

## ***Mudharabah Muqayyadah* and Communal Intellectual Property Protection: A Sharia-Based Law and Economics Perspective**

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**Abstract:** Communal intellectual property (IP), encompassing traditional knowledge, cultural expressions, and geographically rooted innovations, plays a significant role in community-based economic development. However, existing IP governance and financing frameworks remain largely individualistic and market-oriented, making them inadequate for addressing the collective, culturally embedded, and long-term nature of communal intellectual assets. This article examines the potential of *mudharabah muqayyadah* (restricted profit-sharing) as a Sharia-based legal-economic model for financing and governing communal intellectual property in Indonesia. This study integrates doctrinal legal analysis, qualitative field data, and law and economics perspectives to explore the interaction among state IP law, community institutions, and Islamic finance principles. The findings reveal that local communities function as the primary creators, custodians, and governors of communal IP, yet remain structurally excluded from formal IP protection due to limited legal standing and institutional capacity. The study demonstrates that legally recognized community institutions are essential for translating social authority into enforceable legal rights and sustainable economic value. Furthermore, *mudharabah muqayyadah* operates not merely as a financing contract but as a governance mechanism that aligns economic incentives with collective ownership, distributive justice, and cultural preservation. By restricting the use of capital to specific purposes, this model reduces transaction costs, mitigates moral hazard, and enhances long-term sustainability. This article contributes to socio-legal and intellectual property scholarship by reframing communal IP financing as a governance challenge rather than a purely commercial endeavor. From a policy perspective, it offers an alternative, ethically grounded framework for inclusive and sustainable IP governance in developing and Muslim-majority jurisdictions.

**Keywords:** Communal Intellectual Property; *Mudharabah Muqayyadah*; Islamic Finance; Law and Economics; Traditional Knowledge; Indonesia

### **Introduction**

Intellectual property (IP) has become a central pillar of innovation-driven economic development, especially within knowledge-based and creative economies (Lakani, 2024). Beyond its legal function, IP increasingly serves as an economic asset that facilitates value creation, market positioning, and long-term income generation (Khawand et al., 2026; Scheepers et al., 2026). However, existing IP governance and financing frameworks are predominantly designed for individual or corporate ownership structures (Tong & Wang, 2026; Xu et al., 2026). As a result, communal intellectual property – such as geographical indications, traditional knowledge, and collective cultural expressions – continues to face systemic marginalization within mainstream legal and financial systems (Fitri et al., 2023; Widyanti, 2022). These communal forms of IP are often embedded in local knowledge systems and cultural heritage but lack formalized ownership representation, access to capital, and sustainable governance mechanisms (Disemadi, Al-Fatih, et al., 2024). Consequently, communities that generate and preserve valuable intellectual assets remain excluded from effective IP financing

ecosystems, leaving communal IP economically underutilized and vulnerable to misappropriation, particularly in developing countries and Muslim-majority contexts.

Existing scholarship on intellectual property has predominantly focused on protection regimes (Blakeney, 2019; Dai et al., 2025; Du et al., 2026; Fang et al., 2017; Jiang et al., 2026), enforcement mechanisms (Gorda et al., 2022; H. Wang et al., 2025; Zhou & Wei, 2025), and commercialization strategies within corporate, entrepreneurial, or state-centered frameworks (Akinseesin, 2025; Boudreaux & Cole, 2025; Li, 2026). Similarly, research on IP financing has emphasized venture capital, bank lending, securitization, and public subsidies—models that prioritize scalability, collateralization, and short-term financial returns (Mayana & Santika, 2025; Ramadhan et al., 2025). In parallel, Islamic finance literature has extensively examined *mudharabah* contracts concerning SMEs, microfinance, and banking operations, with a predominant focus on *mudharabah muthlaqah* (unrestricted profit-sharing) (Faisol et al., 2022; Fitriani, 2023; Hidayatullah & Fadillah, 2022; Ramadhani et al., 2025; Sukania et al., 2025; Yahya et al., 2023). However, there is a notable lack of studies systematically exploring the financing and governance of communal intellectual property through Islamic contractual instruments. *Mudharabah muqayyadah* (restricted profit-sharing) has received minimal attention as a governance-oriented mechanism capable of addressing collective ownership, cultural embeddedness, and long-term social objectives (Anjani & Thalib, 2025; Asyiqin, 2025; Nabelah, 2021). This gap reflects a broader disconnect among IP law, communal property regimes, and Sharia-based financial governance.

In response to these shortcomings, this article aims to develop a conceptual legal-economic model for financing communal intellectual property based on *mudharabah muqayyadah*. The study examines how restricted profit-sharing arrangements can be structured within contemporary legal frameworks to support communal IP governance. Specifically, it investigates the legal and economic conditions necessary to ensure efficiency, fairness, and sustainability in communal IP financing while adhering to Sharia principles (Rabie & Shebaita, 2025). Additionally, the article provides a comparative assessment of the proposed model against conventional IP financing mechanisms in addressing the distinctive characteristics of communal intellectual assets, including collective ownership, cultural values, and ethical constraints.

