

THE ROLE OF RELIGIOUS LOYALTY IN COMBATING DIGITAL PIRACY: AN ISLAMIC PERSPECTIVE

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Abstract

Religiosity has been seen as a powerful determinant of human actions especially in situations of ethical dilemmas such as digital piracy. Thus, it has been addressed as a potential informal institution to curtail the phenomenon. However, previous research indicated a confounding influence of some contextual factors on the anticipated role of religious loyalty such as the dominant secular culture. As such, the main objective of this article is to investigate the role of religious loyalty in combating digital piracy from the Islamic perspective since loyalty is a core aspect of Muslim's society as directly associated with faith. Additionally, this paper explores the contextual factors in Islamic countries that may influence the role of religious loyalty in fighting digital piracy. This study involved with qualitative data, gathered from journal articles and books, and then the data analysed using content analysis method. The analysis shows that integrating religion within the campaign toward copyright is potentially viable provided that other contextual factors are properly tackled.

Keywords: Digital Piracy, Copyright, Intellectual Property, Religious loyalty.

INTRODUCTION

Technology has become a defining feature of the increasingly global character of today's societies, with interdependent economies. Accompanied by the diffusion of the internet, it provided profound advances in the world business and trade and facilitated inter-societies communications. Yet, it brought along many challenges and perils to be reckoned with. One of these is the proliferation of digital piracy of a number of copyrighted products such as software, music, films, video games, and books, which resulted in huge losses to these industries and businesses. As such, the protection of copyrights continued to receive an increasing attention, much of which has been focused on the causes of violations of those rights.

Digital Piracy, as a pattern of behaviour raises intense controversy due to the fact that it is not perceived as a deviant behaviour by a number of studies (Larsson, Wnukowska-Mtonga, Svensson, and De Kaminski, 2014). As concerning law, it may be viewed as illegal, though this is not the case, according to the social context (Castro, T, Osorio, AJ, and Bond, 2015). Law does not appear to have a significant role in the ethical approaches of the respondents in the majority of the studies (Al-Fadhli, 2009; Al-Rafee and Rouibah, 2010; McCallum, 2012). Law enforcement, albeit essential, is not per se adequate to eliminate or decrease this illegal action. Unless the law acquires

public support, it can hardly be implemented. The ethical and moral milieu of the community is a significant aspect that manages the pirate's anticipated action. However, there are problems with any attempt to bring the law into line with public morality. One major problem is that it poses the question of whose morality ought to decide the rules. If there is a unanimity about morality, this problem does not occur. Thus, such ethical motives can be influenced through observance of a particular religion.

In this context, previous research stated that religions establish up to date systems that may mould individuals' perceptions of life activities in manners that prevent negative emotional feedbacks to stress and promote positive emotional mindsets among believers (Brauer, Antonaccio, and Tittle, 2013). Furthermore, religious cultures are a significant part of the overall institutional make-up of societies. These cultures provide people with incentives on how to behave and interact with others (Fafchamps, 2003; North, 2005; Lewer and Van den Berg, 2007). Thus, religiosity as an instrument may attain significant outcomes, particularly within nations having strong religious loyalty. As such, it can formulate an informal mechanism that raises the price of digital piracy actions provided that these people are keen to pursue their religion (El-bialy & Gouda, 2011).

In contrast, though, religious cultures may exert a negative influence on moral attitudes by reducing trust. Blum and Dudley (2001) and McCleary (2002) reported that contractual defaults are more common in societies where the sacrament of penance allows pardon for transgressions, thereby lowering the anticipated cost of violating the contractual agreement. These different findings provide the impetus for the present paper to investigate the role of religious loyalty in combating digital piracy from the Islamic perspective.

