

---

*PROTECTION OF PHOTOGRAPHIC COPYRIGHTS IN THE CITY OF TERNATE  
A STUDY OF LAW NUMBER 28 OF 2014 CONCERNING COPYRIGHTS*

**Ariwawan Dj Ilyas**

*Fakultas Ilmu Hukum Universitas Khairun Ternate, Email: [muhammadsurya971@gmail.com](mailto:muhammadsurya971@gmail.com),*

**Famalaha**

*Fakultas Ilmu Hukum Universitas Khairun Ternate*

---

**Abstract**

*This study aims to find out how creative photography works in Ternate City, and to find out how the photographer's responsibility in photography works in Ternate City. This study uses empirical research methods. The data sources used are secondary and primary data. In this study, the authors used the method of collecting data from observations, interviews, and literature studies. After the data was collected, it was analyzed qualitatively and descriptively. Based on the data analysis carried out, it was concluded that, business actors responsible for Photography in the City of Ternate can be held accountable for their copyrighted works if there are parties who illegally carry out or take their work from the original creator, and must obtain permission from the Creator or Copyright Holder in accordance with the provisions Law Number 28 of 2014 concerning Copyrights. The government provides legal counseling, supervision and law enforcement to the public. Meanwhile, the efforts of the creators individually or collectively have never been carried out. It is recommended to photographers who work for the company to ask for a written work agreement to be made so that their rights and obligations are clear.*

**Keywords:** *Protection, Copyrights, Photography*

**Abstrak**

Penelitian ini bertujuan untuk mengetahui bagaimana cara kerja fotografi kreatif di Kota Ternate, dan untuk mengetahui bagaimana tanggung jawab fotografer dalam karya fotografi di Kota Ternate. Penelitian ini menggunakan metode penelitian empiris. Sumber data yang digunakan adalah data sekunder dan primer. Dalam penelitian ini, penulis menggunakan metode pengumpulan data dari observasi, wawancara, dan studi kepustakaan. Setelah data terkumpul, kemudian dianalisis secara kualitatif dan deskriptif. Berdasarkan analisis data yang dilakukan, disimpulkan bahwa, pelaku usaha yang bertanggung jawab atas Fotografi di Kota Ternate dapat dimintai pertanggungjawaban atas ciptaannya yang memiliki hak cipta apabila ada pihak yang secara melawan hukum menjalankan atau mengambil ciptaannya dari pencipta aslinya, dan harus memperoleh izin dari Pencipta atau Pemegang Hak Cipta sesuai dengan ketentuan Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta. Pemerintah memberikan penyuluhan, pengawasan dan penegakan hukum kepada masyarakat. Sementara itu, upaya para pencipta secara individu maupun kolektif belum pernah dilakukan. Disarankan kepada fotografer yang bekerja di perusahaan untuk meminta dibuatkan perjanjian kerja secara tertulis agar jelas hak dan kewajibannya.

**Kata Kunci:** *Perlindungan, Hak Cipta, Fotografi*

## PRELIMINARY

Copyright is an exclusive right owned by creators or recipients of the right to publish their creations or give permission to others to publish them without reducing the restrictions according to laws and regulations<sup>1</sup>. A person's copyrighted work will automatically become the property of the creator, even if it is not registered with the Directorate General of Intellectual Property Rights. However, often someone takes the opportunity by acknowledging the creation as the result of his creation. So that the real creator must prove that the creation is his creation. Thus, copyright registration must continue to be carried out so that other people cannot admit that the results of their creation are their own creations. A correct understanding of the scope of Copyright is needed to avoid confusion<sup>2</sup>.

Understanding that often occurs in society. Intellectual Property Rights is a right that arises for the results of ideas that produce a product that is beneficial to humans. Intellectual Property Rights can also be interpreted as rights for someone because they have made something useful for others. Objects or things regulated in IPR are works born of the intellectual ability of human thought. Intellectual Property Rights are categorized as property rights considering that Intellectual Property Rights ultimately produce intellectual works in the form of: knowledge, art, literature, technology which in realizing it requires sacrifice of energy, time, cost and thought<sup>3</sup>.

Indonesia is one of the countries in which the business world is developing rapidly. This is because over time, economic growth in the world is increasingly competing with one another. Today, human life cannot be separated from the flow of communication and information, even now information has become a separate force in an increasingly competitive global competition. One of them is the rise of photography on the internet. The resulting photographic works are copyrighted in them and are protected by applicable laws<sup>4</sup>.