This article advances the central argument that *mudharabah muqayyadah* should be conceptualized not merely as a financial contract but as an institutional governance mechanism for communal intellectual property. From a law and economics perspective, the predefined restrictions inherent in *mudharabah muqayyadah* can reduce transaction costs, mitigate moral hazard, and align incentives between investors and communal IP holders. At the same time, its Sharia-based emphasis on risk-sharing and asset-backed investment offers a normative framework that integrates economic efficiency with distributive justice and cultural preservation. By reframing communal IP financing through a governance-oriented application of Islamic finance, this study contributes theoretically to the intersection of IP law and Islamic economics, normatively to the design of culturally sensitive legal frameworks, and practically to policy debates on inclusive and sustainable innovation governance in Muslim-majority and developing jurisdictions.

## Literature Review

### Communal Intellectual Property as an Economic Asset

Intellectual property is increasingly understood not only as a legal entitlement but as an economic asset capable of generating long-term value and supporting sustainable development (Liu & Zhong, 2024; Maruli et al., 2025; S. Wang, 2025). In communal contexts, intellectual property—such as geographical indications, traditional knowledge, and collective cultural expressions—embodies shared creativity and intergenerational knowledge systems (Crescenzi et al., 2022; Mustaidah & Waspiyah, 2024; Nurani et al., 2025). However, unlike individually owned IP, communal intellectual property is characterized by collective ownership, cultural embeddedness, and limited institutional representation (Chuma-Okoro, 2022; Mazé, 2023).

These characteristics create structural challenges in mobilizing communal IP as an economic asset. From an economic perspective, communal IP involves high uncertainty, long investment horizons, and

difficulties in exclusion and valuation (Townley et al., 2019). As a result, conventional financing mechanisms struggle to accommodate communal ownership models, often excluding communities from formal investment and commercialization processes. This condition highlights the need for governance-oriented frameworks that enable communal intellectual property to function as a productive asset without undermining its collective and cultural nature.

### **Law and Economics of Risk Allocation in IP Financing**

Law and economics theory emphasizes efficiency, incentive alignment, and transaction cost reduction as core objectives of legal and financial arrangements. In the context of intellectual property financing, efficient risk allocation is particularly important due to the uncertain and intangible nature of IP assets. Conventional financing models—such as debt-based lending and venture capital—tend to allocate risk asymmetrically, either burdening borrowers with fixed repayment obligations or transferring control to external investors (Mashdurohatun, 2021).

For communal intellectual property, such risk structures generate inefficiencies and governance problems. Debt-based financing increases vulnerability and discourages long-term investment, while equity-based models often conflict with communal ownership and cultural autonomy. From a law and economics perspective, these arrangements produce high transaction costs, moral hazard, and collective action problems. Accordingly, effective IP financing mechanisms must distribute risk in a manner that reflects the uncertain nature of intellectual assets and aligns incentives among multiple stakeholders (Alam et al., 2022; Ali et al., 2025; Bouslama, 2017).

### ***Mudharabah Muqayyadah* as a Governance Mechanism**

Islamic finance offers a risk-sharing paradigm that is particularly suited to addressing the limitations of conventional IP financing (Hodgson, 2025). Central to this paradigm is *mudharabah*, a profit-sharing partnership in which financial returns are linked to actual economic performance rather than fixed interest obligations (Alam et al., 2022; Nurhasanah & Qadariyah, 2024; Yurista & Ardi, 2019). Its restricted form, *mudharabah muqayyadah*, introduces predefined limitations on the use of capital, such as the type of asset, sector, or duration of investment (Novira et al., 2025).

From a governance perspective, *mudharabah muqayyadah* functions not merely as a financing contract but as an institutional mechanism that integrates legal control, incentive alignment, and ethical constraints (Fadjar et al., 2025). By restricting capital use to specific intellectual property activities, this model reduces information asymmetry, mitigates moral hazard, and lowers transaction costs. At the same time, profit-sharing preserves communal ownership and supports distributive justice. Consequently, *mudharabah muqayyadah* provides a coherent theoretical foundation for financing communal intellectual property in a manner that balances economic efficiency, legal certainty, and cultural sustainability.