Furthermore, the need for such investigation is specifically encouraged by the previous findings which reported that students at religious colleges have ethical beliefs and moral attitudes that are strongly influenced and shaped by the broader secular culture. The secular cultures dominant in certain societies curtailed loyalty to religion and religiosity seems to be mostly extrinsic. For instance, in Lau & Yuen (2013), students' regularity of worship attendance optimistically forecasted moral judgment. Nevertheless, they still practiced the unlawful CDs copying and music and movies downloading irrespective of their religion. Moreover, the authors accounted that while Christian faith affects moral values, beliefs, and attitudes, it has barely any effect on unethical and risky behaviors once students are confronted with ethical problems. In general, religion and morals are clearly significant since they influence individuals' activities once it comes to unlawful downloading, but not essentially their view on the activity (McCallum, 2012).

This confounding role of religiosity is due to the influence of the secular divide specifically in western societies as researchers stated above. However, the case is different in other societies, namely, Islamic ones. This is depending on the reality that religion serves a dominant position in society, and a powerful relationship was established between religious beliefs and the reverence to state rule toward piracy (Al-Rafee & Rouibah, 2010). More essentially, loyalty is a core aspect of Muslim's society as directly associated with faith. As such, prior research findings indicated that Muslim societies manifest a high level of religious loyalty compared to other world religious groups which are reflexively expressed into their adherence to Shari'ah rules (Al-Bialy and Gouda, 2011). Nevertheless, there is a shortage of an in-depth examination of that phenomenon and how it affects Muslims' legal orientation positively.

Consequently, the main objective of this article is to explore the contextual factors in Islamic countries that may influence the role of religious loyalty in fighting digital piracy.

METHODOLOGY

The study conducted qualitatively and the data gathered from Al-Qur'an, Prophet

Sunnah, and scholars' writings. The data have been analysed using deduction and comparative analysis. In analysing the primary Islamic data four major standpoints in legal method were used as guidelines to achieve a full understanding of the issues. These methods are **analytical**, which refers to breaking down the problem-situation and ascertaining what elements compose it and what rules apply to each part of the subject and its problems. The **historical**, which involves determining how and why these laws have come to be accepted and to take their modern form. The **philosophical**, which relates to considering whether those rules are consistent with the needs of society and with accepted ideas of right and justice; and the **comparative**, studying the relationships between legal systems, their differences, and similarities.

RESULTS & DISCUSSION

The result of this study is divided into three sections; firstly: provides an overview of the main factors that contribute to the spread of digital piracy in Islamic countries as discussed by previous literature. Secondly highlights the concept of religious loyalty from the Islamic perspective and its institutional impact in maintaining law-abidance. Finally discusses the different possibilities to empower the role of religious loyalty in Islamic societies to curb digital piracy.

1) The factors influencing digital piracy in Islamic countries

Previous research attributed the major problems regarding intellectual property protection in Islamic countries due to traditional societal culture, a lower degree of economic development and higher poverty levels, as well as religious beliefs (Malkawi,2013). Arguably, the IPR laws in the majority of these nations were passed mostly to satisfy the requisites of the World Trade Organization (WTO) agreement, namely, TRIPS. This movement has frequently been caused by profound interest in getting entrance to global organizations and international acceptance as a nation of modernity and harmony (Aljabre, 2012). Nevertheless, though the laws exist, they are infrequently enforced;which adds to the gap between what the law actually states and how the law is actually observed.

The mainly significant aspects influencing digital piracy is the socio-cultural aspects that are frequently seen as a cultural practice instead of unethical action (Zangana et al., 2013; Al-Fadhli, 2009). Investigators mostly employed Hofstede's (1980) structure of national culture to explore the connection between cultural aspects and ethical choice making (El-bialy & Gouda, 2011; Kara, .al, 2016). In accordance with Hofstede, unlike 'collectivism' communities, within individualistic societies, an individual is further worried about looking after his/her immediate family (Al-Rafee & Rouibah, 2010). Collectivism is where communities are dependent on family and extended relatives. As such, an important cultural factor that hampers intellectual property protection in Islamic countries lies within the communal nature of Muslims' culture (Malkawi, 2013). Relations in those communities are dependent on mutual collaboration and sharing in general (Moten, 2014). Per se, copying might be usual in a culture where humility and adoring others run high (Malkawi, 2013; Al-Fadhli, 2009). The traditional culture appears to support open access to information (Zangana et al., 2013). Hence, it would be complex to initiate intellectual property ideas into a community has such a strong social value. Therefore, it would be more efficient to opt for a strategy that is more relevant to collectivistic culture, rather than attempting to impose laws underpinned by the individualistic western culture (Zangana et al., 2013).