The era of modernization with the pace of technology and information has become a challenge in itself and demands that the law adapts to the development of the legal culture of society in ongoing social, economic, and political relations. Technology and information have become a major competitive force. This is indicated by the abundance of human creativity in utilizing technology-based facilities that are economically beneficial for both individuals and community groups. One of the technology-based creativity that is well known in the community is an artist related to photography. Photography is a creation made by a photographer artist so that the work must receive legal protection.

Matters relating to the issue of Copyright to photography in Indonesia are growing in line with the enactment of the Copyright Law, because the existence of the Copyright Law alone is not enough to guarantee the protection of the rights of the creator, because there are still many violations of a copyright law. Copyrighted works caused by a lack of understanding of IPR law, especially Copyright and the lack of public awareness of the rights protected by Copyright law. Copyright protection in the field of photographic works, as regulated in Article 40 paragraph (1) letter k, which reads, "photographic works" UUHC. This article provides legal protection in the field of photography. Photography develops from human awareness as a virtuous / intelligent creature who has more ability to be able to manipulate the natural environment of his life. In the context of photography, it can be seen how humans respond to every natural phenomenon (natural phenomenon), by finding something and expressing it in various forms of concepts, theories, and discourses. Legal protection is also regulated and

---

1 'Pengertian Dan Sejarah Singkat Fotografi', *Pacificrimcamera.Com*, 2013 <<https://kelasfotografi.wordpress.com/2013/08/25/pengertian-dan-sejarah-singkat-fotografi/>>.

2 Gatot Supramono, *Hak Cipta Dan Aspek-Aspek Hukumnya* (Jakarta: Rineka Cipta, 2010).

3 Abdul Atsar, *Hukum Hak Kekayaan Intelektual* (Yogyakarta: Deepublish, 2018).

4 Achmad Ali, *Menguk Teori Hukum (Legal Theori) Dan Teori Peradilan (Judicial prudence)* (Kencana Prenada Media Group, 2009).

promoted in the 1945 Constitution, the protection and enforcement of human rights are contained in Article 28 of which Article 28 consists of Article 28A to Article 28J<sup>5</sup>.

For law enforcement in copyright infringement, in which copyright infringement is included in the violation of human rights and in human rights it is stated in Article 28H paragraph (4) which reads, "everyone has the right to have private property rights and such property rights may not be taken over arbitrarily by anyone". From the sound of the article that copyright can be included in private property rights, because copyright is the result of someone's copyrighted work which in the creation of the work has meaning for someone who has created it.

The existence of photographic works has developed far as a medium for serving natural phenomena so that it can be seen in the value of their reproductions which are considered spectacular with a reliable quality of similarity<sup>6</sup>. This takes at least four centuries in the context of the phenomenon of the creation of his works of art by connecting various experiments and innovations in the field of technology and their aesthetic creative implementation.

Human intellectual creativity has economic value, but there are certain limitations where the creations and intellectual property are not used arbitrarily, including not contradicting the laws and regulations, decency and public order. responsible, the government makes laws to protect intellectual property rights. Photographers or photographers are people who make images by capturing light from the subject of the image with a camera or with other photographic equipment.

In general, a photo that is created or made by someone as a job to earn income, and the image will be sold for covers, magazines, calendar covers and articles<sup>7</sup>. Even though in this case there is a group or individual who misuses electronic devices such as cellphones or cameras by taking copyright or a work of a photographer/photographer without the permission of the creator of the work with the aim of benefiting themselves or the group. Law Number 28 of 2014 concerning Copyright Photo is a copyrighted work that is protected by the Copyright Act. Therefore, if someone wants to use a photograph, they must obtain permission from the copyright holder of the photo. If someone uses a photograph for a particular interest without asking for permission first, then it violates the Copyright Law, as stated in Article 40 paragraph (1) of Law Number 28 of 2014 concerning Copyright<sup>8</sup>.

Copyright infringement on photographic works that often occurs in Ternate City is due to the provision of photography<sup>9</sup>. As a result, many photographers only display their copyrighted works, so this has a negative side, namely the presence of irresponsible parties and unprofitable for the photographers and those who use them<sup>10</sup>, because the party uses the rights of others for their personal interests.

