

Intellectual Property Rights in Pakistan: Compatibility and Conflict with Shariah Perspectives

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Abstract

Intellectual property rights in Pakistan are primarily safeguarded through modern legislative frameworks; however, these laws are largely influenced by Western legal traditions. Being an Islamic republic, Pakistan is constitutionally bound under Article 227 to ensure that all enacted laws remain consistent with the teachings of the Qur'an and Sunnah. This raises a critical question regarding the extent to which Pakistan's intellectual property (IP) legislation aligns with Islamic legal principles. Issues concerning patents, copyrights, and trademarks often intersect with Islamic perspectives on ownership, public utility, and monopoly, thereby creating areas of potential conflict. Furthermore, the compatibility of international agreements—particularly the Trade-Related Aspects of Intellectual Property Rights (TRIPS)—with Islamic values remains ambiguous. This study explores the concept of intellectual property within the framework of Islamic jurisprudence and its correlation with broader legal and ethical provisions of Shariah. It emphasizes that Islam

recognizes both tangible and intangible property rights and provides mechanisms for their protection. The research also examines the primary sources of Islamic law—the Qur'an, Sunnah, Ijma, and Qiyas—as foundations for rights, responsibilities, and the safeguarding of human effort. Additionally, it highlights the objectives of Maqasid al-Shariah, which aim to preserve religion, life, intellect, lineage, and wealth, thereby offering a holistic framework to assess the alignment of intellectual property laws with Islamic principles.

Keywords: Islamic law, Copyright law, Patent, Trademark, TRIPS agreement, Constitution of Pakistan.

Introduction

The laws on intellectual property work to safeguard intellectual work and promote innovation yet in developing these laws Pakistan has used international standards as opposed to Islamic laws. Consequently, the copyright, patent and trademark laws follow secular paradigms whereas the Constitution of Pakistan makes all laws compatible to the Quran and Sunnah. This brings a conflict between the international legal requirements and the religious identity of the country. There have also been some disagreements on the extent to which the law of intellectual property fully conforms to Islamic belief in the way it seeks to preserve the ideas as well as in the way it preserves the monopolies. This is further compounded by the impact of the TRIPS Agreement which introduces minimum international standards which might not necessarily reflect the spirit of the Islamic law. Such an argument is relevant in ensuring that an impartial and fair legal system is developed where innovation is valued and religion is considered.

Intellectual Property (IP)

Intellectual Property (IP) is the creation of the mind, be it inventions, works of literature and art, designs, names, signs, symbols, and texts used in trade. It gives the creators rights to enjoy and take advantage of their works for a

particular time period, and it promotes innovative inventions and creativity. The IP rights consist of trade secrets, patents, copyrights and trademarks.¹

Importance of Addressing IP in the Context of Islam

Intellectual Property (IP) is a relatively modern legal concept, but many of its principles can be found within the ethical and legal teachings of Islam. Islam places great importance on the protection of all types of property, including those that result from a person's intellectual effort.² These two rulings support the position that the protection of intellectual work fits to the Maqasid al Sharia (superior goals of Islamic law) especially the aims of safeguarding money, the development of knowledge and the principle of fairness within the society.³

Role of Islamic Juristic Institutions

A major development has seen the contributions of Islamic juristic institutions that have created modern readings of Intellectual property (IP) based on Islamic law. Among the most powerful organizations in this respect is the International Islamic Fiqh Academy (IIFA) which functions under the Organization of Islamic Cooperation (OIC). These resolutions made by the IIFA affirm that the different types of IP including trade names, trademarks, patents, and literary or artistic works are deemed as legal and economically rewarding rights according to Islamic laws.

Support from Contemporary Islamic Scholars

In recent years, many contemporary Islamic scholars have provided strong support for the concept of intellectual property by issuing fatwas (legal rulings) that affirm its legitimacy within the framework of sharia. These scholars recognize copyrights, patents, trademarks, and other intellectual creations as rightful possessions that deserve legal protection, just like physical property. They argue that registering such rights and seeking legal remedies in cases of infringement is fully consistent with Islamic teachings. Innovation and knowledge sharing, especially when done with honesty and sincerity are viewed as noble acts in Islam.⁴

Promoting Innovation and Economic Growth

The safeguarding of intellectual property conforms to the Islamic objectives of economic growth and social wellbeing on a greater scale.⁵ However, it has certain theological distinction where intellectual property although such kind of property is viewed as owned and sold, Islamic teachings also place emphasis that all knowledge is ultimately a possession of Allah and is a gift of knowledge to people.⁶ The Islamic law brings a different version that is more focused on justice, fairness, and social welfare, in addition to the right to privately owned property, and may help counter some of the recent criticism of Western IP regimes in terms of access and equity.⁷

Recognition of Intellectual Property Rights in Islamic Jurisprudence

The identification of the intellectual property (IP) element in the Islamic jurisprudence is relevant in filling the gap existing between the principles of the sharia and the emerging demands of the contemporary world legal and economic environment. In the era of knowledge, innovation and creativity where they have become prime factors in development, the capacity of the Islamic law to deal with and embrace the concept of intellectual property indicates the dynamic and adaptable characteristic of Islamic law. Although classical Islamic sources do not offer a focused reference to IP as it is now observed in the modern legal system, it does have enough grounds in the principles of justice, the safeguard of possession, harm avoidance, and enhancement of communal interest to recognize the rights of creators, makers, and developers.⁸

Compatibility with International Trade Agreements

This has received great importance especially in the light of international trade agreements especially the deal on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in the World Trade Organization (WTO). It is the compatibility of the Islamic principles to these international agreements that gives these countries the ability to conduct their trade without breaching their religious and legal norms.⁹

Ethical Framework in Intellectual Property (IP) Transactions

Further, Islamic IP protection system is not purely legal framework but it incorporates ethical aspects, which are core of the Shari a. Islam is very much against dishonesty, fraud, and exploitation, all of which may be applicable in the field of intellectual property plagiarism, counterfeiting, or unauthorized use of the copyrighted works.¹⁰

Contribution to Ethical and Balanced Legal Order

Hence, the acknowledgment and enforcement of intellectual property rights of the Islamic legal system not only contribute to innovation and creativity but also to ethical economics.¹¹ Therefore, knowledge of Islamic concepts on intellectual property is crucial to formulating laws and policies on intellectual property that adhere to religious principles and foster innovation and safeguard inventors in the modern legal and ethical framework.¹²

Concept of Property in Islamic Jurisprudence

Islamic jurisprudence has the element of property (maal) which is a central concept of law supervising property, rights of possession, and trade as per the provisions of the Shariah. The following is the explanation that incorporates classical and contemporary Islamic legal thinking.