Unlike western nations, where copying is normally compared to cheating, software piracy within developing Islamic nations is frequently seen as a cultural practice, not an immoral exercise (Al-Fadhli, 2009). Moreover, these findings by Al-Fadhli (2009), established that social norms were of an immense influence on respondents' choice to purchase the pirated software. Whereas 65% of the participants stated that social approval of software piracy caused them to believe there is nothing wrong with purchasing pirated software (Al-Fadhli, 2009).

The attitude of people in Islamic countries toward intellectual property is not limited to moral issues solely but is a question of the market. A lack of economic development in many Islamic countries also impacts the protection of copyrights. They continue to experience significant problems such as poverty and high unemployment levels. Different segments of Muslim society would be affected by the high cost of acquiring copyrighted products because they are based on individual rights and paid access for those who can afford it. Consequently, Muslim legal scholars might issue adverse fatwas that permit Muslims to pirate IPR products due to their high prices (El-Bialy & Gouda, 2011). In other words, IPR-related fatwa generally prohibits piracy actions, yet, given the extremely high prices of the original products that are imposed by international monopolistic firms, without any consideration of the necessity of the product to the poor, fatwas might become more lenient leading to a controversial effect to the extent of supporting piracy. This fact can explain why numerous fatwas are prohibiting IPR piracy and at the same time, Islamic countries have such a high level of piracy (Nesheiwat & Adcock, 2014).

The problem of issuing a unified religious stance on IP is further complicated by the fact that Islam does not recognize the role of a "universal legal authority" authorized to make religious laws applicable to all Muslims (Nesheiwat & Adcock, 2014). Rather, the authority of even a legitimate ruler is no greater than that of any other qualified *mujtahid* (one who possess the power of *Ijtihad*; the interpretation of problems not precisely covered by the Qur'an and Sunnah, and *Ijmā* (scholarly consensus). "Therefore, since the default position under Islamic jurisprudence is to allow an activity unless it is specifically prohibited, the position of one legal scholar opposed to digital piracy is considered only that scholar's personal opinion and cannot be given any more weight than another scholar's opinion that might contradict it. Since copyright is not addressed under the Qur'an, Hadith, or *Ijmā*; thus, it is an area that will likely never be treated uniformly by legal scholars, resulting in inconsistent approaches that allow for individual interpretation on how a Muslim should observe or not observe IPRs laws" (Nesheiwat & Adcock, 2014). This view is confirmed by the findings of (Al-Fadhli, 2009). He contended that surprisingly, 234 of the participants (74.5%) in this study do not understand whether Islam outlaws software piracy or not and just 71 participants (22.6%) consider that Islam forbids software piracy, whereas just 9 participants (2.9%) think that Islam permits such actions.

2) The religious loyalty and its institutional impact on Muslim societies

Muslims' view of Islam is formed by their indisputable belief that the chief elements of Islam are fully perfected, involving every essential requirement for people's lives in every time and venue based on the holy verse:

﴿الْيَوْمَ أَكْمَلْتُ لَكُمْ دِينَكُمْ وَأَتَمَمْتُ عَلَيْكُمْ نِعْمَتِي وَرَضِيْتُ لَكُمُ الْإِسْلَامَ دِينًا﴾

"This day have I perfected your religion for you, completed My favour upon you, and have chosen for you Islam as your religion." (al-Quran. Al-Ma'idah, 3)

This view confirms the findings of previous research that many Muslims hold a sentiment a religiously-based law is an essential bulwark in opposition to Westernization and the dominance of Western IP culture (Malkawi, 2013; Al-A'ali, 2008).

