ANALYSIS OF SHARIA ECONOMIC LAW ON VIDEO REUPLOAD PRACTICES BY FACEBOOK FANSPAGE USERS

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Abstract

Facebook Fanspage is a feature on Facebook widely used by brands to build their community in cyberspace. Facebook currently has provided a Facebook Fanspage feature where users can upload any type of video, not even a few of the users who get rewards or fees from uploading videos on the Facebook Fanspage page. However, it does not mean that it is without problems, one of the problems that still occurs on Facebook Fanspage is that many cases of copyright infringement on the site, such as the practice of re-uploading for example. The study examines how the validity of income obtained from reuploading activities is viewed from the perspective of *ibtikar* right in sharia economic law. The research is a type of field research. The results of the research are that it is illegal to reupload videos carried out solely for personal gain without giving royalties to the producer/ related label. In other words, the act is the same as a merchant selling goods belonging to someone else without the permission of the owner. Copyright in Islam is known as the *ibtikar* right which is a copyright attached to the owner of the original video and part of intellectual property, both material and immaterial. Thus, it must be legally protected. Islam highly respects copyright as a personal property right so that the right of *ibtikar* is included in the *Maqashid* Sharia to maintain the existence of property ownership of every Muslim. Every property that results from the act of reuploading videos in Islam is unlawful, because it is included in violating the rights of others.

Keywords: *Ibtikar* right, Facebook, Facebook Fanspage, Reward

INTRODUCTION

Facebook in addition to obtaining information can also be used to make money by uploading videos through the Facebook Fanspage feature contained in Facebook. You can monetize videos on any topic. However, there are also many who use the Fanspage to upload videos or other people's works solely to get the maximum profit without thinking that such actions violate the copyright of other people's videos uploaded without the permission of the video owner. Uploading other people's videos is indeed easier than making your own videos, it is certainly very detrimental to the original owner of the video.

The loss experienced by the original video owner, due to the act of covering or uploading videos by the Fanspage user uploader, from a financial perspective, the reuploaded video may get more views than the original video copyright owner, with more automatic income earned greater is obtained from the advertisements displayed on the Fanspage (Bagus Nurdiansyah, 2021). While the original video owner and uploader do not know each other, in other words the uploader uploads videos to the Fanspage without the knowledge or permission of the original video owner. This act in the Indonesian legal order is not significantly regulated as a form of criminal act only regulated in the copyright law, while in Islamic law the concept of copyright must consider aspects of justice. The copyright referred to in sharia law is the *Ibtikar* right, namely the copyright/creation that is first produced by someone. Justice in Islam means appropriate and one party should not oppress and be wronged by the other party. However, it is contrary to the problem (fee/reward) received by the uploader of other people's videos. Therefore, the study aims to describe and also look for the status of Islamic Law on the Reward Reupload on the Facebook Fanspage portal.

REVIEW OF LITERATURE

Ibtikâr means the beginning of something or the beginning. *Haq Ibtikar* in Islamic Fiqh is meant to be a copyright / creation that is produced by someone for the first time. In the world of science, *al ibtikar* is called copyright (Rahman 2019). Within the scope of *haq al ibtikar* (copyright), the word "*haq*" is the authority or ownership of a newly created work (*al ibtikar*). The word *ibtikar* etymologically comes from Arabic in the form of *isim mashdar*. The past tense verb (*fi'il madhi*) of this word is *ibtikara* which means to create. If it is said *ibtikara alsyai'a* means "he has created something" (Suryana 2017). All these

words have meanings that are close to each other. If it is said to mean “Going to him immediately (quickly)”, or it also means that everyone hastened to him at the appointed time.

