

Legal Protection of Moral Rights Against Songwriters at the Republic of Indonesia Radio Broadcasting Institution (RRI) in Ternate City

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Abstract

The mention of the name of the songwriter as a form of moral right is important to keep one's work from being taken for granted by others. The nature of moral rights regulated in Article 24 of the Indonesian Copyright Law only recognizes two concepts of rights, namely the right of attribution and the right of integrity. This can be clearly seen from the sound of Article 24 paragraph (1) which regulates copyright or its heirs to demand the copyright holder so that the name or pseudonym of the creator is still included in his creation (right of attribution). Meanwhile, the right of integrity of the creator as regulated in paragraph (2) is flexible. This study aims to (1) determine the form of legal protection of the moral rights of songwriters broadcast by the Radio Republik Indonesia (RRI) Ternate broadcasting institution (2) to determine the efforts of songwriters to obtain accountability from the Ternate Radio Republic of Indonesia Broadcasting Institution (RRI) for Moral Rights. songwriter. This research is expected to be a reference for the implementation of legal protection for the moral rights of songwriters.

This research was conducted at Radio Republik Indonesia (RRI) Ternate, North Maluku Province. This type of research used is Normative Empirical, namely a research approach with applicable legal norms and adjusting the facts in the field, while the type of research used is qualitative using a descriptive analysis approach. The research data were obtained from literature studies, interviews, and legal norms which were analyzed and narrated in descriptive form. The results show that the form of legal protection of the moral rights of songwriters broadcast by the Ternate Radio Broadcasting Institute (RRI) in Article 24 of Law Number 28 of 2014 concerning Copyright states that forms of violation of the moral rights of songwriters include eliminating or not mentioning names. songwriter when the song is broadcast or published. Broadcasting institutions must have a better understanding of the rights of the creators as stipulated in the applicable laws and regulations so as not to violate the moral rights of the creators related to broadcasting songs without mentioning the name of the author.

Keyword: *Legal Protection, Moral Rights, Creator*

INTRODUCTION

Rights are part of someone's ownership of something, in law if there is a right on one side, then the other party's obligations are attached. The regulation of rights and obligations applies in

general where the right gives an authority to the party who has the right. The elaboration of rights is important because it gives someone a legal standing to defend them or benefit from the birth of a right as well as copyright. Obligations are everything that is born of rights, if a person has rights then he also has obligations, because these two things cannot be separated from each other, the obligations that a person has must be carried out properly so that he can get his rights, rights are also divided into some forms, one of which is copyright.

Intellectual Property Rights (IPR) can be interpreted as rights relating to property arising from human intellectual abilities consisting of copyrights, trademark rights, industrial design rights, trade secrets and others. Intellectual property rights provisions are regulated because Indonesia is included in the World Trade Organization (WTO) which ratifies international agreements so as to provide protection for the results of someone's thinking or knowledge, one of which is creations in the field of art such as copyrights on songs.

Humans are given reason and creativity by God Almighty, so that they can create works, science, and technology that are useful in human life. Every work produced by human reason and creativity has a Copyright attached to it. Humans are required to respect and appreciate the rights contained in a work by the creator.

Copyright is defined as an exclusive right that arises automatically based on declarative principles after a work is realized in a tangible form without reducing restrictions in accordance with the provisions of laws and regulations (Pemerintah Republik Indonesia, 2014). This is based on Article 1 point 1 of Law Number 28 of 2014 concerning Copyright. Exclusive rights are rights inherited by the creator to be able to reproduce the work or give permission to other parties based on the limitations in accordance with the laws and regulations. Exclusive rights are given to only the creators who are copyright holders, although certain parties can become copyright holders because they are legally granted by the creator.