Definition of Maal (Property) in Islam

Mal is a word whose meaning in the Arabic language is anything that an individual purchases and owns either physically or intangibly. It comprises physical things (ayn) such as gold, animals and plants, and nontangible advantage (manfa ah) including usufructs or the rights to utilize an object such as driving a car or living in a house. Maal in legal terms refers to any item that belongs to the human form be it a particular land or benefiting of the land, must have value and it can be held and enjoyed. The Hanafi view holds that maal is that which human instinct is inclined to store or hoard for the future, and has value to which people neither abandon nor disown, like money or property.

Characteristics qualifying something as maal include:

- It should be what human beings naturally want because of its utility or marketability and it should have established commercial value in the society and therefore it should be capable of lawful trade or give in exchange.
- It should be an object or a right which can be owned, taken possession of, and stored or kept in an uncompromised way and not kept in a compromised state.
- It has to be lawful and of tangible benefit, and it must be lawfully used and for purpose, that is, it does not have to involve anything prohibited or harmful as revealed in Islam teachings.
- The right or object of ownership must be able to be transferred using the correct Islamic contracts like a sale, gift, or inheritance so that one individual is allowed to legally transfer the possession to another individual.

Classification of Property: Tangible (Ayn) and Intangible (Manfaah)

In Islamic jurisprudence mal is divided into two categories:

1. **Tangible Property (Ayn):** These are more of the tangible or solid, material and physical property of things which can be touched, seen, measured and possessed. Among them include land, cattle, currency, goods, tools and any other movable or immovable properties with value that can be legally owned, transferred or sold under the Islamic law.¹³
2. **Intangible Property (Manfaah):** This type covers all the non-material, abstract types of property which do not exist in concrete and material form but which have a known value and utility under Islamic law. Intangible property can be defined as the rights of usage, benefit or usufruct that may be currently derived of tangible property without relinquishing the ownership of the physical represented item. More categories are movable (manqul) and immovable (ghayr manqul), consumable (istihlaki) and non-consumable (istimali), fungible (mithli) and non-fungible (qiyami), growing (nami) and non-growing (ghayr nami), and private (khas) and public (aam) property.¹⁴
3. **Ownership (Milkiyyah) and Transfer of Rights** Ownership is a legal relationship that exists between an individual and an object in Islamic law and

Is the absolute power, as well as the access to it, by a person who is its owner.¹⁵ It encompasses:

- a. **Control:** The owner can use, benefit and manage the property.
- b. **Exclusion:** The owner will be able to stop people interfering with the property.

Several legal modes of acquiring, transferring, and losing ownership have been identified, which include sale, gift, inheritance, lease, and waqf (endowment).¹⁶ The transfer of ownership must have clear consent and must be within the lawful means and the property must be lawful (halal) also that it should have a value.¹⁷ The Islamic laws uphold the right of ownership as it is a strict requirement that no one could illegally take or destroy property and would be punishable by paying compensation.¹⁸

The Sanctity and Protection of Property in Shariah

Under Islamic law (Shariah), the law of property is so founded on the basis that all the wealth and resources are owned by Allah who is the creator and sustainer of this world. Human beings do not own the properties they own absolutely but they are rather described as trustees (khalifah) of such properties. This principle is well defined in a number of verses.¹⁹

وَلَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ وَتَذَلُّوا بِهَا إِلَى الْحُكَّامِ لِتَأْكُلُوا فَرِيقًا مِنْ أَمْوَالِ النَّاسِ بِالْإِثْمِ وَأَنْتُمْ تَعْلَمُونَ

And do not eat up Your property among yourselves for vanities, nor use it as bait for the judges, with intent that ye may Eat up wrongfully and knowingly A little of (other) people property.²⁰

Shariah on Safeguard of Property

Property is highly valued and made sacred through Shari which regards it as a basic right assigned by Allah to people. Among the most important methods of protection of this right is strict prohibition of theft, fraud and usurpation by the Islamic law. Quran and Sunnah forbidden theft either in secrecy or openly, as legal consequences of the behavior are specified in a clear way to prevent it. These prohibitions are meant to promote justice and avoid injustice as well as to guard a person against harm or abuse.²¹ Shariah protects property in the following way:

i. Right to Compensation:

As expressed by Islam, any given person has the right to be well compensated after his property is either damaged, unjustly stolen or destroyed. The Islamic law (Shariah) also known that no one was to suffer any loss that would not be given justice.

ii. Fair Transactions:

The concept of honesty and fairness in purchase and sale and any other financial dealing is given a lot of priority in the Islamic faith. The deals or the contract must be struck in open way and both ends knowing all the terms of the deal and agreeing on it. In case of confusion, cheating or dishonesty the transaction will not be considered as valid in the eyes of Shariah.

iii. Zakat and Charity Obligations:

This concern is one of the most unique about the Islam teachings that is accompanied with the work of zakat and sadaqah (charity). Zakat is the predetermined sum of the money of a Muslim, which is expected to be given out in one year in order to the poor. This is not an option it is an obligation. Sadaqah on its side dictates voluntary charity and it can be offered at any time.²² The sanctity of property is also in the respect of the right of the individual to have property which is determined by the balance between the right to government possessing property individually and the necessity of the government to act on the basis of the public good and the social welfare.²³

Recognition of Intellectual Effort in Islam

Knowledge, learning and creative effort are greatly emphasized in Islam. Intellectual activity such as the employment of writing books, thinking, and inventing ideas, innovating effective tools, or creating art is an attempt of some sort of labor that requires respect and protection according to the religion. Just as the Islam is used to protect the physical property or wealth of individuals in form of lands or money it is also used to protect the right of people when it comes to their intellectual properties.