Understanding the terminology *haq al-ibtikar* is not found in classical fiqh literature, because it is difficult to know the definition from classical fiqh figures. The discussion of *haq ibtikar* is often found in the discussion of contemporary fiqh scholars. Dr. Fathi Ad Duraini, Professor of Fiqh at the University of Damascus, Syria, stated that *ibtikar* is: A picture of the thoughts produced by a scientist through his thinking and analytical abilities and the results are the first inventions or creations or have not been put forward by previous scientists (Humaeroh 2019).

This definition implies that in terms of form, the result of this thought does not lie in stand-alone material that can be touched with the human senses, but the thought only takes shape and has an effect when it is poured into a work such as writing, video, books or other media. Then, the results of this thought are not plagiarism or repetition of previous scientists’ thoughts and are not in the form of adaptations. However, this *Ibtikar* does not mean something new at all, but may also take the form of an invention as an extension of the previous scientist’s theory, including the results of other people’s thoughts into a foreign language. What *Ibtikar* means here is due to the efforts and language skills of the translator to disseminate a scientific work (Rahman, 2019).

Judging from the fundamental aspect of copyright, Islamic Economics first recognizes property rights. The property rights are not property rights like the capitalist economy which is based on individual property rights or the socialist economy which is based on the philosophy of collectivism. However, property rights in Islam recognize both and provide their own fields without considering it as an exception or a temporary remedy that is forced by certain things (Cholifah 2016).

According to the MUI fatwa No. 1 of 2003 concerning Copyright, Copyright is seen as one of the *huquq maliyyah* (wealth rights). Thus, copyright can be equated as ownership rights to an object/mal. So it can be treated as a property that can be owned, controlled, cultivated, and transferred (Febriana, Fauziyah, and Hayatudin 2020).

Based on the provisions of Article 1 point 1 UUHC Number 28 of 2014 what is meant by copyright are: “Exclusive Rights” of creators that arise automatically based on

declarative principles after a work is manifested in tangible form (works) without reducing restrictions in accordance with the provisions of laws and regulations (Febriana, Fauziyah, and Hayatudin 2020). UUHC Number 28 of 2014 replaces UUHC Number 19 of 2002 as a form of improvement to the legal basis for protection for copyright activists in Indonesia.

Regarding the legal basis for *Ibtikar* rights, there is no specific argument that explains it, but contemporary Muslim scholars give their views on this matter, they *ijtihad* on the basis on which the law relies in determining copyright. Among them is Fathi Ad Duraini who stated that the legal basis of copyright is '*urf* (a custom that is generally accepted in a society) and the rule of *maslahah mursalah* (a benefit that has no text from the Qur'an and Al-Sunnah), but contains goodness in him)(Ulumuddin 2019).

Among the arguments that are general in discussing the issue of *haq*, namely: QS. Al-Baqarah 2: 188 which means: "And do not let some of you eat the wealth of others among you in a false way and (do not) take the property to the judge, so that you may eat some of the property of others. it by (the way of doing) sin, Though you know" (Quran 1989).

Regarding this verse, according to Ibn Jabir, Ibn Abi Hatim narrated from Ibn Abbas, he said, "This verse was revealed regarding a debtor, who denies his debt before the judge, even though he knows very well that he is in debt." As for the meaning of "eating your wealth among yourselves (yourself) in a vanity way" is taking other people's property in a way that is not permitted by sharia, even though those who have property feel happy and are happy to give up their wealth, like someone with the intention of adultery, or like someone gambling, the loser feels willing to give up his wealth to the person who wins in the gambling (Hakim, n.d.).

By de facto, copyright has become a part of everyday human life, while there are no *sharih* texts that discuss this, and they do not object to this, so '*urf* is used as a legal basis. As for *maslahah mursalah*, there is benefit when this right is protected, because this is a form of appreciation for the creator of the copyrighted work. And the existence of protection against it means preventive action for the occurrence of injustice to its owner. The benefit that is taken is the right to enjoy a creation for its owners, both in terms of morals and in terms of material benefits (Suryana 2017).