### **Method**

This study employs a normative legal research methodology integrated with institutional and law-and-economics analysis, using Sragen Regency as an analytical case sample to contextualize the proposed model of communal intellectual property financing through Islamic finance. Law is examined not merely as a set of formal norms, but as a regulatory framework that structures economic behavior, allocates rights and obligations, and shapes incentive mechanisms within systems of communal ownership. Kabupaten Sragen is selected due to its concentration of community-based intellectual assets, particularly in batik production, traditional medicinal knowledge, and collective cultural expressions, which provides a relevant institutional setting for examining the legal challenges of communal intellectual property protection in Indonesia. The analysis draws upon classical and contemporary Islamic legal texts on *mudharabah*, Sharia standards and fatwas, Indonesian intellectual property legislation—especially Law No. 20 of 2016—and relevant international legal instruments governing communal intellectual property and traditional knowledge. Analytically, the study combines law-and-economics analysis, focusing on transaction costs, incentive alignment, risk allocation, and contractual efficiency, with institutional legal analysis examining legal capacity, organizational form, and governance mechanisms in community-based

intellectual property management. On this basis, the research develops a contextualized legal-economic model of *mudharabah muqayyadah*, conceptualizing restricted profit-sharing not only as a Sharia-compliant financing contract but also as a governance instrument capable of addressing collective ownership, mitigating opportunistic behavior, and aligning economic returns with communal interests. The proposed model is subsequently evaluated through comparative legal analysis against conventional intellectual property financing mechanisms, including bank credit, venture capital, and state subsidies, with particular attention to their compatibility with communal governance structures and their capacity to support sustainable and inclusive innovation. Although the study does not involve primary empirical fieldwork, it is grounded in established empirical findings from prior legal and economic research and uses Kabupaten Sragen as an illustrative case to demonstrate the applicability and regulatory implications of Sharia-based restricted profit-sharing for communal intellectual property governance.

## Results and Discussion

### The Central Role of Local Communities as Creators, Custodians, and Governors of Communal Intellectual Property

This study highlights the central role of local communities as the primary creators, custodians, and governors of communal intellectual property (IP), seperti pada Kabupaten Sragen. Communal intellectual assets such as batik motifs, traditional herbal medicine (*jamu*), and locally embedded production techniques emerge not from individual inventorship but from collective knowledge practices developed over generations (Guilhem Basilio, 2025). These forms of intellectual property are deeply embedded in social relations, cultural rituals, and everyday economic activities. As a result, the production of knowledge cannot be separated from the community structures that sustain it. This socio-cultural embeddedness distinguishes communal IP from conventional forms of intellectual property recognized in dominant legal regimes. Consequently, understanding communal IP requires moving beyond individualistic legal categories toward a collective and socially grounded framework.

Communities in Sragen function simultaneously as epistemic agents and normative authorities over their intellectual assets. Knowledge related to batik patterns or herbal formulations is transmitted through apprenticeship, familial networks, and communal participation rather than formalized instruction. This mode of transmission reinforces collective ownership and moral responsibility rather than exclusive control. The legitimacy of such knowledge is derived from communal recognition and cultural continuity, not from statutory registration alone. As a result, community authority over intellectual assets is relational and socially constructed. This challenges conventional IP paradigms that equate ownership with exclusivity and legal title.

Despite their substantive role, the findings reveal a persistent disjunction between community-based knowledge systems and formal intellectual property regimes. Indonesian intellectual property law, particularly Law No. 20 of 2016, provides mechanisms for protecting communal IP through geographical indications and collective marks (Waspiah et al., 2024). However, in practice, communities often lack the institutional capacity and legal standing required to access these protections. This gap results in communities being positioned as informal cultural actors rather than legally recognized rights holders. Consequently, the legal protection available under national law remains underutilized by those who generate the intellectual assets. This institutional disconnect weakens both the effectiveness and legitimacy of IP governance (Pamungkas & Hulwanullah, 2025).

The marginalization of communities within IP regimes has tangible socio-economic consequences. Without formal recognition, communities in Sragen face difficulties in asserting control over the commercial use of their intellectual assets. External actors with greater legal literacy and financial resources are often able to appropriate or replicate communal knowledge without meaningful consent or benefit-sharing. This dynamic exacerbates economic inequality and undermines community trust in formal legal institutions. Over time, such patterns contribute to the erosion of cultural heritage and discourage further innovation at the local level. Thus, exclusion from IP governance produces both distributive injustice and long-term inefficiency.

Internal community dynamics also emerge as a critical dimension of this finding. In the absence of formal governance structures, communal intellectual property is vulnerable to internal disputes, fragmented decision-making, and elite capture. Informal leadership arrangements, while effective for cultural preservation, are often insufficient for managing complex legal and commercial interactions. This creates asymmetries within the community itself, where certain actors may disproportionately benefit from commercialization. The findings indicate that without institutionalized collective governance, communal IP protection remains fragile. Legal invisibility thus amplifies both external and internal vulnerabilities.

The exclusion of communities from IP governance generates systemic inefficiencies. When communities lack secure rights and institutional support, they have limited incentives to invest in quality control, innovation, or long-term brand development. This leads to underutilization of valuable intellectual assets that could otherwise contribute to regional economic growth. Moreover, the absence of clear governance structures increases transaction costs for potential collaborators and investors. As a result, communal IP remains economically dormant despite its significant market potential. This inefficiency reflects a broader failure to align legal institutions with social realities.