Role of Intellectual Labor and Creativity in Islam

The Islamic religion places such paramount importance to human mind and intellect. Quran never asks anybody of the faith community to stop thinking or reasoning and use his intellectual powers to become the enlightened person and understand the universe and serve humanity and fulfill his purpose in the earth.²⁴ Intellect is viewed as the gift of God which makes human beings among the rest of the creatures around and entangles man with responsibility and weight. Allah says in Quran:

قُلْ سِيرُوا فِي الْأَرْضِ فَانظُرُوا كَيْفَ بَدَأَ الْخَلْقَ ثُمَّ اللَّهُ يُنشِئُ النَّشْأَةَ الْآخِرَةَ إِنَّ اللَّهَ عَلَىٰ كُلِّ شَيْءٍ قَدِيرٌ

“Travel forth in the earth And see how Allah begun creation; so will Allah bring a later creation: for Allah has power upon all thing.”²⁵

Such activities involve scientific inquiry, creative problem solving but these cannot be opposed to the overall principals of morality in the faith. This endorsement is used on any form or good creativity like growth of technology and scientific discoveries.²⁶

Historical Treatment of Authorship, Inventions, and Scholarly Works

The history in Islam has respected intellectual work. The preservation and transmission of the knowledge was thoroughly guarded since the first centuries and knowledge gained high standards of reliability and authoritative trustworthiness.²⁷ The Islamic Golden Age (8th to 14th centuries) has produced scientific and civilization achievements that could not be compared with any other time. The work of such theorists as Al-Khwarizmi (mathematics) and Ibn Sina (medicine), Al-Farabi (philosophy) and Al-Rabi (chemistry) were published and became the texts of Islamic history and in Europe. Not merely is such a scholar rewarded by the appreciation of his intellectual work but the rulers as well as the institutions usually supported the scholarly writers and inventors as a social appreciation to the authorship and invention.²⁸ This appreciation of intellectual effort had in it arrangements on where to safeguard intellectual contribution in case of intellectual robbery or theft of the effort.²⁹

Islamic Terms and Principles: Huquq al Ibtikar and Related Concepts

This notion establishes the increasing realization of the Islamic scholars on the fact that intellectual contributions like inventions, works of literature, and trademarks are a form of property (mal) that is worth of being given legal protection. The following are the concepts defined:

Defining Huquq al-Ibtikar in Contemporary Islamic Discourse

The concept of intellectual property is being defined in modern Islamic jurisprudence more in terms of a concept designated Huquq al-Ibtikar (حقوق الابتكار) or, alternately, Haq al-Ibtikar (الابتكار حق) which means the right of innovation or right of creation. The term ibtikar arises through the Arabic root ب ك ر, which is to invent, to innovate or to create something new.³⁰ This kind of recognition can be seen as part of a wider trend in the Islamic tradition of legal thought to treat intellectual production as mal (property) with material and legal privacy value attached to it.

Intellectual Creations as Recognized Property (Mal) Under Islamic Law

In the Islamic legal theory, the concept of Huquq al-Ibtikar is established on the larger principle that intellectual works are considered as a form of mal (property) but only with the circumstance that they must pass some requirements of utility, exclusivity, and validity. That is why these creations receive equal measure of legal respect and protection as the tangible property.³¹

Ethical and Legal Justifications for Protecting Innovation in Islam

Huquq al-Ibtikar does not arise out of technical classification, it has strong grounds as a part of Islamic moral and legal system which promotes justice (adl), fairness (insaf) and the sanctity of rights (huquq). The teachings of Islam further value the need to give recognition to human work and reward labor both physical and intellectual.³² Islamic understandings of intellectual property rights are not just useful because they depend solely on reason to exercise innovation or obligation because they depend solely on abstract concepts of rights.³³

Intellectual Contributions in Islamic Civilization

The Islamic world has contributed greater excellence to world knowledge and culture based on authentic religious and philosophical devotion to the study of knowledge, innovation, and excellence. The following regions demonstrate the principles of Islamic scholarship by valuing and safeguarding the contributions of intellectuals that closely relate to the contemporary interpretation of intellectual property rights:

Science and Technology

Muslim scholars of all times were the first in history to develop such essential scientific disciplines as mathematics, astronomy, chemistry, and medicine. Such names as Al-Khwarizmi, Ibn al-Haytham, and Al-Zahrawi presented such innovative ideas as algebra, optics, surgical methods, and treatment. These were in the form of inventions and methodologies that were documented systematically, shared regionally and attributed to the original thinkers.

Philosophy and Theology

The Islamic philosophers, including Al-Farabi, Ibn Sina (Avicenna) and Ibn Rushd (Averroes), also became involved in a rigorous engagement with Greek philosophical thought and developed a fusion of the two in the context of the Islamic world view and produced their own original work which left a mark on world intellectual history.

Literature and the Arts:

The Islamic culture developed a long-term literary and artistic tradition, comprising of mystical writings, poetry, scientific works, and historical texts. Literary works were also the contribution of writers and poets like Rumi, Al-Jahiz and Al-Tabari who were recognized to have taken part in literary work and were able to have their works kept under their names with their due publishing rights indicating an early indication of literary ownership. In visual and applied arts, under innovations there were calligraphy, manuscript illumination, architecture (an example is the Alhambra and Dome of the Rock).³⁴

Islamic Principles Guiding Intellectual Recognition

The concept that human beings are entitled to the things they produce with knowledge, skill, and effort has found a solid basis in Islamic teachings. Some of these creations include inventions, books, ideas, arts and other plain intellectual productions. These principles belong both to the Islamic jurisprudence (fiqh) and ethics and they demonstrate that Islam cares not only about material possessions such as land or money but also about intangible ones such as knowledge and creativity.³⁵

Justice (Adl)

It is a matter of justice (one of the highest values in Islamic law) that the intellectual effort of the inventors, authors and others who created something important should have its due recognition and recompense. Denying a person of what is entitled to him is termed as an injustice (zulm) according to the Quran and Sunnah and by such understanding, withholding a person of credit and benefit of their creative works in the eyes of Islam is morally and legally unacceptable.³⁶

Trust (Amanah)

In Islam, all that one possesses, be it money, knowledge, skills, and talent is believed to be a trust (amanah) of Allah. This consists of intellectual labor such as creating a book, having a new concept, developing something innovative, or coming up with technology. Using the ideas and inventions or written materials of another person inappropriately is just like a betrayal it is unethical and destructive. Islam lets us know that our treatment of others rights will be put to account by Allah.