Loyalty in Islam is central to achieving pure faith (*Tawhid*). *Tawhid* comes from the Arabic verb *wahhad*, which literally means 'to unite.' In the Islamic terminology, it denotes realizing and maintaining the unity of God (Allah) in one's actions both internally and externally (Crane 2004). *Tawhid* constitutes the essence of Islam. The Islamic worldview is not founded upon philosophical speculation, therefore broader in the scope which incorporates both the "sacred" and the "profane" this world (*al-dunya*) and the world hereafter (*al-akhirah*). Worth noting, these are regarded inseparable and interrelated concepts (Al-Attas 2001).

Consequently, in the Muslim's conscience, loyalty is formed as the result of the ever ongoing intensive consolidation of the idea of the oneness of Allah, the Creator and worshiped as a source of legislation. Thereby, the core of the Muslim's life is the verbal and cordial demonstration of loyalty. That is, loyalty should be fixed firmly in the Muslim's heart when uttering the *Shadada* (لا اله الا الله) which mean no one else is worthy of worship except Allah, in addition to the sincere devotion and loyalty of his heart to him alone, without any partner. A Muslim confirms that through the operation of all his limbs in obedience to his orders and avoidance to prohibition. This view of loyalty is persistently reinforced at all levels starting right from the very individual across to embrace the nucleus and extended family, to the whole community and eventually to the entire Muslims Ummah, controlling every aspect of their relation in all walks of life, confirming complete loyalty to Allah. In that Al-Qur'an says:

﴿قُلْ إِنَّ صَلَاتِي وَنُسُكِي وَمَحْيَايَ وَمَمَاتِي لِلَّهِ رَبِّ الْعَالَمِينَ. لَا شَرِيكَ لَهُ وَبِذَلِكَ أُمِرْتُ وَأَنَا أَوَّلُ الْمُسْلِمِينَ﴾

“Say: "Truly, my prayer and my service of sacrifice, my life, and my death, are (all) for Allah, the Cherisher of the Worlds: No partner hath He: this am I commanded, and I am the first of those who bow to His will.” (Al-Quran. Al-An'am, 162-163)

Therefore, the Islamic Shari'ah has set forth clear rules in the organization of relations within the family, and the provisions of marriage, divorce, and inheritance are all linked to faith and worship are inseparable from them. The Shari'ah also laid the foundations for a clear Muslim society based on equality, justice, and brotherhood. All these rules and provisions form integrated and interconnected circles in establishing loyalty among Muslims as one. Each circle firmly integrated while all are holding each other in a unified structure.

Summing up, the continuous charging of loyalty and its sustainability in the Muslim community is maintained at all horizontal, vertical, functional and organizational levels of relations. Loyalty is an interactive constructive process that takes place within an operational and regulatory framework that ensures ongoing sustainability. This psychomotor grouping is the significant advantage of Islam. A Muslim can live for his own life, live for his afterlife, work for God, and work for his pension and realize the human perfection that religion requires in practicing his daily activities in managing the livelihood.

That gave Islam its uniqueness as a comprehensive and integrated approach to life. Belief and organization are not without conflict, but in interdependence which cannot be separated because it is a single intertwined bundle the separation of which can only mean the demise of faith, Surah (Al-An'am, 6:162). As a result of the oneness of the source of both the belief and legislation and that Allah Almighty alone is ruling, Islamic law has, thus, uniquely acquired two essential attributes that set it distinct from other legislation: Firstly, the relationship between individuals in Muslim society and Islamic law has a purely spiritual relationship with their Creator, so they respect and obey the law. Respect for Shari'a rules is the duty of the entire community with its different institutions, rulers or ruled. They all believe that the Shari'a law is from Allah Al Mighty alone. It is this belief which held them bound to observe it. Obedience brings them closer to Allah and disobedience distances them.