The study finds that communities in Sragen possess latent governance capacities that can be activated through appropriate legal and institutional recognition. Cooperative practices, collective decision-making forums, and shared production arrangements already function as informal governance mechanisms. These practices demonstrate that communities are capable of managing intellectual assets collectively when supported by enabling institutions. However, such capacities remain legally invisible without formal recognition. Bridging this gap requires translating social organization into legally intelligible forms without undermining customary norms. This insight is crucial for designing financing and governance models that are both effective and socially legitimate.

The relational nature of community authority over intellectual assets further distinguishes communal IP from conventional property regimes. Community legitimacy is grounded in moral obligation, collective memory, and shared identity rather than enforceable exclusion alone. This form of authority cannot be adequately protected through legal mechanisms that prioritize individual ownership and market transferability. Consequently, any legal or economic intervention must reinforce, rather than replace, community-based governance. Failure to do so risks alienating communities and undermining the sustainability of IP protection. This finding underscores the importance of culturally sensitive institutional design.

This finding establishes that local communities are not peripheral beneficiaries but the foundational actors in communal intellectual property governance. Their exclusion from formal legal and economic frameworks represents both a justice deficit and a structural inefficiency. Recognizing communities as creators, custodians, and governors of intellectual assets is therefore a prerequisite for sustainable IP protection and commercialization. This recognition provides the normative and institutional basis for exploring alternative financing models. It also sets the stage for the second finding, which examines how *mudharabah muqayyadah* offers a Sharia-compliant financing mechanism capable of supporting community-centered IP governance.

### **The Application of *Mudharabah Muqayyadah* as a Mechanism for the Protection and Strengthening of Community Intellectual Property**

The application of *mudharabah muqayyadah* holds dual significance, functioning both as an instrument of Islamic economic law and as a social mechanism for the collective protection and management of community-based Intellectual Property (IP) (Ishak et al., 2025). In the context of Sragen Regency, this restricted investment scheme enables capital providers (*shāhib al-māl*) to allocate funds under clearly defined limitations concerning the purpose of fund utilization, the scope of business activities, and the social orientation of the financed economic ventures (Santika, 2023). These restrictions should not be viewed as impediments; rather, they operate as normative control instruments that ensure investment funds remain aligned with the objective of protecting communal IP. From a socio-legal perspective, this practice reflects a transformation in the function of contracts—from mere tools of economic exchange into

instruments of social governance. Consequently, *mudharabah muqayyadah* operates as a mechanism that bridges Islamic normative principles, state legal interests, and the social needs of local communities.

Communities of batik artisans and traditional knowledge-based entrepreneurs in Sragen face structural barriers in accessing formal financing mechanisms for IP protection. Conventional banking systems tend to require individual collateral and emphasize short-term profit orientation, both of which are incompatible with the collective ownership structure inherent in communal IP. In this context, *mudharabah muqayyadah* provides an alternative financing model that is more compatible with collective ownership arrangements and the values of mutual cooperation embedded within local communities. The restriction of fund utilization for specific purposes—such as copyright registration, geographical indication protection, or industrial design registration—enhances legal certainty while simultaneously reinforcing social legitimacy for the community. These findings demonstrate that the effectiveness of *mudharabah muqayyadah* lies in its capacity to accommodate the social logic of communities that is often overlooked by modern financial instruments. As such, this Islamic contractual arrangement functions as a bridge between formal legal frameworks and localized social practices.

*Mudharabah muqayyadah* also facilitates stronger normative oversight of investment fund utilization. In practice, agreed limitations regarding place, time, and type of business activity create an accountability mechanism grounded simultaneously in moral commitment and legal obligation. Investors are positioned not merely as capital owners but as ethical partners with vested interests in the social and cultural sustainability of community IP. From a socio-legal standpoint, this relationship exemplifies an *embedded contract*, wherein legal relations are not neutral or detached but are deeply intertwined with values, trust, and specific social structures. This stands in contrast to conventional commercial contracts, which are typically impersonal and oriented toward profit maximization. The findings underscore that the success of *mudharabah muqayyadah* is highly contingent upon the social context that sustains it.

Regarding IP protection, the study finds that *mudharabah muqayyadah* funds are strategically utilized to support the legal formalization of intellectual assets that were previously inaccessible to local communities. Costs associated with IP registration, legal consultation, and administrative assistance—often perceived as expensive and complex—become attainable through this restricted investment scheme. Beyond this, funds are also allocated toward product digitalization and the documentation of traditional knowledge, which function both as legal evidence and as protective measures against external claims. From a legal perspective, these practices strengthen the bargaining position of communities within national and international IP regimes. Socially, they contribute to heightened legal awareness regarding the importance of collective rights protection. Thus, *mudharabah muqayyadah* serves not only as a financing source but also as a catalyst for transforming community legal consciousness.