Moral rights are rights that protect the personal interests of the inventor and the designer's reputation. This concept concerns the protection of the rights to the reputation of the inventor and designer (Sudarmanto, 2021). Moral rights are attached to a person's creations in copyright in this case consisting of works in the fields of science, art, and literature. Art is the result of human creativity in various forms as a message, either in the form of motion, pictures or songs and others. Songs created by songwriters are often given to singers to perform, so that not all singers bring their own songs, but there are singers who only sing other people's songs. Every song sung by the singer is basically not conveyed by the name of the author because the name of the songwriter is listed only on the cover of the cassette being sold as well as songs that are broadcast through broadcasting institutions, one of which is through the radio.

Broadcasting songs ("No Title," n.d.-a) on the radio that only mentions the singer's name without mentioning the songwriter's name is a form of violation of moral rights that often occurs in broadcasting institutions. The moral rights of songwriters should be protected by mentioning the name of the songwriter in every song that will be broadcast via radio, not only mentioning the name of the singer, although the Copyright Act does not describe this moral right in detail, but it can be illustrated that the moral rights of songwriters are a unity with the creations produced by the songwriter. Broadcasting institutions should understand the moral

rights that every songwriter has, so that when broadcasting the results of the work, mentioning the name of the songwriter must be done.

The mention of the name of the songwriter as a form of moral right is important to keep one's work from being taken for granted by others, so that the work or song cannot be used commercially by outsiders without the permission of the songwriter, whether sung at offline or online events because if the moral rights of songwriters are not ignored, the public will know the songwriter along with the famous songs created or hitz which are played through several media, both online and conventional, one of which is through Radio Republik Indonesia.

Radio Republik Indonesia (RRI) as one of the independent, neutral and non-commercial public broadcasting institutions whose function is to provide information broadcast services, education, healthy entertainment, social control, and maintain a positive image of the nation in the international community("No Title," n.d.-a). Should be able to start the broadcast by mentioning the name of the singer and songwriter so that not only songs are known by the public but songwriters are also known because the songs that are used as supporters of the program at RRI have the moral rights of songwriters. Moral rights are a right that must be given to songwriters as a form of appreciation so that they are not immediately imitated or taken by others without the permission of the creator. Moral rights as referred to in Article 4 of Law Number 28 of 2014 are rights that are eternally attached to the creator.

Radio Republik Indonesia (RRI)(Pemerintah Republik Indonesia, 2002) Ternate branch as an example of a broadcasting institution that often does not pay attention to the moral rights of songwriters, because it is often found that the songs played in this broadcasting institution are not accompanied by the mention of the name of the songwriter. it, but only mentions the name of the singer who sings the song, even though not all songs sung by a singer are the creators of the song sung.

Many singers only cover the song again to be sung, this is the cause of frequent violations of the moral rights of songwriters. Therefore, in this study the authors raised the title: Legal Protection of Moral Rights Against Songwriters at the Radio Broadcasting Institute of the Republic of Indonesia (RRI) Ternate. Based on the background that I described above, more concretely, the research problem can be formulated as follows:

1. How is the legal protection for the moral rights of songwriters broadcast by the Ternate Radio Republic of Indonesia (RRI) broadcasting institution?
2. What are the factors that cause moral rights to be ignored by broadcasters?.

RESEARCH METHOD

The Big Indonesian Dictionary (KBBI) defines protection as a place to take refuge, make or cause something to take refuge. In general, protection means protecting something from harmful things, something that can be in the form of interests or objects and goods. In addition, protection also contains the meaning of protection given by someone to someone who is weaker. According to the KBBI, the definition of law is a regulation or custom that is officially considered binding, which is confirmed by the ruler or government.

Law is the provisions that become the rules of life of a society that are controlling, preventing, binding, and coercing. The law is also defined as the provisions that stipulate something over something else, namely stipulating something that can be done, must be done, and forbidden to do. As a condition of an action. The following are prohibited as a result (sanctions) of the law in it.

According to Achmat Ali, what is meant by law is a set of rules or measures arranged in a system, which determines what is allowed and what cannot be done by humans as citizens of society in their social life, which comes from both the community itself and from other sources. which is recognized as being valid by the highest authority in the community, and is actually enforced by members of the community (as a whole) in their lives, and if these rules are violated, it will give the highest authority the authority to impose external sanctions(Achmad, 2002).