Social Benefit (Maslahah)

Ensuring a safe, fair, and beneficial society is to everyone is one of the most vital objectives of Islamic law. This objective is referred to as maslahah meaning social benefit or the good of the population. Islam recognizes the right of an individual to own what they create including their brains and ideas but also prohibits that the rights of others should be distressed, and that it should hinder people to acquire knowledge that may benefit them.³⁷

Freedom of Thought

According to Islam, there is the protection of intellectual or intellectual freedom of knowledge in the fields of reasoning and scientific intellectual exploration, within the limit of the main findings in the Quran, and the Sunnah. Throughout history, this openness has resulted in a rich period of scientific, philosophical and artistic creativity in Muslim world. ³⁸

Contemporary Perspectives and Challenges

The contemporary scholarship in Islam is taking the proactive steps to stretch out the static traditional Islamic laws to the circumstantial sphere of modern Intellectual Property. Globalization and digital innovation continue to interconnect the world more increasingly which has led to the rise of new kinds of intellectual products including software and digital media, genetic patent, and artificial intelligence. ³⁹

Balancing innovation and public welfare

Islamic jurisprudence (Islamic legal philosophy) is characterized by a moderate balance whose intent is to reconcile the good of the individual with that of the whole and it is enshrined in the goals of Islamic law (maqsa'id al-shariah).⁴⁰ In Islamic perspective, any system conditioning the rewarding of creativity should also avoid the oppression (zulm), exploitation (istighlal), and harm (darar) of the broader society.⁴¹

Sources of Shariah Supporting Intellectual Rights

Following are the sources of sharia supporting intellectual rights:

Quranic Foundations of Intellectual Rights

Quran puts a stress on the idea of fairness and justice, the security of individual rights, and the right to share the fruit of efforts and knowledge. It promotes integrity in transactions and discourages any theft, fraud and exploitations. These principles justify identification and protection of intellectual property inside an Islamic system.

- **Prohibition of Theft and Unjust Appropriation**

The Qur'an strongly prohibits theft, meaning that it is essential to safeguard any kind of asset whether tangible or non-tangible. In surah Al-Maida, Allah says:

وَالسَّارِقُ وَالسَّارِقَةُ فَاقْطَعُوا أَيْدِيَهُمَا جِزَاءً بِمَا كَسَبَا تَكْلًا مِّنَ اللَّهِ وَاللَّهُ عَزِيزٌ حَكِيمٌ

Translation

And as for the man or woman who steals, cut his (or her) hand off: a punishment by way of a lesson, out of Allah to their offence: and Allah is Exalted in Power, Wise. (Quran 5:38)⁴²

The verse not only indicates how serious theft might be but also puts emphasis on the will of God, which should influence the maintenance of justice and safety of possession. ⁴³The act of copying, utilizing, or appropriating an intellectual work of another individual without their authorization is ghasb (wrongful seizure) and is thus unlawful within the moral and the legal stipulations of Shariah.⁴⁴

- **Honesty and Transparency**

During the Islamic teachings, the values of honesty, transparency and justice regarding speech as well as action directly pass on to the moral treatment of intellectual property. The Quran forbids distortion of truth or withholding knowledge, which are the main issues in the contemporary world that refer directly to plagiarism and copyright violation. Allah says in Surah Al-Baqarah (2:42):

وَلَا تَلْبِسُوا الْحَقَّ بِالْبَاطِلِ وَتَكْتُمُوا الْحَقَّ وَأَنْتُمْ تَعْلَمُونَ

Translation

“And do (not mix) the false with the true or conceal the truth knowingly.”

This verse blames the practice of presenting a falsehood, which can refer to someone presenting another intellectual work as his own, which is what plagiarism entails. Such practices abuse the truth and the true ownership and thus go against the words and the spirit of Islamic principles of ethical behavior.⁴⁵

Ijma (Consensus) and Qiyas (Analogy)

Primary sources of law Classical Islamic jurisprudence embrace such secondary sources as Ijma (consensus) and Qiyas (analogy) in deducing legal decision in areas that are not clearly stated in the Quran and the tradition of the prophet (Hadith). These tools are particularly important in solving the modern problems such as the rights of the intellectual property that never existed at all in the early Islamic era in the same form.⁴⁶

Classical Scholarly Consensus

Ijma (consensus) and Qiyas (analogy) are also significant secondary sources to be used in classical Islamic legal methodology as a way of determining rulings where the Quran and the Hadith are silent on the subject.⁴⁷ The influence of Ijma (Consensus) in the development of modern Islamic perspective of intellectual property has been identified. ⁴⁸Such institutional agreement is a modern type of Ijma with legitimacy to intellectual property within the context of shariah.⁴⁹ Analogy called Qiyas, is also applied to intellectual property by comparing physical property and the unauthorized use of intellectual works. It will be observed that physical goods cannot be consumed or used without the consent of the owner and the same will apply to intellectual products that must be respected and not used without permission.⁵⁰

Analogical Extensions (Qiyas)

Qiyas (analogy) is a strongly established principle of Islamic jurisprudence on which legal jurisprudence is already determined in new or unknown circumstances by referring to already known situations with legal verdicts. Classicists such as Imam al-Ghazali generalized the provisions of theft by including the duplication of the manuscripts of scholars without their permission.⁵¹

Modern Applications:

The modern-day scholars still use Qiyas by applying the concept of digital piracy, presenting unauthorized downloading, reproduction, or distribution of books, software, or creative content, to the classical idea of theft (sariqah)

and usurpation (ghasb). The two acts are associated with the misuse of another person's property to benefit oneself through no consent.⁵²