If benefit is part of the objectives of sharia, then protecting copyright is an effort to maintain the benefit of the creator and society in general. In copyright protection, it is a preventive measure to prevent greater *mafsadah* (damage). Because with this protection every creator of copyrighted works will be motivated to continue to explore new discoveries that will be useful for humans. If this right is not protected, it will certainly cause various damages in the community, such as the reluctance of the creators of copyrighted works to create their works, the more worrying impact is the lack of development of technology and science because there are no longer people who want to create various inventions from the results of their work (Suryana 2017).

RESEARCH METHOD

Research method is the method or path taken in searching, exploring, processing and discussing data in a study to obtain solutions to problems (Nugrahani and Hum, 2014). The study is based on field research by conducting interviews and observations to the owner of the fanspage account. The research uses qualitative method. Therefore, the use of a qualitative approach is to match reality with the applicable theory by using a descriptive method (Ainorrofique, 2021; Moleong 2013).

According to Nasution, primary data is data that can be obtained in the field or research place (Sukmadinata 2005). In other words, primary data is the main data that can be obtained from the research site. The primary data source is interviews with Facebook Fanspage account owners, namely: Bagus Nurdiansyah and Doni Setiawan. While secondary data from this research is data that has been collected for purposes other than solving the problem at hand. The data can be found quickly. In this study, the secondary data sources are literature, articles, journals and sites on the internet related to the research conducted (Sugiyono and Kuantitatif 2009).

RESULTS AND DISCUSSION

Facebook and Facebook Fanspage

Nowadays, internet technology is present in our midst with various functions, especially those that support the communication process. Internet services that support the needs of social interaction include browsing, email, blogs, and Facebook. Various internet services have made it easy for users to search for information, communicate, have opinions

and opinions as well as build relationships with certain individuals or groups, thus making the internet the primary medium of choice for meeting information needs (Ichsan 2009).

The history of friendship sites began with the presence of online community sites, such as Theglobe.com, Geocities, and Tripod. These chat facility sites are only a place to chat between users. In addition, various facilities or tools are provided so that users can create personal homepages to display information that can be shared among users (Ichsan 2009).

Facebook is a social networking website where users can join communities such as cities, work, schools, and regions to connect and interact with other people. It is now very familiar not only among urban people but also rural communities. Until now, Facebook is a popular social networking website launched on February 4th, 2004. Facebook was founded by Mark Zuckerberg, a Harvard student born on May 14th 1984 and a former student at Ardsley High School (Muhlis, Jasad, and Halik 2018).

At the beginning of development of this social networking website, membership was still limited to students from Harvard College. In the next two months, its membership expanded to other schools in the Boston area (Boston College, Boston University, MIT, Tufts), Rochester, Stanford, and Northwestern (Muhlis, Jasad, and Halik 2018). Many other colleges were added successively within one year after their launch. Finally, people who have a university email address (such as: .edu, .ac, .uk, and others) from all over the world can also join this social networking site. Since September 11th, 2006, anyone with any email address can register on Facebook (Arifin 2015).

Users can choose to join one or more of the available networks, such as by school, workplace, or geographic area. As of July 2007, Facebook has the largest number of registered users among sites a school-focused site with more than 34 million active members it has from all over the world (Arifin 2015).

Facebook Fanspage

Facebook Page or now known as Facebook Fanspage is one of the features on Facebook widely used by brands to build their community in cyberspace. Since November 2007, many bands, sports teams, artists, films, brands, non-profit organizations and businesses that have used Facebook Fanspage, also have facilities that allow users to gather as many friends as possible (Putri, Hartati, and Purwinarti 2017).

Facebook Fanspage has a mission to help Facebook users share (info, experiences, etc.) and make the world more open and connected. By the Facebook Fanspage, people will be helped to aspire their opinions to the public figures or organizations they want, and even establish conversations with other Facebook users to share information about the public figure or organization. In the end, Facebook Fanspage provides a dynamic relationship between Facebook users and the public figures and organizations that Facebook users want.

