

# BETWEEN COPYRIGHT AND PRIVACY RIGHTS: LEGAL ISSUES OF DIGITAL PHOTO TRANSACTIONS ON THE FOTOYU APPLICATION

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## Abstract

This study aims to examine the practice of buying and selling photos on the FotoYu app and analyze it from the perspective of Sharia Economic Law and Law Number 28 of 2014 concerning Copyright. This fieldwork employs a qualitative approach and case study method to gain a comprehensive understanding of the phenomenon. Data were collected through primary and secondary sources, using semi-structured interviews and documentation studies. Furthermore, the data were analyzed using the Miles and Huberman model, which includes data collection, data reduction, data presentation, and systematic conclusion drawing. The results indicate that photo buying and selling on the FotoYu app involves taking photos of visitors in public spaces without prior consent, then trading the photos through a profit-sharing system, with 90% going to the photographer and 10% going to the app. This situation leaves most photo subjects unaware that their portraits are being used for commercial purposes. From the perspective of Sharia Economic Law, this practice is considered to violate personal rights (hak syakhsi) and reflects imperfect ownership (al-milk an-nāqis), so it does not fulfill the requirements of full ownership (al-milk al-tām) as an object of sale and purchase agreement, which implies that the transaction status becomes fasid. In addition, based on the provisions of Law Number 28 of 2014 concerning Copyright, the use of portraits for commercial purposes requires prior approval, so this practice is contrary to applicable law.

**Keywords:** *Copyright, Photo Trading, Islamic Economic Law, Privacy Rights, Ownership.*

## Abstrak

Penelitian ini bertujuan untuk mengkaji praktik jual beli foto di aplikasi FotoYu dan menganalisisnya dari perspektif Hukum Ekonomi Syariah dan Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta. Penelitian lapangan ini menggunakan pendekatan kualitatif dan metode studi kasus untuk memperoleh pemahaman komprehensif tentang fenomena tersebut. Data dikumpulkan melalui sumber primer dan sekunder, menggunakan wawancara semi-terstruktur dan studi dokumentasi. Selanjutnya, data

dianalisis menggunakan model Miles dan Huberman, yang meliputi pengumpulan data, reduksi data, penyajian data, dan penarikan kesimpulan sistematis. Hasil penelitian menunjukkan bahwa jual beli foto di aplikasi FotoYu melibatkan pengambilan foto pengunjung di ruang publik tanpa persetujuan sebelumnya, kemudian memperdagangkan foto-foto tersebut melalui sistem bagi hasil, dengan 90% keuntungan diberikan kepada fotografer dan 10% kepada aplikasi. Situasi ini menyebabkan sebagian besar subjek foto tidak menyadari bahwa potret mereka digunakan untuk tujuan komersial. Dari perspektif Hukum Ekonomi Syariah, praktik ini dianggap melanggar hak pribadi (hak syakhsi) dan mencerminkan kepemilikan yang tidak sempurna (*al-milk an-nāqis*), sehingga tidak memenuhi persyaratan kepemilikan penuh (*al-milk al-tām*) sebagai objek perjanjian jual beli, yang berarti status transaksi menjadi fasid. Selain itu, berdasarkan ketentuan Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta, penggunaan potret untuk tujuan komersial memerlukan persetujuan terlebih dahulu, sehingga praktik ini bertentangan dengan hukum yang berlaku.

**Kata Kunci:** *Hak Cipta, Perdagangan Foto, Hukum Ekonomi Islam, Hak Privasi, Kepemilikan.*

## A. Introduction

Work is an essential part of human life, not only as a means of meeting economic needs but also as a form of social responsibility. From an Islamic perspective, work holds the value of worship when performed with the right intention and through lawful means. Yusuf al-Qaradawi emphasizes that Islam views work not merely as a means of earning a living, but also as a way to preserve one's dignity, avoid dependency, and benefit others. Thus, Islam teaches balance in one's activities-that is, fulfilling worldly needs while simultaneously preparing for the hereafter (Arsudin, Saad, Kurni, & Masykur, 2024).