Trademark Protection

Besides copyright, and patent concerns, Qiyas is also utilized to provide the Islamic grounds to defend trademarks. Also the hadith forbids ghish (fraud or deception) of mislabeling items or misrepresenting them so as to mislead the consumer. The compatibility of this ban with that particular role of trademarks as a guarantor of the authenticity and defender against cheating is the analogy brought by the scholars and is legal in nature.⁵³

Ijtihad in Modern Intellectual Property

Contemporary scholars are employing ijtihad as an independent juristic reasoning in order to solve the new emerging challenges in intellectual property, which is not directly addressed in classical Islamic texts. New kinds of property and technology arise jurists reinterpret the principles on which the Shariah is based to make it relevant and ethically applicable.⁵⁴

Adapting Classical Principles

In the digital content arena, most of the Islamic scholars have made arguments that downloading software or any other digital content without the authorization of the original owners is not permissible. In much the same way, the jurists working within the bio-industry have used the rule of maslahah (public interest) to authorize intellectual property rights to genetic manipulations or pharmaceutical inventions.⁵⁵

Balancing Rights and Access

Contemporary Ijtihad is also extremely relevant in solving the ethical dilemma between the right to own goods and societal good. The Muslim scholars appreciate that as much as artists are allowed to enjoy the fruits of their intellectual labor there is a condition that this right has to be balanced with social requirements and fairness in knowledge accessibility.⁵⁶

Ethical Foundations in Islamic Teachings on Intellectual Property (IP)

The Islamic religion gives very good moral principles as far as protection of intellectual property (IP) like books, inventions, ideas and creativity work is

concerned. These rules are based on three primary sources, namely the Quran, sayings and the practices of the Prophet Muhammad (peace be upon him) referred to as the Sunnah, and agreement of Islamic scholars called the Ijma (agreement of scholars).⁵⁷ Islam promotes good practices, truth, and righteousness and therefore stealing ideas and work of another without his or her consent is wrong.⁵⁸

Prohibition of Fraud, Plagiarism, and Deceit

The Islamic practice is explicit that no kind of cheating, lying, and stealing and copying of other people without their consent is allowed. To steal thoughts, writings, inventions or any other creative work of a person in Islam is not just illegal but a worst sin. The reason is that Islamic religion highly advocates the concept of honesty, equity and humility towards the right of others. Stealing the work of another person is not a minor fault but it is a big sin against Islamic morality and law.⁵⁹

Plagiarism as Usurpation (Ghasab) and Betrayal (Khianah)

Plagiarism refers to stealing the work of another person and deciding that you did it. This is considered as two grievous evils in Islam:

I. Ghasab: To steal which is like to take anything that somebody does not allow to be taken.

2. Khianah: To do something that causes one to give up trust and lie. In Surah Al-Baqarah (2:188), the Quran cautions against such actions. It is therefore haram (prohibited) to steal the property of any person be it tangible such as money or land and non-tangible such as ideas and writings without the consent of the holder.

Hadith on Claiming What Is Not Yours

The Prophet Muhammad (peace be upon him) made resounding warnings against claiming credit of what actually does not belong to you. He said:

- Those who possess something which is not theirs are not us.
- This hadith reveals the fact that committing lies of ownership is a sin, which is so grave as to take an individual out of moral ranks of Muslim community.

As such, intellectual run is not only a crime of this world it is also a crime of spiritual and religious corruption.

Copying Without Permission is Injustice

Copying is a form of injustice without permission. The Islamic scholars and institutions have clearly come out to condemn the act of copyright infringement without authorization of using the creative work of a person. As an example the Egyptian Fatwa Institution (*Darul Ifta Al-Mishriyyah*) refers to it as a tyranny against rights. This implies that, it is a form of injustice to replicate books, software, music, or any artistic material without the authorization of the owner.⁶⁰

Stealing Ideas is a Form of Theft

In the event that one appropriates the ideas of another person and he or she does not acknowledge it, it also suffers the same consequence of stealing in the Islamic religion. According to the International Islamic Fiqh Academy, such theft ought to be subjected to punitive measures similar to the other thefts.

Violating the Objectives of Islamic Law (Maqasid al-Shariah)

According to well-known Islamic scholar Wahbah Al-Zuhaili, plagiarism and type of intellectual fraud are not in line with the basic intentions of Shariah called Maqasid al-Shariah. Hifz al-Mal is one of such goals and it means a protection of a property of a person. An unauthorized use of work or ideas impairs the economic and moral rights of the person having old money. Islam is interested in the security of both the money and dignity of a person.⁶¹

Encouragement of Fairness, Honesty, and Ownership Respect:

Islam also attaches a lot of significance to justice, integrity, and honoring the property of others. These values are not limited to the treatment of material objects of such nature as money or land but also the Intellectual Property (IP) object, in other words the ideas, books, research, inventions, designs, or any form of creativity. According to Islam, honesty (sidq) is among the best features that a Muslim must possess.

Transparent Attribution of Others Work

According to Islam, when you borrow the work of another person, you should acknowledge them by name or source. This is referred to as attribution. The Al-Azhar Fatwa Committee states that you are only permitted to quote or to copy someone, when you make it very clear that it comes from where and who a person is.⁶²

Explicit Consent for Usage

The Islam teachings on not being allowed to use a property belonging to another person without asking their permission even when it is not a tangible object, are also taught. Therefore, no aspect of copying the notes of someone or downloading free material without notice or paying to have the material may fit the teachings of Islam unless there is given consent.

Respecting Ownership is Part of Justice (Adl)

Islam also emphasizes a lot on justice and this is termed as adl. Justice is giving everyone treats fairly and what they deserve. As much as man makes something i.e. a book, an idea or an invention he or she is entitled to be recognized and compensated on the same.⁶³ This implies that they are financial rights equally as those of owning a car, land or house. Stealing a creative work of a person is just a form of stealing property.⁶⁴

Protection of Intellectual Property (IP) Encourages Creativity and Growth

Protection of intellectual property does assist in encouraging individuals to write, invent, design and produce something more. This results in advancement of knowledge, science, education and economy within the society. When people realize that their work will not be stolen but respected, they will feel safe and stimulated to contribute more.