The implementation of *mudharabah muqayyadah* further contributes to the strengthening of internal community governance. Because investment funds may only be used for agreed purposes, communities are encouraged to establish more formal and accountable organizational structures. This includes the formation of fund management units, reporting mechanisms, and transparent profit-sharing arrangements. From a socio-legal perspective, this process illustrates how Islamic economic law instruments can promote community institutionalization without eroding local characteristics. The *mudharabah muqayyadah* contract functions as a normative framework that structures both internal community relations and external relations with investors. These findings reinforce the argument that Islamic economic law holds substantial potential as a tool of social engineering within community-based economic systems (Musadad et al., 2025).

Moreover, the restrictions embedded in *mudharabah muqayyadah* serve to enhance mutual trust between investors and communities. Investors gain confidence that funds are utilized in accordance with clearly defined and measurable objectives, while communities feel protected from excessive external intervention that could undermine their cultural values. These dynamics foster a relatively balanced partnership in which risks and benefits are distributed equitably in line with Islamic principles. From a socio-legal perspective, such trust constitutes critical social capital for the sustainability of community-based financing schemes. In the absence of trust, legal contracts tend to become coercive and difficult to

implement effectively. These findings affirm that the success of *mudharabah muqayyadah* is determined not solely by contractual design but also by the quality of social relations it cultivates.

*Mudharabah muqayyadah* enables a more harmonious integration between economic objectives and cultural preservation goals. Rather than promoting excessive exploitation of IP for short-term profit, this scheme emphasizes long-term sustainability and collective benefit. In Sragen, this is reflected in the use of funds for product development that maintains the originality of batik motifs and traditional medicinal formulas. From a legal standpoint, such practices align with the principles of communal IP protection, which emphasize balance between economic rights and public interest. Socially, this approach strengthens community cultural identity while simultaneously enhancing the economic value of their products. These findings suggest that *mudharabah muqayyadah* effectively addresses critiques of modern IP systems that often marginalize cultural dimensions.

The findings demonstrate that *mudharabah muqayyadah* functions as a hybrid instrument integrating legal, economic, and social dimensions in the protection of community-based IP. This scheme is not only normatively relevant within the framework of Islamic law but also empirically effective in addressing the structural challenges faced by local communities. From a socio-legal perspective, the application of *mudharabah muqayyadah* in Sragen illustrates how law can operate in a contextual, adaptive, and substantively just manner. These findings reinforce the argument that legal solutions for community IP protection cannot be detached from the social context and local values in which they are embedded. Accordingly, *mudharabah muqayyadah* may be regarded as an alternative model of financing and IP protection that is worthy of replication in other regions of Indonesia.

### **Legality and Institutions: The Formation of Community Organizations as a Prerequisite for the Protection of Communal Intellectual Property**

The primary challenge in protecting communal Intellectual Property (IP), particularly in Sragen Regency, lies not merely in the lack of legal knowledge but in the weak legal position of communities within the state's formal legal system. Most batik artisan communities and traditional knowledge-based economic actors have not yet established legally recognized entities or formal institutions acknowledged by the state. As a result, these communities lack legal standing to register communal IP, as required under Law No. 20 of 2016 on Trademarks and Geographical Indications (Djulaeka et al., 2024; Saputro et al., 2024; Setyawan et al., 2017). This condition highlights a persistent gap between *law in books* and *law in action*. While state law normatively recognizes communal IP, it remains structurally inaccessible to many local communities. Consequently, IP protection often remains symbolic and fails to deliver tangible benefits to the communities concerned.

The establishment of legally recognized community institutions constitutes a crucial prerequisite for the effective protection of communal IP (Disemadi, Alhakim, et al., 2024). Such institutions function as collective legal subjects capable of representing community interests in the registration, management, and utilization of IP assets. In the Sragen context, emerging institutional forms include sharia-based cooperatives, legally incorporated associations, and community-owned enterprises developed through participatory processes. This institutionalization process is not merely administrative but transformational, as it reshapes how communities perceive themselves as legal actors. Communities are no longer positioned as passive objects of protection but as active and empowered legal subjects. These findings demonstrate that formal legal status serves as a gateway to the recognition and protection of collective community rights.

The existence of formal community institutions enables the integration of state law with internal community norms. Rather than replacing traditional social structures, community institutions function as normative extensions that mediate between communities and the national legal system. In practice, strategic decisions regarding IP management continue to be grounded in community deliberation, while formal institutions translate these decisions into the legal language of the state. From a socio-legal perspective, this arrangement reflects a form of legal hybridity, in which customary norms, sharia principles, and positive law operate simultaneously. These findings challenge the assumption that legal formalization necessarily erodes local values; in the Sragen case, formalization instead strengthens

community positions. Institutional legality thus operates as an adaptive mechanism rather than an instrument of state legal domination.

Moreover, the formation of community institutions has a significant impact on enhancing legal awareness and literacy within communities. The processes of establishing legal entities, managing formal documentation, and registering IP compel communities to engage intensively with state authorities, legal consultants, and support organizations. These interactions generate a form of practical legal learning rather than abstract normative understanding. From a socio-legal standpoint, increased legal consciousness is critical, as it determines the extent to which law can be internalized and effectively implemented. Communities become more aware of their rights and obligations and more vigilant against potential exploitation by external actors. These findings indicate that institutional legality not only produces legal protection but also empowers communities cognitively and socially.