Photography is increasingly in demand at this time, this is indicated by the large number of photography enthusiasts until the emergence of a photography community in Ternate City, including: Anaseni Photograph, Pardidu Photowork, Dodoku photo all in Ternate City with a variety of photos. Photography is no longer a hobby but has become a profession. The ease of using a camera nowadays allows anyone to capture important moments but the results are not as expected, so the services of a photographer are needed. Choosing the services of a photographer is not an easy decision because there are many alternatives with various criteria. As a result, many photographers only display their copyrighted works, so this has a negative side, namely the existence of parties who are not responsible and not profitable for the

---

5 Pemerintah Republik Indonesia, *Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta Atau Literatur* (Indonesia: Lembaran Negara Republik Indonesia, 2014).

6 H. Ok. Saidin, *Aspek Hukum Hak Kekayaan Intelektual* (Jakarta: Rajawali Press, 2006).

7 Rita Ganti and Ratri Rizki Kusumalestari, *Jurnalistik Foto* (Bandung: Simbiosis Rekatama Media, 2013).

8 Rooseno Harjowidigdo, *Mengenai Hak Cipta Indonesia* (Jakarta: Pustaka Sinar Harapan, 1997).

9 Muhammad Ahkam Subroto, *Eksplorasi Konsep Kekayaan Intelektual Untuk Penumbuhan Inovasi* (Jakarta: LIPI Press, 2005).

10 Sudaryat and Dkk, *Hak Kekayaan Intelektual* (Bandung: Oase Media, 2010).

photographer and the party who uses it, because these parties use other people's rights for their personal interests. In this regard, photography in the City of Ternate is protected by the copyright of fotofragers.

This clearly will be able to cause a dispute because of forgery in the recognition of copyright in a work of art. The city of Ternate has photographic copyrights, among others, the process of making photos by photographers must be able to show others that their work can show the personal similarity of the object being taken a picture. The results of the photo must emphasize the elements of lighting, background, and moments that can support the photo work produced by the photographer<sup>11</sup>.

Based on the research that I researched, this problem occurred by photographers in the city of Ternate, namely; Photographers of art children, photographers of dodoku, and paradidu. Those whose photos were taken or hijacked by other people (fashion salon) occurred on Thursday, June 24, 2020. The fashion salon took the work or photos from the dodoku photographer's.

## RESEARCH METHODS

In an effort to organize the research process, the authors use the type of legal research. This research is hereinafter referred to as field law research or empirical research and specifically this research was conducted in the City of Ternate. The location of this research was carried out in the city of Ternate, due to the availability of the necessary data for the preparation of this legal research. Primary data, namely data obtained by researchers directly from the subject in the form of interviews with photographers in the City of Ternate. Secondary data, data obtained from library research and documentation, which is the result of research and processing of others, which is already available in the form of books or documents that are already available. Obtaining data from the field in this study the authors used the following data collection methods<sup>12</sup>:

1. Observation, is direct observation of the symptoms of the subject or object under study with a view to ensuring the truth of the data obtained from interviews<sup>13</sup>. For this reason, the authors conducted observations in the city of Ternate.
2. Interview<sup>14</sup>, is a question and answer in verbal communication (verbal communication), face to face between the 'interviewer' (interviewer) and the respondents who become 'interviewers', namely with Photographers in the City of Ternate
3. Literature Studies, namely by tracing and reviewing Law no. 28 of 2014 concerning Copyright or IPR literature related to research problems.

Primary data obtained through interviews and observations and secondary data obtained through library research were analyzed using qualitative analysis methods, namely analyzing existing data to obtain a comprehensive and clear picture of how the legal protection of photographic copyrighted works according to Law No.28 2014 concerning Copyright. Material analysis is an activity to analyze materials that have been obtained through research and library materials. All materials obtained, both non-legal materials and legal materials, were analyzed using qualitative methods, namely materials in the form of information and written materials that have been collected and then processed and linked systematically<sup>15</sup>.

## DISCUSSION

### PROTECTION OF PHOTOGRAPHIC COPYRIGHTS IN THE CITY OF TERNATE

---

<sup>11</sup> Karina Putri, *Pelanggaran Hak Cipta Karya Fotografi Di Media Daring Menurut Hak Kekayaan Intelektual*.

<sup>12</sup> Amiruddin, *Pengantar Metode Penelitian Hukum* (Jakarta: Rajawali Press, 2003).

<sup>13</sup> Masri Singarimbun and Sofyan Efendi, *Metode Penelitian Survey* (Jakarta: LP3ES, 1989).