Moral Duty of the Muslim Community

According to the Islam all the Muslim men and women, the young and old have an ethical obligation of adhering to the principles of honesty, treating people fairly and the need to respect people efforts. This consists of showing respect to the work of others, creativity and ideas other people possess.

Building a Just and Knowledgeable Society

By abiding by Islamic teachings of knowledge and honesty we will manage to take steps in constructing a society which will be just and also be filled with learning. Knowledge is promoted by Islam to all Muslims and as such should be shared but only to a good purpose and yet the act should be respected in a manner that is ethical.

Balance Between Public Access and Creator Rights:

Islam teaches that there must be a balance between the rights of a man who produces something, and the needs of the people using it. On the one hand, the other creators, such as writers, scientists, designers, and inventors should have the right to defend their content and profit on it. They took time, knowledge, and effort to do something new and it should be reasonable that they will be rewarded. ⁶⁵

Knowledge as Common Property (Public Domain):

Scholars such as Dr. Muhammad Nejatullah Siddiqi state that in Islam, general knowledge was commonly perceived as a commons resource. This implies that individuals ought to be shared useful knowledge to learn from particularly one that can be helpful to the society. As an example, it is permissible in Islam to read religious books, scientific facts or read other educational material with the aim of personal knowledge.⁶⁶

But on the other hand Islam does not permit selling, printing, generating profit out of work of another person or institution without his permission. One should not use the creative piece of work of someone earning money or advertising their own business without the agreement of the author since it interferes with his or her rights.

Personal Use is Allowed but with Limits:

According to the Fiqh Academy, application of the copyrighted material of someone can be done to serve the personal purpose of an individual, such as study and self-education, provided that it does not damage the interests of the original writer or creator in terms of money. Islam has never failed to talk about qist, which refers to fair distribution of the rights. ⁶⁷

Role of Custom (Urf) in Determining Usage:

One more element of the Islamic law is the significance it puts on urf, meaning the accepted and common practices of the society in the condition they do not contradict with the Quran and Sunnah teaching. But, they are widely spread about a custom to take place, which is about piracy, copying everything, or selling some things not allowed to them in Islam and so numerous people use them it is still not right in Islam because we are acting against the rights of the creator, and the Sariah.

Role of Trust (Amanah) and Responsibility:

Amanah has the meaning of trust in Islam and in the life of a Muslim it is one of the greatest values. Trust does not just mean to keep the secret of someone or to give back the borrowed things but also in regards to how we manage or rather deal with the ideas, creations and knowledge of other people. ⁶⁸

Creators and Users Must Be Responsible (Ethical Custodianship):

Allah has given knowledge and talent to people who work out intellectual pieces such as authors, artists, scientists and researchers. It is their responsibility to utilize these gifts to the benefit of the society and zulm which translates to injustice or tyranny. In the process individuals who make use of such works like the readers, the students or the companies are equally obliged to honor the right of the creator. ⁶⁹

Misuse of Intellectual Property Breaks the Trust:

It is not only legally wrong to use intellectual property without permission of another individual by downloading pirated books, copying assignments, stealing designs or selling articles for others, but also a breach of amanah. Taking what does not belong to a person is betraying the trust that people have in each other and trust towards Allah. ⁷⁰

Protecting Creators' Rights is a Social and Religious Duty

In Islamic jurisprudence, defending the privileges of various people particularly issues that impact the entire society is referred to as fard e kifayah. This implies that it is collective. When nobody does anything to

prevent intellectual theft or teach other people about this issue, the entire community becomes evil. When others fight to defend the same rights on their behalf, the load is removed off others.⁷¹

Purpose of Innovation Must Align With Morals:

Lastly, innovations and creativity should have a good cause as taught by Islam. The products must not violate moral laws and must benefit the society, solve a problem, make more people know, or benefit the human world. One can come up with something astonishing, but in case it hurts, portrays a lie, or swindles others, it is not welcome in Islam.

Treating amanah with respect means that creation of new ideas and inventions will be something that can be utilized positively and not destructively. It maintains the process of science and development that is coupled with ethics and spirituality which is the core of Islamic way of life.⁷²

Islamic Ethics and Intellectual Property Rights

Religious beliefs and rules guide the Islamic teachings on intellectual property (IP). This is to say that Islam is not only concerned with examining IP in terms of the legal aspect, but also moral and spiritual aspect. In Islam we are clearly informed that cheating, stealing an idea or using work of a person without his permission is not permissible.

Maqasid al-Shariah and Intellectual Property: An Integrated Framework

The Islamic jurisprudence legal protection of intellectual property (IP) is based on Maqasid al-Shariah (Objectives of Islamic Law), which is a balance between the individual and societal wellbeing rights. It is based on Quranic, Prophetic tradition and the classical scholastic consensus with its overall ethical-legal framework providing a comprehensive foundation of modern IP systems.⁷³

Hifz al-Mal (Protection of Property) and Intellectual Property

Under the Islamic law, Hifz al-Mal is considered as an ultimate goal that advanced all the variety of legitimate properties. The Quran is against unjust acquisition of wealth, it states, no one is to eat what is earned by the other unjustly, in other words, unjustly appropriate wealth “Do not consume one

another property unjustly” (4:29). Modern historians go as far as applying this to intellectual property and stating that IP is, indeed, haqq mali (financial right) when applied to al-mal (property).

Application to Intellectual Property IP

The modern world has seen intellectual property (IP) in the form of books, inventions, software and designs having a bonafide economic value and be able to be owned, sold, transferred or be legally dealt with. Islamic jurists and scholars have come to accept the fact that the Intellectual Property IP can be termed as a type of property (mal) since it can be valued and useful to both the creator and society.⁷⁴

Legal Recognition

Modern scholars such as Dr. Wahbah Al-Zuhayli argue that when an individual invents something and the skills are used by an individual and his intellect, it becomes his or her property. That is why when somebody takes it or reproduces it without its owner, this is interpreted as ghasb, i.e. taking away something by force that is not yours. This

Economic incentives

The fact that Islamic governance (fatwas) issued by religious authorities such as Al-Azhar also say that IP protection is neither wrong nor against the requirements of promoting creativity and economic prosperity, also confirms the idea. These researchers elaborate the fact that royalties and copyrights provide an incentive on the part of inventors to create, write and design.⁷⁵

Theft deterrence

In case an individual copies or sells the intellectual work of any other individual without consent, the individual is said to have violate the property rights. The Islamic teachings indicate that the same act specify both material (repaying the value of stolen work or compensation of damaged works) and moral (mending the dignity and rights of the first creator) punishment.