In relation to the *mudharabah muqayyadah* scheme, the existence of legally recognized community institutions emerges as a decisive factor in the successful implementation of this sharia-based contract. Investors are more likely to place trust and commit capital when communities possess clear and accountable institutional structures. Formal institutions enable contracts to be executed in written, transparent, and legally enforceable forms. From a socio-legal perspective, these findings demonstrate that the effectiveness of Islamic economic law is highly dependent on adequate institutional support. In the absence of institutional legality, *mudharabah muqayyadah* contracts risk being reduced to informal agreements vulnerable to conflict and dispute. Institutions thus function as legal infrastructure underpinning sharia-based economic practices.

Institutional legality also strengthens the bargaining position of communities in their interactions with external actors, including large industries and global markets. By possessing formally registered institutions and legally protected IP, communities are better positioned to negotiate licensing agreements, production partnerships, and distribution arrangements on more equal terms. From a legal perspective, such status provides safeguards against unilateral claims and the misappropriation of traditional knowledge. Socially, enhanced bargaining power increases community confidence and reinforces internal solidarity. These findings illustrate that law functions not only as a mechanism of control but also as a strategic resource for groups that have historically been marginalized. In this context, legality operates as an instrument of power redistribution.

Furthermore, the existence of community institutions creates opportunities for more constructive state engagement. Local governments can provide targeted assistance, facilitation, and policy incentives when communities possess clear legal identities. This is reflected in improved access to MSME development programs (Lohrey & Willoughby, 2025), facilitation of geographical indication registration, and promotional support for IP-based products. From a socio-legal perspective, these interactions reflect a more dialogical relationship between the state and society, in contrast to top-down, paternalistic approaches. These findings indicate that community institutionalization enables the state to fulfill its protective and empowering functions more effectively. Legal status, therefore, operates not merely as a legal requirement but as a means of building sustainable state-community partnerships.

These findings affirm that legality and institutionalization constitute the foundational pillars of sustainable communal IP protection. The formation of community institutions enables the integration of state law, sharia principles, and local social norms within a coherent governance framework. From a socio-legal perspective, this demonstrates how law can function emancipatorily when designed and implemented in a contextual manner. Institutional legality not only safeguards intellectual assets but also strengthens the social, economic, and political capacities of communities. Accordingly, the establishment of formal community institutions should be understood as both a legal and social strategy essential to models of communal IP protection grounded in *mudharabah muqayyadah*.

### **Economic Objectives: Distributive Justice, Sustainability, and the Development of a Sharia-Based Economic Ecosystem**

The economic objectives underlying the application of *mudharabah muqayyadah* in financing communal Intellectual Property (IP) cannot be reduced to the mere enhancement of community income.



This model is designed to generate a fair and proportional distribution of economic benefits in accordance with the collective contributions of community members. In the context of Sragen Regency, empirical findings indicate that the restricted profit-sharing scheme enables revenues derived from the utilization of communal IP to be distributed transparently among community members. This approach contrasts sharply with conventional commercialization practices, which tend to concentrate economic gains in the hands of specific actors. From a socio-legal perspective, economic justice is understood as the outcome of institutional designs that regulate social and legal relations in a balanced manner. Accordingly, the economic objectives of this model are both normative and structural in nature.

*Mudharabah muqayyadah* functions as a corrective mechanism addressing the structural inequalities long experienced by communities that own communal IP. Under conventional financing arrangements, such communities often occupy a weak bargaining position due to limited capital, restricted market access, and inadequate legal literacy. As a consequence, economic benefits generated from IP-based products are disproportionately captured by external actors. The *mudharabah muqayyadah* scheme reconfigures this relationship by positioning communities as business partners rather than objects of exploitation. From a legal and economic standpoint, the profit-sharing mechanism creates more balanced incentives between investors and communities. These findings demonstrate that the design of sharia-based contracts can operate as an effective instrument of economic redistribution.

The economic objectives of this model are closely linked to long-term sustainability. Restrictions on capital utilization inherent in *mudharabah muqayyadah* ensure that investments are directed toward activities that support the preservation of IP, such as improving production quality, securing legal registration, and strengthening collective branding. As a result, economic gains are not achieved through excessive exploitation or the erosion of cultural value. From a socio-legal perspective, this approach reflects principles of prudence and social responsibility in economic practice. Sustainability is positioned as an integral component of economic objectives rather than as an incidental outcome. These findings affirm that economic efficiency can coexist with the preservation of social and cultural values.

The implementation of *mudharabah muqayyadah* contributes to the formation of a more transparent and accountable economic ecosystem. Because profits are distributed based on clearly defined agreements tied to specific objectives, communities are incentivized to maintain proper financial records and reporting mechanisms. Community institutions function as fund managers and are accountable both to community members and to investors. From a socio-legal perspective, this transparency strengthens the legal and social legitimacy of the economic practices undertaken. Accountability operates not only vertically toward the state but also horizontally within the community itself. These findings indicate that economic objectives encompass the establishment of governance structures grounded in integrity.