<sup>14</sup> Van Apeldoorn, *Pengantar Ilmu Hukum* (Jakarta: Pradnya Paramitha, 2005).

<sup>15</sup> M. Syamsudin, *Operasional Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 2007).

Photography in Ternate City is a photography business that requires creativity, art, technique and high photography skills. Creative and artistic products are products of high economic value. Businesses that produce products with high economic value will have an impact on the welfare of entrepreneurs and employees. A photo that has high artistic value made with a special theme and high photography technique will, the product of a photography business in Ternate City is needed by various groups of people for various needs. Various aspects of life, ranging from the individual sphere to a very complex social sphere, require photographic work. Photographic products are needed as functional products and art products. The existence of Photography in the City of Ternate amounted to

1. Anaseni Potograph
2. Dodoku Potograph
3. Paradidu Photo
4. Blackroom

The above photography activities are in the city of Ternate in general, what photography businesses do include<sup>16</sup>:

1. Parwedding Photography, we present unique places that couples can consider as pre-wedding photo locations, all back to the theme and concept of the couple's choice.
2. Marriage Contract Photography, there are many things that need to be prepared by the photographer during the marriage contract, so that the shooting process can run smoothly and the photo results can be maximized, namely by preparing equipment, human resources to be involved, photo objects and various styles to be taken, understanding the location photo shoot and so on.
3. Wedding Reception Photography, some important moments that must be documented, photos of Susana at the location of the event, invited guests who come, if using a wedding car, don't forget to take photos, photos of invited guests who come, photos of the two brides when they enter the wedding ceremony location, photos the expressions of the bride and groom when the event began, and so on.
4. Delivery Photography
5. Roario Night Photography, position yourself to capture the theme precisely. Thus, each photo will truly reflect the personality of the bride and groom.

Based on the results of my interview with fahran as treasurer of the photo grafer dodoku photo Friday, July 23, 2021 explained that, the form of protection refers to Law No. 28 of 2014 concerning Copyright. According to article 5, moral rights are rights that are eternally attached to the creator to include or not include his name in the work; change his creation; use the name Semarang; change the title and subtitle. With this form of protection, it is normatively regulated in terms of protection for photographers in the city of Ternate. So that people cannot arbitrarily take our copyrighted works in any form (photography). With the protection of this copyright law, we feel that we are normatively protected by the state. Although there were some legal problems that we faced, they were able to be resolved through mediation. This legal problem occurred on Thursday, June 24, 2020, namely the work of the photographer's photo Dodoku Photo taken by a fashion salon, but this problem was resolved through mediation by both parties amicably and made a letter of peace.

Based on the interview above, the author thinks that a business license is an approval from the government given to business actors to run a business. The benefits of having a complete business license include security guarantees, increased credibility, ease of obtaining facilities from the government, ease of obtaining capital loans from banks or investors, and being able to participate in tenders or auctions. In an effort to accelerate business licensing services, the government through PP Number 24 of 2018 concerning Electronically Integrated

---

<sup>16</sup> Mark Osterman and Grant B. Romer, *History and Evolution of Photography*.

Business Services issued a policy by creating an Online Single Submission (OSS) system. This will protect the rights of photographic consumers in the City of Ternate.

Thus, the management of business licenses can be done easily and for free online. In general, the following is the procedure for applying for a business license through the OSS system:

1. Applicants register online at <https://oss.go.id> to get an account.
2. Business actors who are legal entities only need to prepare a TIN and a deed of company establishment from a notary that has been ratified through the One Stop Service (PTSP) at the Investment Coordinating Board (BKPM) or related ministries/institutions that already have PTSP. For individual businesses, the applicant only needs to prepare an ID card and NPWP. After the data is entered, the system will be integrated with the NIK and confirm the identity of the applicant and the Taxpayer Identification Number (NPWP). After all data has been entered, the system will automatically confirm the data.
3. The applicant gets a Business Identification Number (NIB), BPJS employment and health, location permits, fiscal facilities, and the Plan for the Use of Foreign Workers (RPTKA) which are already available in the cloud data so that they do not need to be inputted again.
4. After the registration stage is complete, the system will ask the applicant to complete a commitment consisting of Environmental Feasibility Efforts-Environmental Management Efforts (UKL-UPL), Building Construction Permits (IMB), and Functional Eligibility Certificates (SLF).
5. After all commitments are fulfilled, the system (OSS) will issue a Sectoral Business Permit and a Trading Business Permit (SIUP). If the business being carried out includes commercial and/or export sales, the business actor needs to obtain a commercial or operational permit in the form of a permit and certification, by completing a commitment consisting of the Indonesian National Standard (SNI).