Legal protection can be interpreted as an effort made by the highest authority in society (government and law enforcement officers) to ensure legal certainty so that the rights of its citizens are not violated, and those who violate these rights can be subject to sanctions in accordance with regulations. that occurs in society.

Overview of Intellectual Property Rights

The existence of Intellectual Property Rights (IPR) is closely related to the world of trade, both domestically and globally, for now the world community must be on a global commitment to acknowledge and respect each other's intellectual potential. The development of the meaning of intellectual works in the business aspect has indicated the existence of new dynamics in the form of potential intellectual results from human taste, initiative and creation(Sosilowati, 2013)

Intellectual Property Rights (IPR) or the term in English Intellectual Property Rights is one of the rights that arises or is born because of human intellectual abilities. The term Intellectual Property Rights is a general term in English which in Indonesia is translated into several terms. In Indonesia, using the term which is considered the equivalent of the word Intellectual Property Rights in the development of its legal system as well as used by several authors at first the term Intellectual Property Rights (HMKI) was used, then it became Intellectual Property Rights (HaKI) and the last term used was Intellectual Property Rights. Intellectual Property (IPR).

Intellectual property is creativity that results from human thought in order to meet the needs and welfare of human life. Human creativity that appears as a person's intellectual asset has long had a significant influence on human civilization, among others through inventions and results in the fields of art and literary work. The more one's creativity develops, the more human civilization develops. Starting from the understanding of the need for a special form of respect for one's intellectual work and the rights that arise from that work, the concept of intellectual property rights developed. So basically the concept of Intellectual Property Rights itself is a form of appreciation for the results of human creativity, both in

the form of inventions and works of art and literary work, especially when the results of creativity are used for commercial purposes.

Intellectual Property Rights is an exclusive right that is within the scope of technology, science, or arts and literature. Ownership is not of the goods but of the results of human intellectual ability and creativity, namely in the form of ideas or ideas. The most important thing from each part of this intellectual property right is the existence of a certain creation. This creation may be in the field of art, but it may also be in the field of industry or knowledge. It is also possible a combination in the three fields, each of which has a specific term.

Intellectual property rights are exclusive and absolute, meaning that these rights can be defended against anyone and those who have these rights can sue for violations committed by anyone. Holders of intellectual property rights also have monopoly rights, namely rights that can be used by prohibiting anyone without their consent from making their inventions/inventions or using them.

Legal protection of private property rights has been a key factor in the growth of capitalism and free market economies. Historical records of ancient societies show that people recognized “rights” to land and property, and were respected by governments to protect their interests in wealth. As technology changes the conception of wealth gets its impact. In the legal system, wealth is placed into three categories, namely: first, most people recognize private ownership rights in personal assets known as in tangible things; second, wealth in the real sense, such as land and buildings; and third, all countries recognize wealth in the form of product ideas, such as in the form of copyrights, patents, trademarks, and trade secrets.

Legal protection for intellectual property rights owners is needed so that rights owners can use or exploit their property with a sense of security. In that sense of security then creates an atmosphere that allows people to work in order to produce works or subsequent findings. On the other hand, with this legal protection, the owner of the right can be asked to disclose the form, type and method of working as well as the benefits of his wealth in a safe manner because of legal guarantees and for the community to enjoy or use it on the basis of a permit, or even to develop it, because of the protection and Recognition is only given specifically to the person who has the property, so that right can be said to be an exclusive right.

The principle of intellectual property rights is exclusive. That is, these rights are special and are only owned by people who are directly tied to the intellectual property produced. Through this right, the right holder can prevent others from making, using or doing something without permission. Many experts argue that exclusive rights are a reward for intellectual property produced by someone. With exclusive rights, people are encouraged to continue to create and innovate. In the end, innovations, creations, and creations produced by someone can be useful for society. This principle is one of the basics behind the purpose of providing legal protection in the Intellectual Property Rights (IPR) regime (Utomo, 2010).