As times have changed, the types of work people engage in have become increasingly diverse, including in the service sector. One field experiencing rapid growth is photography services, driven by the rising demand for visual documentation and advancements in digital technology . This trend is also evident in the city of Surakarta, particularly in the Manahan Stadium area-a public space with high levels of sports and recreational activity. These conditions present economic opportunities for street photographers to take and sell photos to visitors .

Advances in digital technology are increasingly supporting this practice through the launch of the FotoYu app, an online platform that facilitates transactions between photographers and visitors who serve as photo subjects. Through this app, photographers can upload their photos, while visitors can search for, purchase, and download their photos directly.

The FotoYu app is equipped with a facial recognition system (Face ID) called RoboYu, which helps users automatically find their photos by matching the captured face with data stored in the system . In practice, each photo sold through the FotoYu app has a varying price depending on the photographer's individual policy, with a minimum price of around Rp. 20,000 - Rp. 45,000 per photo, using an online payment system via bank transfer integrated within the app.

However, this practice has raised concerns. Many photographers secretly take photos of visitors while they are exercising without permission. These photos are then sold through the FotoYu app and published on the photographers' social media accounts, such as TikTok and Instagram, as a form of promotion. This situation has sparked concerns regarding the misuse of photos and the protection of privacy rights, especially since the facial recognition system used is not yet fully accurate.

## BETWEEN COPYRIGHT AND PRIVACY RIGHTS: LEGAL ISSUES OF DIGITAL PHOTO TRANSACTIONS ON THE FOTOYU APPLICATION

From a positive legal perspective in Indonesia, this practice needs to be studied more deeply because it is closely related to provisions regarding copyright and the use of a person's image for commercial purposes. The Copyright Law provides legal protection for individuals who are photographed without consent, as regulated in Article 12. This provision states that everyone is prohibited from using, duplicating, announcing, distributing, or communicating a portrait for commercial purposes, such as advertising or billboards without the written consent of the parties included in the portrait or their heirs. In addition, if the portrait contains more than one person, then consent must be obtained from all parties listed in the portrait or from their respective heirs.

From the perspective of Islamic economic law, there are three theories that can be used to examine this practice. First, the theory of rights, which questions whether secretly photographing someone is permissible given its implications for privacy, and who actually holds the rights to the photograph. Second, the theory of ownership, which addresses who actually holds the rights to the photograph-whether the photographer as the person taking the picture, or the person in the photograph. Third, the theory of sale and purchase highlights that one of the valid conditions of a transaction is that the object being sold must be fully owned by the seller (*al-milk al-tām*). However, since ownership of the photograph remains in question, this raises the issue of whether the sale of the photograph is valid under Islamic law .

Previous studies have addressed the use of photographs for commercial purposes, but have not specifically examined the practice of photographing individuals in public spaces without permission and subsequently selling those images through digital applications. Research by Dessy Asnita et al., indicates that the use of photographs is permitted as long as they are original works and do not violate Islamic law, however, this study remains a literature review and has not yet addressed practical applications in the field. Meanwhile, the research by Revallinda Salsa Bella and Reni Setianingrum places greater emphasis on copyright protection for digital works, particularly those belonging to influencers in the e-commerce sector. Additionally, the study by Ilham examines the legal status of artificial intelligence (AI) from an Islamic legal perspective and demonstrates that AI possesses value and can serve as the subject of a contract .

Unlike previous studies, this research directly examines the practice of photographing visitors without permission and subsequently selling the photos through the FotoYu app. This study not only examines the aspect of copyright infringement but also reviews it from the perspective of Sharia Economic Law, particularly regarding privacy rights, ownership, and the validity of sales transactions.

The case at Manahan Stadium in Surakarta highlights the practice of unauthorized photography being exploited for commercial purposes. This raises concerns among visitors, as their photos may be accessed by third parties without their consent. Based on this description, the author considers it necessary to further examine the practice of buying and selling photos of visitors running at Manahan Stadium in Surakarta from the perspective of Sharia Economic Law and Law No. 28 of 2014 on Copyright. Therefore, this study is titled: "Analysis of the Practice of Buying and Selling Photos from the Perspective of Sharia Economic Law and Law No. 28 of 2014 on Copyright (Case Study on the FotoYu App)".