The above registration gives legitimacy or legitimacy of the above photographers is a form of legal protection for copyrighted photographic works legal protection is protection given to legal subjects through applicable laws and regulations and in its implementation<sup>17</sup> there are sanctions, in the form legal instruments both preventive and repressive, both written and unwritten. In other words, legal protection as a description of the function of law, namely the concept by which the law can provide justice, order, certainty, usefulness and peace. In addition to the Registration of isin sha fotofragi, there is also the registration of photographic copyright in accordance with Article 37 of the Law of the Republic of Indonesia Number 19 of 2002 on Copyright are:

1. Registration of the Invention in the General Register of Inventions is done upon the Application submitted by the Creator or by the Copyright Holder or Authorized.
2. The application is submitted to the Directorate General with a letter in duplicate 2 (two) written in Indonesian and accompanied by an example of the Invention or its successor with a fee.
3. Regarding the Application as referred to in paragraph (1), the Directorate General will give a decision no later than 9 (nine) months from the date of receipt of the Application in full.
4. The authority as referred to in paragraph (1) is a consultant registered with the Directorate General.
5. Provisions regarding the requirements and procedures to be appointed and registered as a consultant as referred to in paragraph (4) shall be further regulated in a Government Regulation.
6. Further provisions on the terms and procedures of the Application shall be stipulated by a Presidential Decree.

---

<sup>17</sup> 'Fotografi', *Wikipedia.Org* <<https://id.wikipedia.org/wiki/Fotografi>>.

Preventive legal protection is protection provided by the government in order to prevent infringement by registering Copyrights and actions taken by the Ternate City Photography before social deviations occur so that an act of infringement can be suppressed or prevented, such as socialization in the form of instruction to users of photographic works. so as not to take pictures that are illegal. In addition, provide guidance to users of photographic works so that they can be used as they should be.

Repressive legal protection aims to resolve disputes over the handling of legal protection by common courts in Indonesia including this category of legal protection<sup>18</sup>. Or protection provided by the government with the aim of resolve disputes in the event of infringement of Copyright on Photographic Works by filing a lawsuit to the Commercial Court.

In general, protection for photographic copyrighted works is also contained in Book III BW, in the section "About engagements born for the sake of the law", Article 1365 of the Civil Code (KUHPer), which is included in acts against the law (onrechtmatige). dad). It is stated that, every violation of the law, which causes harm to another person, obliges the guilty person to compensate for the loss. There are 4 conditions to determine whether an act can be qualified as against the law or not, namely contrary to the subjective rights of others; contrary to the legal obligations of the perpetrator; contrary to propriety, thoroughness and prudence; and against morality<sup>19</sup>.

It can be concluded that not all the traditional principles contained in the copyright law can be applied automatically to copyright infringement on the internet network<sup>20</sup>. Legal protection for photography<sup>21</sup>, IN Ternate City is the same as other copyrighted works, also cannot be separated from Moral Rights. Moral rights are regulated in Article 5 to Article 7 of Law no. 28 of 2014 concerning Copyright.

In Article 5 which reads:

1. The moral rights as referred to in Article 4 are rights that are eternally attached to the Creator to:
  - a. continue to include or not include his/her name on the copy in connection with the public use of the Work;
  - b. use his alias or pseudonym;
  - c. change the Creation in accordance with the decency in society;
  - d. change the title and sub-title of the Works; and
  - e. defend their rights in the event of a distortion of the work, mutilation of the work, modification of the work, or anything that is detrimental to their honor or reputation.
2. The moral rights as referred to in paragraph (1) cannot be transferred as long as the Author is still alive, but the exercise of such rights can be transferred by will or other reasons in accordance with the provisions of laws and regulations after the Author dies.
3. In the event of a transfer of the exercise of moral rights as referred to in paragraph (2), the recipient may waive or refuse the exercise of his rights on condition that the release or rejection of the exercise of the rights is stated in writing.

Users who wish to use other people's photographic works should contact the Directorate General of Copyright and ask for permission to use them. Another way is to enter into an agreement with the Creator or Copyright Holder. Agreements regarding the use of photographic works for commercial purposes are very important to protect the rights and obligations of the

---

<sup>18</sup> 'No Title', *Warmadewa*  
<<https://www.ejournal.warmadewa.ac.id/index.php/juprehum/article/download/2162/1537/&ved>>  
[accessed 15 September 2021].