Substantively, the notion of intellectual property rights can be described as rights to property that arise or are born because of human intellectual abilities. Intellectual works can be in the form of knowledge of art, literature, and technology, which to be able to make it happen requires the sacrifice of energy, time, cost and thought. The existence of these sacrifices makes the intellectual work has value. When added to the economic benefits that can be enjoyed, then the inherent economic value fosters the concept of property (property) for these intellectual works.

Overview of Copyright

Copyright is an exclusive right or right that is only owned by the creator or copyright holder to regulate the use of the work or the results of certain ideas or information. Basically, copyright is the “right to copy a work”, or the right to enjoy a work legally. Copyright at the same time also allows the right holder to limit the use of, and prevent unauthorized use, of a work. Considering that exclusive rights contain an economic value that not everyone can pay for, then to be fair, exclusive rights in copyright have a certain limited validity period (“No Title,” n.d.-b).

Furthermore, McKeough and Stewart explain that copyright protection is a concept where the creator (artist, musician, filmmaker) has the right to use his work without allowing other parties to imitate his work (“No Title,” n.d.-b).

In 2002, a new Copyright Law was promulgated by revoking and replacing the 1997 Copyright Law with Copyright Law No. 19 of 2002 which contained changes to be adapted to Trade Related Intellectual Property Rights (TRIPs) and improvements to several matters. necessary to provide protection for intellectual works in the field of copyright, including efforts to show the development of intellectual works originating from the diversity of Indonesian traditional arts and culture (Sosiowati, 2013).

In Law No. 28 of 2014 concerning copyright (hereinafter abbreviated as UUHC) what is meant by copyright is the exclusive right of the creator that arises automatically based on declarative principles after a work is realized in a tangible form without reducing restrictions in accordance with the provisions of laws and regulations. -invitation (Adami, 2011).

From the limitations regarding copyright, it can be seen the elements and nature of copyright, as follows (Chazawi, 2007):

1. Copyright is an exclusive right, which is a right that is only intended for the creator so that no other party may use the right without the author's permission, copyright holders who are not creators only have part of the exclusive rights in the form of economic rights, Exclusive rights consist of moral rights and economic rights.
2. Copyright is a right that arises automatically based on declarative principles, meaning that the issuance of copyright is not based on registration, (registered) or requested, but is published automatically after the creation or creation is manifested in a tangible form, without reducing restrictions, for example the copyright of a books arise after publication.

Works that are protected by copyright are regulated in Article 40 of the Copyright Law, explaining that the works that must be protected are (Muthiah, 2016):

1. Works that are protected include Works in the fields of science, art, and literature, consisting of:
 - a. books, pamphlets, presentations of published works, and all other written works;
 - b. lectures, lectures, speeches, and other similar creations;
 - c. teaching aids made for the benefit of education and science;
 - d. songs and/or music with or without subtitles;
 - e. drama, musical drama, dance, choreography, wayang, and pantomime;
 - f. works of art in all forms such as painting, drawing, carving, calligraphy, sculpture, sculpture, or collage;
 - g. applied art;
 - h. architectural works;
 - i. map;
 - j. batik art or other motif art;
 - k. photographic works;
 - l. portrait;
 - m. cinematographic works;
 - n. translation, interpretation, adaptation, anthology, database, adaptation, arrangement, modification, and other works resulting from the transformation;
 - o. translation, adaptation, arrangement, transformation, or modification of traditional cultural expressions;
 - p. compilation of Works or data, either in a format that can be read with a Computer Program or other media;
 - q. a compilation of traditional cultural expressions as long as the compilation is an original work;
 - r. video games; and
 - s. Computer program
2. The work as referred to in paragraph (1) letter n is protected as a separate work without prejudice to the Copyright of the original work.

The protection as referred to in paragraphs (1) and (2), includes the protection of Works that have not been or have not been Announced but have been realized in a tangible form that allows the Reproduction of the Works.
3. The period of time given for protection is the longest for the life of the creator and continues for 50 years after the author's death. Certain creations are protected for 50 years from the time they were first published. The shortest protection period is 25 years since it was first announced, for example (photography).
4. Basically, the creator of a work or creation is initially the copyright holder of his work because he is considered the first owner of the copyright. The term copyright holder other than the creator arises because copyright can be transferred like other material rights. After the rights are fully transferred. So what is left in its creation are only moral rights.