Secondly, the fact that the Islamic Shari'ah is from Allah leads to the steadfastness of the legal norms and their continuation. Even if the rulers change or the regime is different. No matter the type of government may be whether presidential, parliamentarian, royal or republican because the legal rules that govern the movement of society and the state are not related to the ruling system, but to a religion that does not change or modify.

The spiritual dimension formed the solid foundation of the Islamic personality. Ethics is integrated into the core of Islamic law and is considered the first pillar on which the society is based. Therefore, it is keen to protect and strengthen it so that all

acts that harmfully affect morality should be punished. This point is viewed in contrast to the laws that do not penalize ethical matters unless they directly harm individuals, security or order. For example, adultery is punishable only if one of the parties does not accept. The reason for this particular interest exercised by Shari'ah is due to the fact of religion which commands good manners and conduct, urges virtues, and aims at forming the right and blessed community and safeguards it from all social ills. Consequently, Allah praises His Noble Messenger by saying in Surah (Al-Qalam, 68:4) "And thou (standest) on an exalted standard of character" and enjoins the Muslims to follow Him, Surah (Al-Quran. Al-Ahzab, 21).

So morals are embodied in the Islamic Shari'a and that the Muslim community is based on such morals. That is why the Shari'a upholds morals and concentrates on defending them. The entire community is assessed on the basis of religious principles in governance and administration, economy, sociology and other needs of individuals. In this respect, Islam admits no separation, but things are viewed in terms of holistic. Indeed, such social construction with its fixed standards and regulatory controls diffuses a sense of peace and tranquillity as long as the governorship is to Allah alone, not a partner and not a class of people or a range of influential individuals in the community. Amongst the most prominent features and fruits of the oneness of the source of legislation is the sense of the justice of Islamic Shari'a in which there is no room for the prominence of one group over the others which is further reflected in compliance with its prime source Allah S.W.T. It is this which sets Shari'ah in stark contrast with other conventional legal systems. In conformity with Al-Qur'an. Muslims perceive themselves, entirely, in the worship of Allah and reminisce about Him at all times; Surah (al-An'am, 162). They also find their Lord available in every facet of their lives; Surah (al-Nisa', 33). They strive to form their attitudes in accordance with rules enacted by Him (Moradi et al., 2014). Unlike conventional legal systems, the willingness to comply stemming from the perceived legitimacy of the authorities charged with implementing the regulations is fundamentally based on loyalty to Allah. Moreover, the stages of moral development, moral and legal socializations are congruent and interwoven within the paradigm of worship as a lifestyle.

3) Empowering the religious loyalty against digital piracy

As previously mentioned, there are several contextual factors that may influence the anticipated role of religious loyalty in combating digital piracy. Many Muslims hold a sentiment that a religiously-based law is an essential bulwark in opposition to Westernization and the dominance of Western IP culture (Malkawi, 2013; Al-A'ali, 2008). According to El-bialy & Gouda, (2011) in extremely religious communities, the majority individuals normally provide little notice to any official law if it challenges the dominant religion teachings. Thus, the efficiency of IPR laws will mostly rely on attaining public legitimacy. Therefore, forming a kind of informal sanction system that can augment the marginal price of IPR pirates and optimistically influence fighting piracy within these nations (El-bialy & Gouda, 2011).

Digital piracy in Islamic countries is frequently viewed as a 'victimless crime,' in which individuals consider that their behavior is not hurting anyone (Casidy et al., 2016). Generally, users within literature did not identify these actions as wrong. Another view is that it may be seen as a cultural exercise instead of immoral action (Zangana et al., 2013). Believing this rarity incident will not hold any moral or financial influence, misinterpretation of the Islamic standpoint concerning digital piracy are significant aspects that affect the potential positive influence of religious loyalty in fighting digital piracy. (Zangana et al., 2013). Accordingly, awareness is extremely decisive in this view to empower the individuals' religious loyalty towards positive attitude and behaviour with regard to IPR. As such the moral orientation is optimistically correlated with awareness of the social cost of piracy (Al-Fadhli, 2009).