<sup>19</sup> 'No Title', *E-Journal.Uajy.Ac.Id* <<http://e-journal.uajy.ac.id/179/3/2TA13124.pdf>>.

<sup>20</sup> Tim Lindse and others, *Hak Kekayaan Intelektual (Suatu Pengantar)* (Bandung: Alumni, 2013).

<sup>21</sup> 'No Title', *Ojs.Unud.Ac.Id*  
<<https://ojs.unud.ac.id/index.php/kerthasemaya/article/download/44871/27249&ved>> {accessed 26 July 2021}.

user or user<sup>22</sup>. A written agreement regarding the commercial use of photographic works serves as strong evidence to claim the rights and obligations of other parties bound by the agreement. The written agreement makes the possibility of the parties to deny their respective obligations to be minimized<sup>23</sup>.

Based on the description above, according to the author, from the results of research, photographers in the City of Ternate do not know about the existence of a Copyright Act. Violation of copyright law on photographic works in practice occurs due to a lot of ignorance and misunderstanding of photographers and the public about copyright law. From the ignorance of some photographers who are copyright holders for their creations, it turns out that they have never registered their copyrighted works. Therefore, they do not really know about the procedure and the importance of registering Copyrights for photographic works. Photographic works of art can be considered as copyright protected works if they meet these elements.

## **RESPONSIBILITIES OF PHOTOGRAPHERS IN PHOTOGRAPHY CREATIONS IN THE CITY OF TERNATE**

In the era of manual photography, it has been replaced by the era of digital photography, which allows us to perform various photographic manipulations. Photo editor programs have made it possible for us to carry out the post-shooting process in photographic activities, so that things that were once difficult or even impossible to do with a manual camera can now be done easily. Technological advances in the field of photography have brought a breath of fresh air to the photography business world, so that the responsibility of Photography in one's creations is very influential, including the responsibility of photography in the City of Ternate.

Apart from that, many parties want to take advantage of other people's copyrighted works, one of which is photography. Photographic works, especially on social media, are often used and taken without permission and then uploaded again without using the identity of the owner of the photo on social media. Even though UUHC has been enforced, and it is clearly regulated. But in reality, many people still violate it, namely using other people's photographic works without permission. Due to many factors that support and make people dare to violate Copyrights<sup>24</sup>.

In Indonesia, there have been many users of someone's photographic work uploaded on social media without permission. A photographer who only has ideas, creativity and originality, will not necessarily get a stamp as the creator of a photographic artwork if his ideas, creativity, and originality have not been realized in a tangible form, namely photos. The works of art do not need to be registered, and the registration is done solely for the purpose of proving before the Court when a dispute arises related to the ownership of the Copyright over these works. The proof as previously explained is in the claims made by an Creator. There are several ways that a photographer can do to protect his photographic work other than based on the provisions set out in As a photographer, he has a great responsibility not only to produce photos but also to think about the concept of the photo. Having an interest and hobby with photography is the main trigger for someone to choose this profession even though the process goes through various conditions, ranging from something unplanned, the intention from the start to work according to interests, and feeling a calling. Working as a photographer does not mean without obstacles, but because they work based on interests, passion, and preferences, any obstacles can be

---

<sup>22</sup> 'No Title', *Ojs.Unud.Ac.Id*

<[https://ojs.unud.ac.id/index.php/khertasemaya/article/view/54201&ved=zahUKwitxJPq\\_P\\_xAhUbT30KHVZ](https://ojs.unud.ac.id/index.php/khertasemaya/article/view/54201&ved=zahUKwitxJPq_P_xAhUbT30KHVZ)> [accessed 26 July 2021].

<sup>23</sup> 'No Title', *Fhukum.Unpatti.Ac.Id*

<<https://fhukum.unpatti.ac.id/jurnal/sasi/article/download/323/150&ved>>.

<sup>24</sup> Harjowidigdo.



overcome. This is in accordance with the responsibility of photography in the City of Ternate according to UUHC.