Basic Concepts of Moral Rights

Basically, the recognition of moral rights is grown from the concept of understanding that a copyrighted work is an expression or manifestation of the creator's personality. This means, disturbance to a creation, is the same meaning as disturbance to the creator's person. Even though a work has been separated or transferred to another party, that right does not eliminate the author's right to keep his name on the work, the expression of rights, the expression of the moral right to express objections also applies to actions that change or display the work that is not in accordance with the purpose for which the work was made (Soelistyo, 2011).

Moral rights are rights that protect the personal interests of the creator. The concept of moral rights comes from the continental legal system, namely from France according to the concept of continental law, author rights (*droit d'auteur*, author rights) are divided into economic rights to obtain economic value such as money, and moral rights concerning the protection of the reputation of the author's rights (Sosilowati, 2013).

The Berne Convention also stipulates the moral rights of the right in this regard, namely the right of the author to claim to be the author of a work and the right of the author to object to any act that intends to change, reduce or increase the originality of his work, which can doubt the honor of the reputation of the creator of moral rights. Moral rights are enshrined in article 6 of the Berne convention which states that:

“The creator has the right to claim ownership of his work and object to distortions, mutilations or changes as well as other infringement actions related to the work that can harm the honor or reputation of the author/creator.” (Sosilowati, 2013)

The existence of moral rights in a creation denies a fundamental difference between a creation which is classified as a movable object and a movable object in general, for example, a book. The transfer of rights to movable objects will generally sever the relationship between the object and the first owner so that the first owner no longer has the right to control the object that has been transferred. The transfer of copyright to the work will never break the relationship of the creator as the first copyright holder so that the first owner no longer has the right to control the object he has transferred. As for the transfer of copyright to the work, it will never assign the relationship of the creator as the first copyright holder to his creation. With these moral rights, the name of the creator will always be included in his creation and the creator can control the integrity of his creation so that it is not changed, added, or reduced by the new copyright holder who has exclusive rights to the work. (Ginting, 2012)

The nature and character of the moral rights that give the creator the right to remain connected to his creation and to control the integrity of his creation cannot be separated from the long history of copyright in France. As described in Chapter II, the early history of copyright, both in the Common Law System and the Civil Law System, was marked by a condition where the creator did not have the copyright or moral rights or his creation. What the creator has are only material rights to the paper containing a literary work or painting that he has made. If the work has been sold to a publisher, the relationship between

the creator and the work has ended and the publisher is considered the owner of the copyright who has the right to reproduce or publish the work.(Ginting, 2012)

In summary, the scope of moral rights includes moral rights as above, including the rights of attribution or attribution, integrity and association, all three of which can be waived, but not assigned. Eliminating the identity of the creator, for example in a jointly produced creation, can only be done for the sake of flexibility in showing who the creator is. As long as this is done in accordance with the agreement of all the creators and there is no bad intention that harms the interests of one or several other creators, then the name of the creator can be removed. On the other hand, it cannot be done to transfer the identity of the creator to another party who is not the creator. The creator may use a pseudonym but cannot use another person's name for and on behalf of himself as the creator(Soelistyo, 2011).

Conceptually(Roisah, 2015), the nature of moral rights as regulated in Article 24 of the Indonesian Copyright Law only recognizes two concepts of rights, namely the right of attribution and the right of integrity. This can be seen explicitly from the sound of Article 24 paragraph (1) which regulates the right of the creator or his heirs to sue the copyright holder so that the author's pseudonym is still included in his creation (right of attribution). Meanwhile, the right of integrity of the creator is regulated in paragraph (2) which is flexible. In this case, although a work may not be changed by another party who has received the transfer of copyright, changes to the work can be justified as long as there is written consent from the creator. Approval to make changes to the work can also be requested from the heirs of the creator if the creator has died(Soelistyo, 2011).