### B. Method

This study is a field study conducted by collecting data directly from the field (Sari et al., 2025). The approach used is a qualitative approach, meaning that the findings are

not derived through statistical procedures or other calculations (Eko, 2015). This study employs a case study method to gain an in-depth understanding of the practices of photographing and selling photos to visitors at the Manahan Stadium in Surakarta. The data sources for this study consist of primary and secondary data (Amiruddin, 2006). Primary data was obtained through interviews with photographers and visitors who were the subjects of photography at the Manahan Stadium area in Surakarta. Meanwhile, secondary data was obtained from various relevant documents and literature, such as Law No. 28 of 2014 on Copyright, the DSN-MUI Fatwa, books, scientific journals, and other sources related to the study.

Data collection was conducted through semi-structured interviews and document analysis. Interviews were conducted in person with informants selected using purposive sampling, which involves selecting informants based on specific criteria relevant to the research objectives. Document analysis involved reviewing various written sources related to photography practices and the buying and selling of photographs. Data analysis in this study employed qualitative descriptive analysis, which involves examining and describing the data obtained from the interviews and documentation. The data analysis process followed the Miles and Huberman model, which includes data reduction, data presentation, and drawing conclusions-all conducted interactively until data saturation was reached (Abdussamad & Sik, 2021; Nasution & Junaidi, 2024; Soendari, 2012).

### **C. Findings and Discussion**

#### **1.The Practice of Buying and Selling Photos on the FotoYu App**

Results The buying and selling of photos on the FotoYu app is a form of digital transaction that is gaining traction among the public, particularly in the area around Manahan Stadium in Surakarta. The app utilizes artificial intelligence (AI) technology in the form of a facial recognition system to help users find photos of themselves among thousands of uploads by photographers (FotoYu, 2025).

In practice, the parties involved in this activity consist of photographers and visitors who are out jogging. Photographers generally work flexible hours, taking photos in the morning and afternoon, especially on weekends or during specific events (Saputra, 2025). The number of photos a photographer takes in a single day varies, depending on conditions on the ground-ranging from dozens to potentially thousands when the area is crowded or during specific events. Meanwhile, visitors are individuals who indirectly become subjects of photographs while engaging in activities in public spaces, such as running or exercising, without any prior request.

The items being sold are digital photos taken spontaneously in public spaces. The photos are taken without prior permission from the subjects, following the concept of street photography (Majid, 2025). Thus, the photography takes place freely without any initial communication between the photographer and the subjects. After the photos are taken, the photographer selects and lightly edits the images. Next, the photos are uploaded to the FotoYu app, along with information such as the photographer's name, location, and selling price. At this stage, the photos-which were originally personal documentation-transform into digital commodities with economic value. The app's system then processes the user's facial data via the facial recognition feature (RoboYu) to match the available photos with the user's identity.

In terms of consent, this practice indicates a lack of consent both at the time of photography and at the time of sale. Photographers argue that since the activity takes place in public spaces. On the other hand, most visitors claim they were unaware that

## BETWEEN COPYRIGHT AND PRIVACY RIGHTS: LEGAL ISSUES OF DIGITAL PHOTO TRANSACTIONS ON THE FOTOYU APPLICATION

they had been photographed or that their photos were being sold. They only realized this after finding the photos on the app or receiving information from others (Arya, 2025). This indicates that the transaction took place unilaterally without a meeting of the minds between the two parties.

As for pricing, photographers have full discretion to set the selling price of their photos, even though the app provides general guidelines. Market prices for photos generally range from Rp. 20,000 to Rp. 45,000 per photo. The revenue-sharing system allocates 90% to the photographer and 10% to the app as a service fee (Yaskur, 2025).

| No | Description   | Percentage | Amount (RP) |
|----|---------------|------------|-------------|
| 1. | Base Price    | 100%       | Rp. 50.000  |
| 2. | FotoYu Fee    | 10%        | Rp. 5.000   |
| 3. | Creator's Net | 90%        | Rp. 45.000  |
| 4. |               |            |             |