Hifz al Ilm (Protection of Knowledge) and Its Value

Islam takes intellectual property very seriously just as it does to physical property. It identifies the effort, innovation and economic interests that go

into it and provides clarity to guide all ethical and legal principles so that those who do wrong get punished, others who innovate and work should be safeguarded and encouraged, and so on.⁷⁶

IP as Knowledge Stewardship:

Knowledge and its preservation and transmission is highly valued in Islam and is called Hifz al-Ilm (protection of knowledge). The use of modern intellectual property systems such as copyrights and patents assist in the achievement of this Islamic objective particularly when such systems are utilized fairly and ethically.

Maslahah (Public Interest) in IP Protections

Maslahah is defined in Islam as an action that is good to the society. It comes in favor of IP protection where it assists individuals and good to the society. The concept is in line with greater objectives of the Islamic law (Maqasid al-Sariah) such as safeguarding knowledge and possession.⁷⁷

Intellectual Property (IP) as a Tool for Maslahah

The tools use as Intellectual Property in maslahah are as follows:

i. Innovation Incentives

The Islamic faith promotes creativity and economic development. Scholars and the department of Islamic affairs issued fatwas stating that patents and copyrights are permitted (mubah) in cases where they do not prevent anyone to innovate and develop and in cases where they do not hinder knowledge that is significant.

ii. Public Interest Exceptions

Islam permits violation of IP laws when it is beneficial to the population. As an example, medicines or school books even can be shared or copied in a case of crisis without permission. In situations like this the advocacy of Maslahah (public good) holds more significance than the individual gain.

iii. Customary Alignment

The Islam religion may accept modern laws of IP as long as they are in accordance with urf (custom), and are not contrary to the Sharia. But this is not a good solution Islam permits because Islam does not permit patents that

establish vicious monopolies such as the prevention of access to lifesaving drugs. Well-being of the people is the primary concern to be guarded.⁷⁸

iv. La Darar wa La Dirar (No Harm) as a Legal Maxim

According to the Islamic law, La Darar wa La Dirar means, Do not harm and do not allow harm. The rule is critical in discussing intellectual property (IP). When an individual appropriates the work of another without their authorization, it will inflict harm (darar) to the other, by depriving them of their financial and moral rights.

v. Avoiding Public Harm

Meanwhile, Islamic law is against the harm of the population due to the excessive strictness of IP. When individuals cannot obtain any education, study, or vital knowledge, it violates the principle of la darar because of harming other people. This is the reason Sharia made an exception to the usage of the copyrighted materials in schools, colleges and toward the greater good. It also prohibits patenting of natural discoveries (such as gravity or DNA) so that knowledge that is important remains opened and at the disposal of all people.⁷⁹

vi. Equilibrium in Practice

The Islamic law is always making an attempt to establish an equilibrium or a balance between various rights and duties. Considering intellectual property (IP), the Islamic teaching ensures that the creative authors are to be safeguarded, and the users are to behave with fairness toward them and the society at large can continue to gain and so especially in cases of necessity. This balance is informed by justice fairness and societal good. Supremacy in the Islamic jurisprudence includes:

a) **Creator Rights:**

Islam appreciates hard work, time and creativity of people who invent, write, or come up with the original something. Sharia states that creators reserve all the rights of what they have made, especially in the case of sale or selling them as businesses. Nobody is supposed to copy and sell an individual work without their authority.

b) **User Responsibilities:**

In Islam, there are also obligations of the people who make use of an intellectual property such as a reader, a student, a teacher, or a company. They should never make it appear that they are the original designers, (this is known as attribution) and they cannot make money out of someone without their consent.

c) **Societal Welfare:**

In emergency circumstances or in situations when something is urgent, even the strict regulations may be forgiven and a company may assist the community. An example could be in case of health crisis or when in low income places the population can not afford medicine or study books.⁸⁰

Perspectives of Contemporary Islamic Scholars and Legal Institutions

The intellectual property (IP) rights are generally accepted in modern Islamic thought to be suitable with the Sharia guidelines and key institutions have issued direct fatwa and resolutions regarding intellectual property (IP) rights rules. This is an agreement based on basic Islamic laws of protecting property rights and forbidding theft principles, generalized by juristic reasoning of modern versions of IP rights.⁸¹

Modern Scholarly Endorsements

In the modern world Islamic scholars and established institutions of Islamic world have drawn a clear line that intellectual property (IP) including inventions, books, software, trademarks, and copyrights are protectable under the Islamic law (Shariah). Such theorists concur that intellectual products are not mere ideas that are passing through the air. On the contrary, they are a product of ones effort, time, expertise as well as innovation.

i. International Islamic Fiqh Academy (OIC)

The International Islamic Fiqh Academy (IIFA) is one of the most significant organizations which have assisted in promoting the intellectual property protection in Islam. This is a renowned and esteemed institution operating under the Organization of Islamic Cooperation (OIC) a grouping of more than 50 Muslim states. In 1988, the Academy came up with an extremely important decision. It stated that together with trademarks, inventions, books, literary works and copyrights all are regarded valuable financial rights in Islam.⁸²

ii. Al-Azhar Fatwa Committee

Al-Azhar, a very old and renowned Islamic organization of the world, has also lent its voice on the importance of protecting IP with great demand. Through its Fatwa Committee it has explained clearly that it is haram (forbidden) to illegitimately copy software or use it without the approval of the owner. According to them, no man has a right to sell, copy, enjoy, utilize or assign such property without the authorization of the owner first.

iii. Dubai Department of Islamic Affairs

In Dubai, one of the leading scholars known as Ali Ahmed Masha'el has also affirmed that registration and protection of IP is permitted in Islam, having to do so under the direction of the department of Islamic Affairs and Charitable Activities. To him, it is not forbidden (haram) that the inventors and the creators secure their work as a new design, idea or a book and act on any person who steals or misuses them. This protection promotes additional creativity, and fairness in business and education.⁸³

iv. Islam QA (Online Fatwa Platform)