Violation of Moral Rights

Ownership of copyright can be transferred to another party, but the moral rights remain inseparable from the creator. Moral rights are special and eternal rights that the creator has over his creations, and these rights are not separated from the creator. Comments or Verkade states that the moral rights of an author include(Sosilowati, 2013):

1. Prohibition of making changes in creation
2. Prohibition of changing the title
3. Prohibition of changing the creator's determination
4. Right to make changes

Regulation of moral rights in the Copyright Act 2002 in Article 24(Sosilowati, 2013):

1. The Author or his heirs have the right to sue the Copyright Holder so that the name of the Author is still included in the Work.
2. A work may not be changed even though its Copyright has been handed over to another party, except with the approval of the Author or with the approval of his heirs in the event that the Author has died.

Regarding the inclusion of the name of the author even though the rights have been handed over or transferred to another party, the name of the creator must still be included in the work. Of course, in books or other written works, the author's name absolutely must be

stated on the skin of the book, on the title page or at the end of the article (in the form of brochures or other pamphlets), as well as in other works of art and literature (Damian, 2009).

Violation of the moral rights of the creator is regulated in Articles 55 and 58 jo. Article 24 Copyright Law. In general, violations of the creator's moral rights include (Sosiowati, 2013):

Violation Of The Right Of Attribution

Violation of the moral right of the creator to have his name registered as the creator in his creation can be in the form of false attribution, namely an act that includes the name of the creator on other people's creations or lack of attribution, namely not mentioning the name of the creator in his creation.

Violation of the right of integrity

This violation is related to the integrity of a work that has been changed or mutilated by another party without the permission of the creator.

Violation of moral rights as regulated in Article 24 paragraph (2) of the Copyright Act by changing a work without the author's permission will seriously damage the appreciation and reputation of the creator. The scope of the act of changing a creation is very broad because it can be done in various ways. For example, changing or changing the title and subtitle of a work, changing the display color of a work, and changing the original name or pseudonym of the author are classified as violations of moral rights.

The scope of the Copyright Law is related to the protection of moral rights in the explanation of Article 24 paragraph (2), namely (Sosiowati, 2013):

“The author's moral rights aim to prevent forms of mutilation, distortion, or other forms of change which include twisting, cutting, destroying, and replacing a work that damages the appreciation and reputation of the creator.”

From the explanation of the explanation of Article 24 paragraph (2) of the Copyright Law, it is clear that the emphasis on protecting moral rights is focused on protecting the appreciation and reputation of the creator for the integrity of his creation. The act of destroying, mutilating, or distorting a work includes the following acts:

1. Change the name of the creator.
2. Reveal and include the original name of the creator in his creation, even though the creator wishes to use a pseudonym for his creation.
3. Changed the author's pseudonym.
4. Eliminate the name of the creator of a creation.
5. Changing the title or subtitle of a work.
6. Altering, mutilating, and dismembering very substantial parts of creation.
7. Twisting the meaning or theme of a creation.
8. Announcing the creation is not in accordance with the direction of the creator.

Based on Article 24 UUHC in conjunction with Article 55 UUHC, acts which include violations of the moral rights of songwriters are if without permission:

1. Eliminate or mention the name of the songwriter when the song is published (for example in a sound recording product or in a printed product);
2. State the name of the songwriter if he is not the composer of the song (for example, someone claims to be the author of a particular song and submits the song to the producer to record and produce, even though the song is not his own);
3. Change or change the song title; and/or
4. Change the content of the song (one or more of the song elements consisting of melody, lyrics, arrangement, and notation)

UUHC does not specifically mention the moral rights of actors (singers and musicians). However, based on Article 51, the provisions regarding the moral rights of the Creator apply *mutatis mutandis* to the perpetrators. Acts that violate the moral rights of the Creator (and the perpetrator) as mentioned above are threatened with criminal threats as regulated in Article 72 paragraph (6) of the UUHC, which in full reads:

"Whoever intentionally and without rights violates Article 24 or Article 55 shall be sentenced to a maximum imprisonment of 2 (two) years and/or a maximum fine of Rp. 150,000,000.00 (one hundred and fifty million rupiah)".