Table 1. Revenue Sharing Calculation Between Creators and Fotoyu

In addition, the app also categorizes photographers into several categories and specific price ranges, as follows:

| No | Category         | Requirements                                                                                                                                                                                              | Photo Range          | Price |
|----|------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------|-------|
| 1. | Basic Creator    | All users who are at least 13 years old will automatically be registered as basic creators. Since registration as a basic creator is automatic, no ID card or passport is required to verify the account. | Rp 0 - Rp 9.000.     |       |
| 2. | Verified Creator | All users aged 17 or older can register as a Verified Creator to start earning on Fotoyu. As a Verified Creator, you must verify your account during registration using an ID card or passport.           | Rp 0 - Rp 1.000.000. |       |

Table 2. Comparison of Creator Categories and General Price Range Guidelines on the FotoYu App

From the buyer's perspective, transactions are conducted digitally via QRIS or e-wallets such as GoPay, OVO, ShopeePay, and Dana (Indriastuti, 2025). Users must first complete facial verification to locate their photo, then make a payment to download it. After payment, the photo file becomes accessible, and the high-resolution (HD) version is typically sent by the photographer within a maximum of 48 hours (Tri, 2025).

Overall, the practice of buying and selling photos on the FotoYu app proceeds through several stages: photography, processing, uploading, pricing, and digital transactions. However, the entire process takes place without any prior agreement between the photographer and the subject, so the transaction tends to be one-sided even though it occurs in a public space.

### 2.The Practice of Buying and Selling Photos on the FotoYu App: A Sharia Economic Law Perspective

In legal theory, rights are a set of statutory rules governing the principles that must

be observed in human relationships, whether regarding individuals or property (Shiddieqy, 2009). An individual's privacy falls under the category of non-property rights (ghairu maliyah), which are rights not related to property (Sudiarti, 2016). Within this category lies the right of syakhsi, which is the obligation established for a person to fulfill the interests of another party in accordance with the provisions of Islamic law (Firdaus, 2022). Even if a person is in a public place, their right to privacy does not automatically cease to exist. If a photographer takes a photo without permission and then uploads or sells it, this may be considered a violation of personal rights. This aligns with the Sharia principle that the exercise of a right must not violate or interfere with the rights of others, as Allah emphasizes in QS. An-Nisa, verse 29:

يَا أَيُّهَا الَّذِينَ آمَنُوا لَا تَأْكُلُوا أَمْوَالَكُمْ بَيْنَكُمْ بِالْبَاطِلِ إِلَّا أَنْ تَكُونَ تِجَارَةً عَنْ تَرَاضٍ مِّنْكُمْ وَلَا تَقْتُلُوا  
أَنْفُسَكُمْ إِنَّ اللَّهَ كَانَ بِكُمْ رَحِيمًا

*"O you who have believed, do not consume one another's wealth unjustly but only [in lawful] business by mutual consent. And do not kill yourselves [or one another]. Indeed, Allāh is to you ever Merciful."* (QS. An-Nisa : 29)

This verse emphasizes that any form of deriving benefit, profit, or property from another person must be done properly and based on mutual agreement. In the context of buying and selling photos on the FotoYu app, this principle is highly relevant. A photo depicting a person's face is not merely a visual object; rather, it involves personal rights (syakhsi) that must not be exploited without the consent of the person depicted. When a photographer takes a photo of a visitor without permission, then uploads and sells it, that action constitutes a form of exploiting another person's rights without consent. This falls under the category of "consuming wealth through unjust means," as prohibited in the verse above. This means that even though the photographer holds copyright over the technical aspects of the photo, they still do not have the right to exploit a person's identity without the consent of the individual concerned.

In the case of the FotoYu app, the photographer does indeed hold rights to the technical aspects of the photo, such as the digital file of the shot and its edits. However, the right to use a photo that displays a person's face or identity remains with the person photographed. This means that full rights to the photo do not entirely rest with the photographer.