Fatwas on this issue have also been made by IslamQA, an Islamic site that many people follow and whose questions about Islam are answered. According to the site, it is clear that Copyright and patents are safeguarded by the shariah. Their owners can buy or sell them. This implies that the school of thought of the Islamic law allows authors, inventors, and other creators to

own their creation thus have the advantage of either profit making off their creation or transmitting it to others.⁸⁴

These Positions Derive from Core Principles

The Islamic law on the support of intellectual property (IP) has nothing to do with the contemporary concepts only Islamic Sharia is presented according to the main ideological fundamentals. All the Islamic rulings are guided by these principles, and it is also applied to such new technologies as copyrights, patents, and trademarks. These are the primary justifications of these rulings:

i. Protection of Property (al-Mal):

Preservation of peoples property and wealth is one of the primary aims of the Islamic law (Maqaṣid al-Sharia). This is not limited to the physical assets, such as houses or money, but it extends to the intangible assets, such as ideas, books, inventions, and digital content. Islam holds that when an individual creates something through their intellect and effort, the resulting innovation rightfully belongs to them.⁸⁵

ii. Prohibition of Theft (Ghasb) and Fraud (Tadlis):

Islam very strictly discourages stealing (ghasb) and deceptiveness (tadlis) of any sort. These principles do not only relate to stealing physical property, but also to appropriating the ideas or work of another party without attributing them or seeking and obtaining an authorization. Not only that they are unethical but they are sins, as they affect other people negatively, and disrespect their rights. Islam tells us to be honest and reliable even when it concerns the efforts of other people and their property.

iii. Promotion of Innovation and Creativity:

Islam preserves knowledge, creativity and innovation. The Quran and Hadith motivate the Muslim people to find knowledge, to reason and problem solve. Whenever an individual has invented a new thing, or written a valuable book, he or she is helping in society developing. Islamic law assists in promoting increased creativity by offering protection to intellectual property and those individuals and groups of society who utilize their abilities to promote other people.⁸⁶

Institutional Frameworks and Conferences

Over the past few years, intellectual property (IP) has begun to be taken seriously as the subject of study in many Islamic research institutions and academic conferences. These meetings are attended by scholars, researchers, and legal representatives to debate the use and protection of the copyrights, patents, and new technologies such as artificial intelligence (AI) and block chain by the Islamic law (Sharia).

IP & Innovation Researchers of Asia (IPIRA) Conference 2023

In the year 2023, a multi disciplinary conference, IPIRA conference, was conducted on the territory of Asia where law, technology, and experts on the Islamic religion assembled. Among the key issues addressed was how Sharia principles could be used in innovative types of IP including the products of AI and blockchain technology as well as collaborative ownership of creative works.

ISAR Research Center Copyright in Islamic Law Project 2024

The ISAR Research Center, a respected Islamic studies institute, launched a special research project in 2024 called copyright in Islamic Law. This project is aimed at discussing the operation of copyright laws, with respect to Islamic jurisprudence. The work assists in the establishment of a better Islamic perception of the copyright as it matches the modern digital and creative world.⁸⁷

Dr. Mohamed Ahdash's Intellectual Framework

Dr. Mohamed Ahdash is a famous Islamic legal scholar who has come up with a comprehensive system of knowledge about copyright into a classical Islamic legal knowledge (fiqh). He employs such legal significant concepts as:

- **Milkiyya (ownership):** demonstrating that products of the intelligence can be owned as tangible goods are.⁸⁸
- **Manfa (benefit or utility):** describing that the owner has the right to have a right to benefit over his or her work through copyright.

Qiyas (Analogical reasoning): Citing the older Islamic rulings (such as ownership of physical goods) to describe the contemporary copyright protection rights.⁸⁹

I.18.7 Fiqh Application to Intellectual Property (IP) Categories

IP Type	Sharia Position	Legal Basis
Copyright	Privileged as exceptional right	Equality to physical property (qiyas); aversion of haram (darar)
Patents	Legal and time bound.	Maslahah (public interest) to reward innovation.
Trademarks	Tradable securities	Banning fraud (gharar) protection of consumers.
Software	Openly safeguarded.	Fatwas on copying without authorization in the era of modernity.

Evolving Jurisprudential Approaches

The modern Islamic scholars are employing progressive and brilliant ways on determining and analyzing the role of intellectual property (IP) within Islamic law (Sharia). These scholars have not merely restricted themselves to ancient rulings, on the contrary, they are employing contemporary legal instruments of Islamic law to address novel cases such as copyrights, patents, electronic piracy and fair-play in business.⁹⁰

Maqasid al-Sharia (Higher Objectives of Islamic Law):

Maqasid (the overall intentions or goals of Islamic law) is one of the numbers of major approaches which scholars employ today. They involve defense of life, wealth, religion, intellect and dignity. With intellectual property, the rights of creators must be secured as this forms part of the encouragement to innovation, shifting economic growth, and dissemination of positive knowledge across the society.⁹¹

Urf (Customary Practice):

Urf is the other approach that scholars apply and it refers to considering the practices and the standards of the society as far as they are not contrary to the

belief of Islam. In the present day, the world globally has embraced the notion that ideas, inventions and other creative works possess actual value and that they can be owned in the same way as the material possessions.⁹²

Conclusion

The study establishes that intellectual property enjoys a strong foundation within Islamic law and ethics. Islam values not only material possessions but also knowledge, creativity, and human effort, and calls for their fair protection. The primary sources of Shariah—the Qur'an, Sunnah, Ijma, and Qiyas—lay down robust principles for safeguarding such rights, while the ethical framework of Islam emphasizes honesty, justice, and respect for the contributions of others. Furthermore, the objectives of Shariah (Maqasid al-Shariah) reinforce this protection by ensuring the preservation of wealth, intellect, and social welfare. Hence, Islamic philosophy presents a balanced perspective that can inform contemporary legal systems, foster innovation and creativity, uphold fairness, and prevent harm.

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