The implementation of the protection of moral rights (Hasibuan, 2008) needs to be considered, in the Copyright Law the equalization of economic rights and moral rights. The number of cases of violation of moral rights shows the weak protection from the government. Not only violations of attribution rights, the rights of integrity are often ignored by the community so that the creators are greatly harmed, violations of attribution rights are often carried out in the form of plagiarism of written works such as books and journals. Meanwhile, the violation of the right of integrity to works of art such as music and architecture. Therefore, it is necessary to pay attention to strengthening the protection of moral rights, not only at the level of the law but also at the level of the regulations below.

Research Type

The method used in this research is the Normative Empirical research method. Normative legal research is to manage in the form of legislation, legal theory and some opinions of scholars. (Zainuddin, 2011)

Research Sites

This research was conducted at the Radio Republik Indonesia (RRI) Ternate Branch, North Maluku Province, related to the location of the study the author reasons to choose the research location because the Ternate Branch of RRI is the place where Intellectual Property Rights issues related to the violation of moral rights in Ternate City occur.

RESULT AND DISCUSSION

Legal protection of the moral rights of songwriters broadcast by the Ternate Republic of Indonesia Radio Broadcasting Institution (RRI)

Legal protection can be interpreted as an effort made by the highest authority in society (government and law enforcement officers) to ensure legal certainty so that the rights of its citizens are not violated, and those who violate these rights can be subject to sanctions in accordance with regulations. that occurs in society.

The existence of conflicts of interest in society must be minimized by the presence of law in society. Therefore, every product produced by the legislature must be able to provide legal protection for the entire community. There are several opinions of scholars regarding legal protection, including(“No Title,” n.d.-c):

According to Philipus M. Hadjon, there are two kinds of legal protection for the people, namely:

1. Preventive legal protection means that people are given the opportunity to submit their opinions before the government's decision gets a definitive form which aims to prevent disputes from occurring.
2. Reflective legal protection aimed at resolving disputes.

Basically, the recognition of moral rights is grown from the concept of understanding that a copyrighted work is an expression or manifestation of the creator's personality. This means, disturbance to a creation, is the same meaning as disturbance to the creator's person. Even though a work has been separated or transferred to another party, that right does not eliminate the author's right to keep his name on the work, the expression of rights, the expression of the moral right to express objections also applies to actions that change or display the work that is not in accordance with the purpose for which the work was made(Soelistyo, 2011).

The art of music(“No Title,” n.d.-d) or song has been known for a very long time, the treasures of protection against the creation of songs or music have only emerged recently. Musical artists, whether as creators, musicians, or singers may have had a respectable place in society from time immemorial and received both moral and economic respect from the authorities. However, there is no authentic evidence that the rights of songwriters/music writers, musicians, and singers have been protected by law since time immemorial(*Korban Eksploitasi Ekonomi*, n.d.).

Preventive protection of moral rights in broadcasting institutions is not carried out related to prevention in the event that the Indonesian Broadcasting Commission does not provide socialization about the importance of moral rights. Thus, there are still many violations of moral rights committed by broadcasting institutions.

Broadcasting institutions ignore this based on the results of research at Radio Republik Indonesia (RRI) Ternate in broadcasting songs where at the time of playback the song does not include the name of the author because there are several songs whose names are unknown and broadcasters often forget to mention them. This means violating the moral rights of the Creator. Based on article 5 UUHC states that forms of violation of the moral

rights of songwriters include omitting or not mentioning the name of the songwriter when the song is published.

In contrast to violations of Economic Rights which have clear and measurable sanctions, violations of Moral Rights have relatively soft sanctions. Sanctions for violations of Moral Rights are usually determined through court decisions, both in interim decisions and final decisions, both in criminal and civil terms. The option of settlement through the courts does not reduce the rights of the litigating or disputing parties to resolve their problems through the Alternative Dispute Resolution mechanism. Whatever instrument is used as a dispute resolution resolution, the decision will be followed by sanctions. Within the framework of violation of moral rights, there are several forms of sanctions as follows that need to be studied adequately.