In the theory of ownership, ownership is a person's authority over a thing to utilize and use it as they see fit, as well as to prevent others from claiming rights to that thing except for reasons permitted by Islamic law (Kurnia, 2021). Sharia restrictions are intended to limit the owner's freedom in using or utilizing something, with the aim of protecting the rights of others (Rahayu, 2020). Ownership of the photograph in this case falls under the category of imperfect ownership (al-milk an-nāqis), because the photographer only possesses the physical aspect of the photograph (raqabah) that is, the digital file he produced-and he does not have the full right to utilize the photograph without permission, since the benefit of a photograph depicting a person's identity is a right inherent to the person in the photograph (the runner).

In the theory of buying and selling, a sale (al-bā'i) is the exchange of goods for other goods or for money, carried out through ijab and qabul and fulfilling certain conditions and pillars (Midhia, 2022). The pillars and conditions of a sale include:

- a. The parties (seller and buyer): of legal age, of sound mind, entering into the contract of their own free will, without coercion.
- b. Object (ma'qud alaih): must be pure and free from impurity, beneficial to

## BETWEEN COPYRIGHT AND PRIVACY RIGHTS: LEGAL ISSUES OF DIGITAL PHOTO TRANSACTIONS ON THE FOTOYU APPLICATION

the buyer, fully owned by the seller, with a clear form and nature, available, and capable of being delivered.

- c. Agreement (sighat / ijab qabul): the existence of an agreement between the seller and the buyer, which may be made verbally or in writing (Sahroni, 2020).
- d. Exchange Value (Price of the Goods): The price agreed upon by both parties must be clearly specified; payment may be made at the time of the contract or in installments (credit). If the sale is conducted as a barter (al-muqayadhah), the goods must not contradict Islamic law (Abidin, 2022).

The conditions for a valid sale and purchase are also emphasized in DSN-MUI Fatwa No. 110/DSN-MUI/IX/2017 regarding Sales Contracts, particularly in the provisions related to mutsman or mabi'. The fatwa states that the object of the sale and purchase may be in the form of goods and/or rights, and must be fully owned by the seller (al-milk al-tām) (Arnes, 2023).

In practice on the FotoYu app, photographers sell photos featuring other people without the consent of the subjects. In terms of the elements of a sale, this contract is valid, as it includes the parties (seller and buyer), the subject matter (ma'qud alaih), the agreement (sighat / ijab qabul), and the exchange value (price of the item). However, when viewed from the perspective of the object (ma'qud alaih) in the sale and purchase, there is an issue, because the photographer does not fully own the photos. Although the photographer possesses the digital files of the photographs, the runners in the photos still retain rights to the benefits and their own likeness. Therefore, the object of the sale and purchase does not meet the requirement of full ownership (al-milk al-tām).

Thus, while this sale is valid in terms of its essential elements, there is a defect in the object from the perspective of the conditions. Since the condition of full ownership is not met, the transaction falls under the category of a "fasid" sale. The contract is valid, but the practice is not permissible because it contains elements inconsistent with the provisions of Islamic law.

This demonstrates that although the principle of Islamic jurisprudence states:

الأَصْلُ فِي الْمَعَامَلَةِ الْحَلَالُ وَالْإِبَاحَةُ

*"The fundamental principle in muamalah is that it is halal and permissible."*

However, this permissibility remains subject to the fulfillment of the established pillars and conditions. If any one of the conditions is not met, then that permissibility is nullified and the practice cannot be justified (Darmawan, 2020).

### 3.The Practice of Buying and Selling Photos on the FotoYu App: A Perspective Under Law No. 28 of 2014 on Copyright

Under Article 1(1) of the Copyright Law, Copyright means an exclusive right of the author vested automatically on the basis of declaratory principle after Works are embodied in a tangible form without reducing by virtue of restrictions in accordance with the provisions of laws and regulations. (Asnita & Muallimah, 2023; Bella & Setianingrum, 2024; Ilham, 2025)(Ervin, Pramudita, Dwi, & Sari, 2024; Perdana, Saidin, Azwar, & Leviza, 2021; Putri, Imaniyati, & Zakiran, 2023)(Rojabi, 2025)(Umar, 2019)(Nabhani, Dzulfikar, & Aulawi, 2024)Thus, every photograph taken by a

photographer is automatically protected as a copyrighted work (Nomor, 2014).