Reupload

Before discussing about how to reupload, the researchers explain reuploading first. The language definition (reupload) comes from a term in English, consisting of two words, namely, (re) which can be interpreted as “repeat” or “return”, and the word upload. In terms of simple understanding of “upload” is a process or procedure for transmitting data or files from a computer system or other device to a different computer system or server and is very reversed by downloading.

The user internet network is a way or path to carry out an upload process from one computer device to another computer device when a second party requests data or files. The file will be transferred to a database server and then the file will be viewed by other internet users. There are various kinds of files that can be uploaded, ranging from images, songs, movies, videos and various other files. One example of the upload process that the researchers mean in this study is uploading videos to the Facebook Fanspage site media.

Meanwhile (Reupload) what the researchers means is any activity that reuploads files (videos) taken from any platform belonging to other people, the difference with the original owner of the video is that they only change the title to a different and look more attractive. The purpose of the perpetrators of reuploading this video is simply to make money on the internet in an easy, thoughtless, skill-effective and cost-effective way without the need to create your own work.

To be able to get a reward from a facebook Fanspage, you must first have a facebook account, because it is the first step you must have to be able to have a facebook Fanspage. Without the facebook account, it is impossible to have a fanpage account or page, the following researchers attach the procedure to create the facebook account. You must have an email account first. 1). Open www.facebook.com/r.php. 2). Enter your data starting from your name, email, or mobile number, password, date of birth, and gender, and

click register. 3). The last step is to complete the account creation, confirmation will be sent directly to your email or mobile number.

After successfully creating the account to be able to get a reward from the facebook Fanspage, you are required to make it especially with the facebook account that was created previously. Here are the steps that must be passed to create the facebook Fanspage: a) As a first step to **create a Facebook Page**, login to Facebook using your personal account. Click options and select the 'Create Page' menu.

Figure 1
Creating Facebook Page

b) **Select the relevant type of Facebook Page.** After agreeing, then click and the 'Select Category' menu appears. If there is no suitable category, then the easiest way is to find another category that is almost the same as the desired category; c) After selecting the category, the next step is to **choose a name for your Facebook Page**. It's a good idea to choose the name that is still related to the initial plan to create this Facebook Page. It will be more appropriate if the Facebook Page name is easy to memorize and remember. For that, try not to make the Facebook Page name too long. Next, click to get started; d) **Upload the profile photo and cover of the Fanspage** that you created. Please upload the photo you want. Your Fanspage are done. Once it's done, you can set many other options. Starting from setting usernames, buttons, and much more. Your initial Fanspage display will more or less look like the image below. e) Making Facebook Fanspage is completed.

After having a new fanspage, someone can upload videos, but to be able to monetize and be able to generate rewards from facebook Fanspage, there are several

requirements that must be completed. The requirements to be able to monetize facebook Fanspage are as follows:

Having 10,000 followers

The main thing to be able to monetize Facebook is to have 10,000 followers. This is the first requirement for you to later be able to make profits from the facebook Fanspage. When compared with the requirements set by YouTube, it has a difference of 9,000.

Having met the eligibility standards

Meeting eligibility standards means that it relates to the video content you create. Which content does not violate the standards that have been set, which does not contain elements of SARA, violence, and pornography. If the content contains prohibited elements, the content will be rejected even though it actually meets the general standards.

A 3-minute video has a total of 30,000 minutes of views

Then the next requirement that must be met is to be able to get views that total up to 30,000 minutes on a video with a minimum duration of 3 minutes. Counting will not apply to people who watch the video before it reaches 1 minute in length. Therefore, it is very important in addition to meeting the eligibility standards, the videos you make must also be interesting. You can make people feel at home to watch your videos. After knowing anything facebook Fanspage monetization terms, then next need to know how to monetize the videos that have been uploaded.