The results of the interview with Garfi Pardidu's photo explained that the form of his responsibility is to give the best to clients who have worked with us, besides that we prepare everything needed by clients who have been accounted for. Therefore, every activity related to the work that we are responsible for, we always fulfill according to what is requested by the client. So that our responsibility is realized as long as it is asked by the person in need. Therefore, there are several forms of roles and responsibilities of photographers as follows:

1. Adjust the camera's focus and shutterspeeds based on the combination of exposure, depth of field, subject motion, film type and film speed.
2. Increase the retouch of resized and negative photos using airbrushing and other techniques.
3. Manipulate and enhance scanned or digital images to create the desired effect, using computers and special software.
4. Estimate or measure the light level, distance and number of exposures required using measuring devices and formulas.
5. Making and disassembling films.
6. Photographs of subject matter to describe or record scientific or medical data or phenomena using knowledge of scientific procedures and photographic technology and techniques.
7. Review the set of photos to choose the best work.
8. Scan photos to a computer for editing, storage and electronic transmission.
9. Consult with clients or advertising staff, and study assignments to determine project objectives, location, and equipment requirements.

According to the photography interview, the art children explained that we are responsible according to the laws in force in Indonesia, so that the rights and responsibilities of the photographer are realized as follows:

1. Take pictures for printed items or cast items and Capture events.
2. Sending messages to the public through pictures or objects in the photo.
3. Raise awareness and tell stories that don't come to the surface.
4. Promote tourist areas through photos to attract tourists.
5. Increase public understanding of an issue and provide consultation and advice to clients regarding technical shooting.
6. Adjust the camera's focus and shutterspeeds based on the combination of exposure, depth of field, subject motion, film type and film speed.
7. Improve retouch, photo resize and negative by using other dang airbrushing techniques.
8. Manipulate and enhance scanned or digital images to create the desired effect, using computers and special software.
9. Estimate or measure light level, distance and number of required exposures using measuring devices and formulas.
10. Loading and unloading films.
11. Photographs of subject matter to describe or record scientific or medical data or phenomena using knowledge of scientific procedures and photographic technology and techniques.
12. Review the set of photos to choose the best work.
13. Scanning photos to a computer for editing, storage and electronic transmission,

14. Consult with clients or client staff, and study assignments to determine project objectives, location, and equipment requirements<sup>25</sup>.

Apart from that, many parties want to take advantage of other people's copyrighted works, one of which is photography. Photographic works, especially on social media, are often used and taken without permission and then uploaded again without using the identity of the owner of the photo on social media. Even though UUHC has been enforced, and it is clearly regulated. But in reality, many people still violate it, namely using other people's photographic works without permission. Due to many factors that support and make people dare to violate Copyright. In Indonesia, especially in the city of Ternate, there have been a lot of users of someone's photographic work that has been uploaded on social media without permission.

Article 113 UUHC paragraph (1): Any person who unlawfully violates economic rights as referred to in Article 9 paragraph (1) letter i for Commercial Use shall be sentenced to a maximum imprisonment of 1 (one) year and/or a maximum fine of 1 (one) year. a lot of Rp. 100,000,000 (one hundred million rupiah).

This means that anyone who is considered not to have the author's permission who uses the creator's creation commercially is considered to have violated the Economic Rights of the Creator. the photographic work, because the photographic results that should have been used economically by the creator can no longer be used economically because it has been widely distributed beforehand so that other parties can of course easily take the photographic work without paying royalties to the creator.

The function of the existence of economic rights in copyright is to provide benefits for the creator or copyright holder for the work they make in order to make a profit. Therefore, there are often violations of economic rights against a work because the orientation is profit or profit to be obtained. Provisions regarding economic rights to portraits have been regulated in Law Number 28 of 2014 concerning Copyright, namely Article 12 paragraphs (1) and (2), which reads:

Everyone is prohibited from carrying out Commercial Use, Reproduction, Announcement, Distribution, and/or Communications made for the purposes of commercial advertisements or advertising without the written consent of the person being photographed or their heirs. Commercial Use, Reproduction, Announcement, Distribution, and/or Communication of Portraits as referred to in paragraph (1) which contains 2 (two) or more persons, must seek approval from the persons in the Portraits or their heirs. Based on Article 12 paragraphs (1) and (2) of the Copyright Law, it is clear that the use of a photographer's work must basically obtain permission from the subject contained in the photo or if the subject has died then based on the approval of his heirs, and if the subject in the photo of more than one person must obtain permission or approval from everyone in the portrait.

Based on the description of the interview above, the form of responsibility is a right that must be fulfilled in accordance with UUHC because the fatographer's job must fulfill the rights of the claimant when needed, then the fatographer realizes what the claimant wants so that the responsibility as photography is fulfilled in Ternate City.