According to Law No. 28 of 2014 on Copyright, photographs are included among copyrighted works that receive legal protection. This means that if someone wishes to photograph another person for a specific purpose, they must first obtain permission from the copyright holder. If the photograph is taken without the subject's permission, such an act is considered a violation of the law, as explicitly stated in Article 40 (1) of Law No. 28 of 2014 on Copyright, which specifies that photographic works and portraits are included in the list of protected works.

Under Article 1, Point 10 of the Copyright Law, a portrait is a photographic work featuring a human subject. In the process of creating a portrait, two parties are involved: the photographer taking the image and the subject being photographed. Although the photographer holds copyright over the resulting photograph, this right cannot be exercised freely without respecting the personal rights of the person photographed, particularly regarding privacy and commercial use.

The obligation to obtain permission from the person photographed is clearly stated in Article 12 of the Copyright Law. This article states:

Every Person is prohibited from engaging in Commercial Use, Reproduction, Publication, Distribution and/or Communication of a Portrait taken for commercial billboards or advertising purposes without the written consent of the persons in the portrait or their heirs.

The Commercial Use, Reproduction, Publication, Distribution and/or Communication of the Portrait as referred to in section (1), containing portraits of 2 (two) or more persons, are obligated to request the consent of the persons in the Portrait or their heirs (Perdana et al., 2021; Rahmaniar, Saptono, & Njatrijani, 2019; Suprana, 2020).

The provision states that even though the photographer holds the copyright, he or she may not use or sell photographs depicting a person's face without that person's written consent. Based on interviews, the photographer admitted to taking photos without permission, citing the fact that they were in a public space and following the concept of "street photography," while the subjects stated that they were never informed, never asked for consent, and were unaware that their faces were being photographed and sold. This fact clearly and directly contradicts the provisions of Article 12 of the Copyright Law.

Although the photography was conducted in a public space, legal protection for portraits still applies. Positive law does not distinguish between photos taken in private spaces and those taken in public spaces. As long as the photograph is used for commercial purposes, consent remains mandatory. This aligns with legal experts' explanations stating that an individual has the right to sue if their portrait is used commercially without permission, even if the photograph was taken in a public space. This is consistent with the provision that commercial use of a portrait still requires consent because it concerns a person's identity and privacy (Syafri, Buana, & Rustan, 2025).

There is an exception provided for in Article 14 of the Copyright Law, which states: "For the purpose of security, public interest, and/or necessity of criminal proceedings, competent authority may engage in the Publication, Distribution, or Communication of a Portrait without having to secure the consent of the person or persons depicted in the Portrait." However, this exception applies only in specific situations and is not related to commercial activities such as the sale of photos on the FotoYu app.

Photographing someone without permission, especially if used for commercial purposes, constitutes a violation of the provisions of Law No. 28 of 2014 on Copyright.

## BETWEEN COPYRIGHT AND PRIVACY RIGHTS: LEGAL ISSUES OF DIGITAL PHOTO TRANSACTIONS ON THE FOTOYU APPLICATION

According to this law, photographic works depicting human subjects (portraits) are protected creations, and their use requires the consent of the photographed subject. This means that photographers are not only copyright holders but are also required to respect the personal rights of the photographed subject, especially if the portrait is used for commercial purposes.

### D. Conclusion

The buying and selling of photos on the FotoYu app involves the stages of photography, editing, uploading, and digital sales, with a revenue-sharing system of 90% for the photographer and 10% for the app. Photography is conducted spontaneously in public spaces without the consent of the subjects, so many people are unaware that their photos are being bought and sold. From the perspective of Islamic Economic Law, this practice violates personal rights (*hak syakhsi*) and constitutes imperfect ownership (*al-milk an-nāqis*), as the photographer only owns the photo file, not full rights to its benefits. This results in the conditions for a valid sale and purchase not being met, thereby categorizing the transaction as a *fasid sale*. Furthermore, from the perspective of Law No. 28 of 2014 on Copyright, although photographs are protected as copyrighted works, the use of portraits for commercial purposes still requires the consent of the person portrayed. Thus, the practice on the FotoYu app contradicts applicable legal provisions.

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