ḥifẓ al-bi'ah* to avoid inequality of access and negative impacts on the environment. Therefore, this study formulates a *maqāṣid-*

⁹⁹ Viktor Popov and others, 'Intellectual Property Law in the Age of Artificial Intelligence: Legal Challenges and Regulatory Perspectives', *International Journal of Law and Society (IJLS)*, 4.1 (2025), 165–79 <<https://doi.org/10.59683/ijls.v4i1.133>>.

¹⁰⁰ Ika Atikah and Rofa Agnia Sari, 'Enhancing The Creative Economy : Leveraging Intellectual Property Rights As Legal Collateral In Credit Financing In Indonesia', *Jurnal Yuridis* 11, no. 1 (June 2024): 112–42, <https://doi.org/10.35586/jyur.v11i1.7617>; Fildzah Rio, Lastuti Abubakar, and Dewi Kania Sugiharti, 'Renewal of Intellectual Property Execution Auction Regulations to Support Creative Economy Actors Financing Schemes', *Jurnal Hukum Dan Kenotariatan* 8, no. 2 (May 2024): 73–85, <https://doi.org/10.33474/hukeno.v8i2.21588>.

¹⁰¹ Febrina Raevita, Nur Lailatuka Syafa'atul Uzma, and Muhammad Alfarizy, 'Regulation of Intellectual Property Rights (IPR) in Artworks by Robots and Algorithms', *Begawan Abioso* 15, no. 1 (October 2024): 15–20, <https://doi.org/10.37893/abioso.v15i1.828>.



based model of IPR legal reform that positions IPR as an instrument of welfare, with key elements being inclusive protection for the creative industry, flexibility of rights and licenses for green innovation, an active role for the state in institutional support, and just and sustainable law enforcement. This model also produces a new conceptual formulation in the form of a reinterpretation of the function of IPR from merely protecting exclusive rights to serving as a normative instrument to achieve a balance between rights protection, public interest, and environmental sustainability.

Theoretically, this study strengthens the integration between positive IPR law and the normative framework of *maqāsid al-sharī'ah* as an evaluative and constructive approach in legal reform, and expands the discourse of Islamic law in the context of the creative economy and sustainable development. Practically, the findings provide implications for policymakers to develop more inclusive, adaptive, and welfare-oriented IPR regulations, including through simplifying registration procedures, strengthening flexible licensing mechanisms for environmentally friendly innovations, providing incentives for green innovation, and strengthening law enforcement that is responsive to the digital era. However, this study has limitations because it is normative-conceptual in nature and has not empirically tested the implementation of the proposed model, nor has it fully examined the limits of harmonisation with international regimes such as TRIPS. Therefore, further research is recommended to test this model empirically in the context of the creative industry and national policy, and to further examine the integration between IPR law, environmental law, and Islamic law within a global framework. Normatively and legislatively, reform of IPR is necessary to incorporate the principles of *maqāsid al-sharī'ah*, expand access to innovation, and provide fairer protection for small and local business actors. Academically, there is also a need to develop interdisciplinary studies that connect IPR, the creative economy, Islamic law, and sustainable development as a foundation for the future development of legal theory and policy.

Conflict of Interest Statement

The authors declare that they have no known competing financial interests or personal relationships that could have influenced the work reported in this paper.

Declaration of the use of AI

The authors affirm that they did not use any AI-assisted technologies in preparing this article.

Credit of Author Statement

Nina Nurani: Conceptualization, original draft preparation, methodology.
Apriwandi: Data curation. Hafied Noor Bagja: writing, reviewing, and editing.

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