Consequently, certain measures can be employed to empower religious loyalty in Muslims' societies. To display, it may be helpful for Islamic countries to use

strategies that highlight that the protection of intellectual property may be linked back to ideas discovered within Shari'ah and is not, as generally professed, a Western occurrence (Malkawi, 2013). The findings of Al-Fadhli, (2009) that the majority respondents in his study articulated their intention not to purchasing pirated software if Islam forbids it, one suggestion is to focus attempts on the media to broadcast the Muslim fatwa given by renowned clerks who have prohibited software piracy. Giving new regulations or institutions must be accompanied by local awareness concerning the essentiality of those regulations and furthermore specific linkages to cultural or informal aspects of the nation in the query (El-bialy & Gouda, 2011).

Moreover, piracy within Islamic nations can be handled in a further effective manner if religious elements are incorporated in the movement against it by promoting the awareness of Muslim scholars on the sternness of IPR piracy trouble and its economic effect. While, the Muslim population is highly confident in these religious leaders since an average of 83% of the sample collected from these countries had either "a great deal of confidence" or "quite a lot of confidence" towards those religious authorities (El-bialy & Gouda, 2011). Official fatwas issued by those leaders are also highly influential in formulating the legal opinion given by sheikhs in mosques since these sheikhs are employed by the government. Finally, a more focused campaign run by Muslim scholars against acts of IPR piracy in Muslim countries shall be conducted.

An important dimension that should be however considered by right holders is their pricing strategy in developing countries, especially Islamic ones. Although Islam initially prohibits acts of IPR piracy, high prices of important and essential IPR inversely affect the degree of the prohibition set by Islam. Hence, a price discriminatory strategy is required not only for a developing country but also within the different consumer groups of the same country, for example, students, government offices, and the private sector. By the same token, employers might deem creating the sorts of training and personnel development curriculums that improve the quality of persons through religions and spiritual values and offer extra awareness curriculums that expose them to a proper use of internet and computers technologies (Mohamed et al., 2012). Moreover, the industry ought to embrace the attention and concentrate on eradicating the aggression towards the gigantic conglomerates. Rather, they ought to strive towards developing a sense of unity with the community and make the consumer feel vital instead of being deemed a prospective thief (Zangana et al., 2013).

CONCLUSION

The enforcement of a new law should be agreed by the community itself as its significance is realized, reaping certain gains from passing it is anticipated, and the moral values behind recognizing it are comprehended. Modernized intellectual property regulations in conformity with the TRIPS agreement are not a solution for the enforcement difficulties. While it is relevant to employ the legal system to battle piracy, it may not be the most excellent approach to employ in less developed nations. Stricter implementation of piracy rules has demonstrated little efficacy in slowing this occurrence. Obviously, the dilemma of digital piracy is not just a legal problem, and will not be resolved by legal ways, nor is it a shortage in defense of intellectual property in general. As such, Laws on Intellectual property in Islamic developing nations should serve their development and social objectives.

This article is intended to explore the role of religious loyalty in combating digital piracy from the Islamic perspective. As such, it provided an overview of perceptions of digital piracy and copyright within the Islamic societies, and examine how such perceptions impact on attitudes towards abiding with, and enforcement of, IPRs. The article concludes by arguing that although intellectual property does not enjoy explicit legal protection in Shari'ah, it has been protected through norms and concepts equivalent to today's laws and rights. This proposition is intended to refute any argument that Islamic law and intellectual property cannot coexist. Integrating religion into the campaign against IPR piracy needs to be covered by more research on this

issue. Therefore, this can be a call for more studies to be conducted on the link between adherence to other religions and IPR piracy.

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