Within the framework of Islamic law, the economic objectives of this model align with the principles of *maqāṣid al-sharī'ah* (Defilania et al., 2025), particularly the protection of property (*hifẓ al-māl*) and the promotion of public welfare (*maṣlaḥah 'āmmah*). Communities perceive the *mudharabah muqayyadah* scheme as a form of economic engagement that is lawful, equitable, and dignified. The prohibition of *ribā* and excessive speculation provides moral assurance for communities in managing their IP assets. From a socio-legal perspective, this ethical dimension plays a crucial role in enhancing compliance and sustaining economic practices over time. Law is adhered to not merely because of sanctions, but because it resonates with the normative values embraced by the community. These findings reinforce the argument that normative legitimacy is a key determinant of institutional success.

The economic objectives of this model are inherently inclusive, as they expand opportunities for participation among vulnerable groups within the community. Women artisans, small-scale entrepreneurs, and younger generations gain more equitable access to the economic benefits derived from communal IP. Collective profit-sharing schemes enable a more even distribution of income compared to wage-based systems or exploitative partnership arrangements. From a law-and-economics perspective, such inclusivity reduces social costs associated with inequality and internal conflict. Socially, this approach strengthens community cohesion and supports the regeneration of IP-based enterprises. These findings underscore that economic objectives extend beyond material gains to encompass broader social dimensions.

Furthermore, this model generates positive incentives for community-based innovation. When communities experience fair and sustainable economic benefits, their motivation to develop new products and improve production quality increases significantly. Innovation is no longer perceived as a risk that disproportionately benefits external actors, but rather as a collective investment. From a socio-legal perspective, this condition reinforces the reciprocal relationship between law, economy, and culture. Law provides protection, economic mechanisms supply incentives, and cultural values confer legitimacy. These findings demonstrate that economic objectives can serve as a driving force for innovation grounded in local values.

These findings affirm that the economic objectives of applying *mudharabah muqayyadah* in the protection of communal IP are multidimensional. This model not only enhances community income but also fosters distributive justice, sustainability, and ethical economic governance. Economic objectives are understood as the product of interaction between legal design, social structures, and normative values. These findings reinforce the argument that sharia-based contracts can function as instruments of public policy in community-based economic development. Accordingly, *mudharabah muqayyadah* offers a credible and contextually grounded alternative for the governance of communal IP in Indonesia.

## Discussion

The findings of this study demonstrate that communal intellectual property (IP) governance cannot be adequately understood through a purely doctrinal or market-based legal framework. The centrality of local communities as creators, custodians, and governors of intellectual assets confirms long-standing socio-legal critiques of individualistic property regimes. In the case of Sragen regency, communal IP emerges from collective social practices rather than isolated acts of inventorship. This reinforces the argument that law functions not merely as a system of rules, but as a social institution shaped by power relations, cultural norms, and economic structures (Cummings, 2025). Consequently, effective IP governance requires institutional designs that recognize collective agency and social embeddedness. This study advances socio-legal scholarship by empirically demonstrating how communal IP operates within hybrid normative orders.

From the perspective of legal pluralism (Griffiths, 1986), the findings reveal a dynamic interaction between state law, Islamic legal principles, and community norms (Ramli et al., 2024; Warman et al., 2023). While Indonesian IP law formally acknowledges communal IP, its effectiveness depends on how legal categories are translated into social practice. Community institutions in Sragen act as intermediaries that bridge these normative systems. This hybrid governance structure supports the argument that legal effectiveness is contingent upon social legitimacy and institutional adaptability. Rather than replacing customary authority, formal legal recognition strengthens community governance when designed inclusively. This challenges the assumption that formalization necessarily marginalizes local norms.

The application of *mudharabah muqayyadah* introduces a novel governance-oriented interpretation of Islamic finance within IP scholarship. Unlike conventional financing mechanisms that prioritize collateral and scalability, restricted profit-sharing aligns financial flows with communal values and long-term objectives. From a law and economics perspective, this model reduces transaction costs by clarifying investment boundaries and mitigating moral hazard. The restriction of capital use functions as an ex ante governance mechanism rather than a constraint on efficiency. This finding contributes to the growing literature that repositions Islamic contracts as institutional tools rather than merely financial instruments. It also expands the analytical scope of IP financing beyond corporate-centric models.

The institutional role of legally recognized community entities emerges as a decisive factor in translating normative recognition into economic value. Without legal standing, communities remain structurally excluded from IP registration, contract formation, and dispute resolution mechanisms. The findings support socio-legal theories that emphasize the importance of institutional capacity in realizing legal rights. Community-based institutions in Sragen not only enable access to formal IP protection but also enhance internal accountability and collective decision-making. This dual function strengthens both

legal certainty and social cohesion. Thus, institutionalization operates as a form of legal empowerment rather than bureaucratic control.