Check Eligibility from Fanspage

The way you can use to monetize Facebook videos is by checking the eligibility of the Fanspage. When doing the check, later you will wait for some time until the loading process is complete. If the process is complete, then there is information that appears stating whether the Fanspage can be monetized or not.

Open Facebook Creator Studio

Next, open Creator Studio Facebook. Later you will be faced with a Creator Studio tool whose function is to create and manage videos. So far, it's been possible to place ads for videos. If the uploaded video has more people watching, it has a great chance of being monetized.

Enabling Video Monetization

How to enable monetization of Facebook videos by activating the ad breaks feature in the video editor and can be found in the content library section. Videos on Facebook must be activated one by one. Even though there are already eligibility standards for videos that can be uploaded on the platform, there are still many ways to escape the existing regulations, and of course they can also get monetization or rewards from the videos they upload. Because the eligibility standards specified in the Facebook Fanspage requirements are only community eligibility standards, which do not contain elements of SARA, violence, and pornography.

Practice Reuploading Videos to Facebook Fanspage Platform

There are many ways for the perpetrators of reuploading videos to escape copyright infringement on the results of videos taken from other platforms, whether in the form of youtube, tiktok or the facebook Fanspage itself, then uploading it again on a different platform, the platform for the perpetrators of reuploading, which the author means at here is the Facebook Fanspage, not a few reuploaded videos were found on the Facebook Fanspage platform, the basic reason for the large number of reuploaders on the Facebook Fanspage platform is that the copyright infringement policy on the platform is not too strict, that way, it is very easy for someone to take videos from YouTube, for example, then re-uploaded it on the Facebook Fanspage platform and only changed the title to make it look more attractive.

In the digital era as it is today, videos are very popular with many people, from toddlers to even parents, with videos, people can do many things and get many benefits, including in the fields of science, means of product introduction or promotion, and also a means of entertainment without them knowing that the content they are watching is the result of a reupload or the original work of the person who made the video.

The goal is that when uploading on facebook Fanspage there is no copyright or copyright infringement, besides that Bagus Nurdiansyah also adds an interesting thumbnail so that many fans watch the video. Bagus Nurdiansyah said that by only reuploading the video he downloaded from the youtube platform which was then slightly edited and then reuploaded to the Facebook fanpage platform, he could get rewards from the monetization of the uploaded videos (Bagus Nurdiansyah, 2021). Bagus Nurdiansyah said that by only

reuploading the video he downloaded from the youtube platform which was then slightly edited and then reuploaded to the Facebook fanpage platform, he could get rewards from the monetization of the uploaded videos. (Bagus Nurdiansyah, 2021). Bagus Nurdiansyah said that by only reuploading the video, he downloaded from the youtube platform which was then slightly edited and then reuploaded to the Facebook fanpage platform. He could get rewards from the monetization of the uploaded videos (Bagus Nurdiansyah, 2021).

Rewards or the income earned by reuploading actors differs depending on how many videos are viewed, Bagus Nurdiansyah himself said that the account he manages is able to generate around 14-50 dollars per week.

Figure 2
Earning Forecast

The income earned cannot be directly disbursed to a PayPal account, Facebook itself provides a requirement that the minimum limit to be able to withdraw income from Facebook Fanspages must be at least 100 dollars in income, and have to wait some time for the income to enter a personal account, that's because transactions are made through international payments (Bagus Nurdiansyah, 2021).

Many types of videos results reupload what was found on the Facebook Fanspage, even most of the videos that were shown were not really their own, in contrast to Bagus Nurdiansyah, Doni Setiawan, the manager of the Fanspage with the username "INDO TOP TV", the videos he uploaded were more focused on comedy content and amateur videos, because according to him, people are interested in comedy content very much (Doni Setiawan, 2021). The uploaded videos are also taken from the youtube platform, but choose

videos that have been uploaded for a long time on the youtube platform, because videos with an estimated timeframe that have been uploaded for a long time are very unlikely to have a copyright license, the old videos referred to here are videos that uploaded between 2000-2015 (Doni Setiawan, 2021).