## CONCLUSION

1. Copyright protection related to photography is regulated in Article 59 paragraph (1) of Law no. 28 of 2014 concerning Copyright. The creator must be able to prove that the work is his work, by registering the work, or by other means in accordance with the relevant laws and

---

<sup>25</sup> Muslim Abdullah, 'Seni Fotografer'.

regulations. Copyright protection for photographic works can be done in 2 (two) ways, namely Preventive and Repressive Legal Protection.

2. Photography can be held responsible for its copyrighted work if there are parties who illegally carry out or take their work from the original creator, and must obtain permission from the Creator or Copyright Holder in accordance with the provisions of Law Number 28 of 2014 concerning Copyrights

## BIBLIOGRAPH

Abdullah, Muslim, 'Seni Fotografer'

Ali, Achmad, *Menguak Teori Hukum (Legal Theori) Dan Teori Peradilan (Judicial prudence)*

(Kencana Prenada Media Group, 2009)

Amiruddin, *Pengantar Metode Penelitian Hukum* (Jakarta: Rajawali Press, 2003) Apeldoorn, Van, *Pengantar Ilmu Hukum* (Jakarta: Pradnya Paramitha, 2005) Atsar, Abdul, *Hukum Hak Kekayaan Intelektual* (Yogyakarta: Deepublish, 2018) 'Fotografi', *Wikipedia.Org* <<https://id.wikipedia.org/wiki/Fotografi>>

Ganti, Rita, and Ratri Rizki Kusumalestari, *Jurnalistik Foto* (Bandung: Simbiosis Rekatama Media, 2013)

Harjowidigdo, Rooseno, *Mengenai Hak Cipta Indonesia* (Jakarta: Pustaka Sinar Harapan, 1997)

Lindse, Tim, Eddy Damian, Simon Butt, and Tomi Suryo Utomo, *Hak Kekayaan Intelektual (Suatu Pengantar)* (Bandung: Alumni, 2013)

'No Title', *Warmadewa*

<<https://www.ejournal.warmadewa.ac.id/index.php/juprehum/article/download/2162/1537/&ved>> [accessed 15 September 2021]

———, *E-Journal.Uajy.Ac.Id* <<http://e-journal.uajy.ac.id/179/3/2TA13124.pdf>>

———, *Ojs.Unud.Ac.Id*

<<https://ojs.unud.ac.id/index.php/kerthasemaya/article/download/44871/27249&ved>> [accessed 26 July 2021]

———, *Ojs.Unud.Ac.Id*  
<[https://ojs.unud.ac.id/index.php/khertasemaya/article/view/54201&ved=zahUKwixJPq\\_P\\_xAhUbT30KHVZ](https://ojs.unud.ac.id/index.php/khertasemaya/article/view/54201&ved=zahUKwixJPq_P_xAhUbT30KHVZ)> [accessed 26 July 2021]

———, *Fhukum.Unpatti.Ac.Id*  
<<https://fhukum.unpatti.ac.id/jurnal/sasi/article/download/323/150&ved>>

Osterman, Mark, and Grant B. Romer, *History and Evolution of Photography*

Pemerintah Republik Indonesia, *Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta Atau Literatur* (Indonesia: Lembaran Negara Republik Indonesia, 2014)

'Pengertian Dan Sejarah Singkat Fotografi', *Pacificrimcamera.Com*, 2013  
<<https://kelasfotografi.wordpress.com/2013/08/25/pengertian-dan-sejarah-singkat-fotografi/>>

Putri, Karina, *Pelanggaran Hak Cipta Karya Fotografi Di Media Daring Menurut Hak Kekayaan Intelektual*

Saidin, H. Ok., *Aspek Hukum Hak Kekayaan Intelektual* (Jakarta: Rajawali Press, 2006)

Singarimbun, Masri, and Sofyan Efendi, *Metode Penelitian Survey* (Jakarta: LP3ES, 1989) Subroto, Muhammad Ahkam, *Eksplorasi Konsep Kekayaan Intelektual Untuk Penumbuhan*

*Inovasi* (Jakarta: LIPI Press, 2005)

Sudaryat, and Dkk, *Hak Kekayaan Intelektual* (Bandung: Oase MEdia, 2010) Supramono, Gatot, *Hak Cipta Dan Aspek-Aspek Hukumnya* (Jakarta: Rineka Cipta, 2010) Syamsudin, M., *Operasional Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 2007)