Economically, the study challenges orthodox assumptions that profit maximization is the primary objective of IP commercialization (Z. Wang et al., 2025). The distributive logic embedded in *mudharabah muqayyadah* reframes economic success in terms of fairness, sustainability, and shared prosperity. By embedding profit-sharing within collective governance structures, the model internalizes social costs often externalized in conventional markets. This supports law and economics arguments that efficient outcomes require alignment between incentives and social objectives. The findings demonstrate that ethical constraints do not undermine economic rationality but can enhance long-term efficiency. This insight is particularly relevant for development-oriented IP policies.

The integration of *maqāṣid al-sharī'ah* into communal IP financing further strengthens the normative legitimacy of the model (Defilania et al., 2025; Disemadi, Al-Fatih, et al., 2024). Protection of property (*hifz al-māl*), social welfare (*maṣlahah*), and prevention of harm are operationalized through concrete legal and economic mechanisms. This counters critiques that Islamic finance lacks practical applicability in complex regulatory environments. From a socio-legal standpoint, moral legitimacy enhances compliance and institutional durability. Communities are more likely to adhere to governance rules that resonate with their ethical frameworks. This finding reinforces the importance of value congruence in legal design.

Comparatively, the study highlights structural limitations of conventional IP financing models when applied to communal intellectual assets. Venture capital, bank credit, and state subsidies often fail to accommodate collective ownership and cultural embeddedness. These mechanisms tend to prioritize rapid commercialization, often at the expense of community autonomy. In contrast, *mudharabah muqayyadah* accommodates non-market values while maintaining economic viability. This positions Islamic finance as a complementary, rather than alternative, system within plural legal economies. The findings thus contribute to comparative IP governance debates.

From a policy perspective, the study suggests that communal IP protection requires an integrated regulatory approach. Legal recognition, institutional capacity, and ethical financing must be developed simultaneously. Fragmented interventions risk reproducing the very exclusions they seek to address. The Sragen case illustrates how coordinated legal and financial design can transform communities from passive cultural bearers into active economic agents. This has broader implications for IP governance in developing and Muslim-majority jurisdictions. Policymakers should therefore reconsider the narrow focus on registration and enforcement.

Theoretically, this study advances socio-legal scholarship by conceptualizing *mudharabah muqayyadah* as a governance architecture rather than a contractual form. It demonstrates how legal norms, financial instruments, and social institutions interact to shape economic outcomes. This integrative approach responds to calls for interdisciplinary IP research that transcends doctrinal silos. By embedding Islamic finance within socio-legal analysis, the study broadens the epistemological boundaries of both fields. It also offers a framework for future empirical research on community-centered legal innovation (Wan et al., 2026).

The discussion confirms that communal intellectual property governance requires context-sensitive, ethically grounded, and institutionally supported solutions. *Mudharabah muqayyadah* provides a viable model that aligns legal protection, economic incentives, and cultural preservation. Its effectiveness lies not in financial sophistication, but in its capacity to translate communal values into enforceable legal-economic arrangements. This study thus contributes to rethinking IP governance in plural legal societies. It invites scholars and policymakers to move beyond universalist models toward more inclusive and adaptive legal architectures.

## Conclusion

This study concludes that communal intellectual property (IP) governance cannot be effectively addressed through conventional individualistic legal and market-based frameworks. The empirical findings from Kabupaten Sragen demonstrate that communal IP is socially embedded, collectively

produced, and normatively governed through community institutions that operate within plural legal orders. Legal recognition under national IP law becomes meaningful only when supported by institutional capacity and social legitimacy at the community level. The research shows that the absence of legally recognized community entities results in structural exclusion from IP protection, financing, and commercialization mechanisms. From a socio-legal perspective, this confirms that law functions as a social institution whose effectiveness depends on its interaction with local norms and governance structures. Accordingly, communal IP protection must be conceptualized as an institutional and governance challenge rather than a purely doctrinal legal issue.

The study further establishes that *mudharabah muqayyadah* offers a viable governance-oriented financing model for communal IP that aligns legal protection, economic incentives, and ethical values. By embedding restricted profit-sharing within legally recognized community institutions, the model reduces transaction costs, mitigates moral hazard, and ensures distributive justice. Unlike conventional IP financing mechanisms, this Sharia-based model accommodates collective ownership and long-term cultural sustainability without sacrificing economic efficiency. The integration of *maqāṣid al-sharī'ah* enhances normative legitimacy and compliance, strengthening institutional durability. These findings contribute to socio-legal and law-and-economics scholarship by reframing Islamic finance as a governance architecture rather than a mere financial instrument. Ultimately, this study offers a context-sensitive and equitable framework for communal IP governance that is applicable to developing and Muslim-majority jurisdictions.

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## Conflict of Interest

The author declares that there is no conflict of interest.

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