Figure 3
Minutes Watched

It is proven that the videos uploaded are able to be reached and watched for more than 15 thousand minutes per week. It is because the level of Facebook users is still the highest, in Press Roomfacebook, there are official statistics on the latest developments in the number of Facebook users from time to time. As written on the Facebook site, Mark Zuckerberg, active Facebook users currently reach 300 million people. And this number will continue to grow every day.

There is no license protection contained in the Facebook Fanspage so that it is very open for everybody to freely reupload other people's videos. In contrast to the YouTube platform, YouTube currently provides two types of licenses on its website, namely Copyright protection and Protection of Creative Commons BY (CC BY). A content on YouTube that is protected by Copyright, if someone is going to download, edit and commercialize the content on YouTube, then someone must first ask permission from the owner of the content, as explained in the following YouTube explanation: "If you are interested in using video YouTube on broadcast or movie, you have to contact the creator or uploader of that video directly (Rahman 2019).

The practice of reuploading videos on the Facebook Fanspage feature, and the income (reward) obtained from the practice of reuploading videos on the Facebook

Fanspage portal is based on the perspective of Sharia Economic Law in which the researchers use the concept of *ibtikar* rights in this case.

The presence of the Fanspage feature provided by Facebook has had a major influence on changes in human attitudes and behavior. Humans, with the existence of these technological facilities, have a tendency to take actions beyond their normal limits as humans. On the other hand, sometimes through the use of this internet technology (Facebook), humans become arbitrary towards the rights of others, and even with so many users of the Facebook Fanspage feature and most of the videos on the Facebook Fanpage are copyrighted. It of course can cause various legal problems in the field of intellectual property rights, especially in Islamic Law, namely regarding the concept of *ibtikar* rights.

An example of a case that researchers have encountered is that most of the content on Facebook Fanspages is videos belonging to other people that were taken or downloaded from YouTube and then reuploaded on the Facebook Fanspage portal by only changing the title to a more attractive title, less stringent copyright protection. The Facebook Fanspage is the main gap for the rise of video reuploaders who use the portal.

In a copyright, it surely contains economic rights (rights to get financial benefits) and moral rights. Thus, every creator of copyrighted works has the right to get material from the work he made. With this economic right, it can be shown that everyone who has a work has full power over the work he has made, so that he has the right to benefit both materially and morally from his creation.

Monetization on Facebook Fanspage provides a way for page managers to earn revenue, with monetization, channel owners can get funds, and advertisers and brands have the opportunity to reach audiences with relevant content that is on demand. obtaining a large income (reward) opens a gap for copyright violators to carry out video re-uploading activities in order to obtain financial benefits.

Thus, the payment/reward obtained by the manager of the Facebook Fanspage from the practice of reuploading videos in terms of Sharia Economic Law is unlawful, because this act is a form of tyranny by putting aside, eliminating consensual (*an taradhin minkum*) and including eating other people's property in a false way. The public as users or connoisseurs of the Facebook Fanspage facility should respect every work created by others, especially in the form of videos, by not uploading other people's videos, try to

produce your own work, then that is better and lawful. Every Muslim must avoid actions whose consequences are legally forbidden.

CONCLUSION

Facebook Fanspage is a social media site that provides video sharing features to give many conveniences for its users to obtain information, education, health tips, sports, entertainment and so forth. The practice of reuploading videos on Facebook Fanspages is an activity that carries out the process of reuploading files (videos) taken from other people's YouTube channels or video sharing web portals. The difference from the original owner of the video is that they only give a title or slightly edit it to make it look different and more attractive and interesting. The purpose of the YouTube video reuploader is solely to seek financial gain in the form of money on the internet in an easy, thought-free, skill- and cost-effective way without the need to create your own work.

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