Court orders to stop and prevent the continuation of the violation, this sanction is determined by the court, where the decision is determined while the trial is still ongoing or has not yet received a final decision. Such a judge's order is intended to prevent the protracted act of violation and minimize the impact of losses that may arise. Within the scope of the protection of moral rights, sanctions like this are important and necessary to stop all forms of violations that have the potential to harm the dignity and integrity of the creator. The implementation of these sanctions certainly requires escort, supervision, and monitoring, at least until the court issues a final decision on the subject matter.

Law Number 28 of 2014 concerning Copyright states that moral rights are rights that are eternally attached to the creator, the rights attached include the right to:

1. Continue to include or not include his/her name on the copy in connection with the public use of his/her creation;
2. Using his real name or pseudonym;
3. Changing the creation according to the propriety in society;
4. Change the title and sub-title of the creation;
5. Defending his rights in the event of a distortion of the work, mutilation of the work, modification of the work, or anything that is detrimental to his honor and reputation.

On the one hand, the general public has accepted the existence of the moral rights of the creator of this song. For example, society has assumed that if someone calls himself the composer of a certain song, it turns out that it is not a disgrace, a lowly act, or an embarrassing act. However, on the other hand, there are still many people who do not understand the size of the so-called moral rights of songwriters. For example, it often happens that people skip songs (change the content of certain verses) and/or people copy certain songs to create new ones. Many things like this are not considered a problem by society.

If the law functions as a means of protecting human interests, so that human interests are protected, the law must be implemented. The implementation of the law can take place normally, peacefully, but it can also occur due to violations of the law. In this case, the law that has been violated must be enforced. It is through law enforcement that the law becomes a reality.

Factors That Cause the Moral Rights of Songwriters to be Ignored by Broadcasting Institutions

Copyrights owned by songwriters and related rights owned by singers and musicians each contain two elements of rights, namely moral rights and economic rights. According to the explanation in the Copyright Law, moral rights are rights that are eternally attached to the creator to keep his name included or not to include his name on the copy in connection with the use of his work for the public. Moral rights cannot be exercised as long as the creator is still alive, but the exercise of these rights can be exercised by will or other reasons in accordance with the provisions of laws and regulations after the author dies.

The application of the moral rights, among others, the songwriter or his heirs has the right to sue the copyright holder so that the name of the creator is still included in his work, a work may not be changed even though the copyright has been handed over to another party, except with the approval of the creator or with the approval of his heirs in if the creator has died, and the creator is still entitled to make changes to his creation in accordance with the decency in society.

Moral rights require that the identity of the creator be placed on the creation, either with a personal name or a pseudonym. In certain cases, and based on the rational considerations of the creator, he can negate his identity and leave his creation anonymous. This can be done under acceptable conditions and reasons. The principle of the existence of acceptable conditions has not been tested in cases in the Court. However, this is partly due to the complex conditions in the process of creating collective works and considerations to simply make it easier to write the identity of the creator by only including one name and omitting other names. For example, a book written on credit: Budi et al. That is, the creation was made not only by Budi but also by several other people who participated in the process of completing the creation of the creation.

The problem will be different from the habit of radio stations that do not include the name of the songwriter when broadcasting a song. What this broadcasting institution does is more of a neglect of the moral rights of songwriters. Even though in some cases they have been reminded many times, but until now there are still many radios that only mention the song title and singer's name who actually have no moral rights in the song.

Factors that cause the moral rights of songwriters to be ignored by Broadcasting Institutions consist of internal factors and external factors, internal factors, namely the urge to violate moral rights that comes from the perpetrators of violations of the moral rights of songwriters including:

1. Low awareness regarding violations of moral rights, this will cause perpetrators of violations of moral rights to act arbitrarily. In this case, the perpetrator does not want to know what are the moral rights of a creator that must be respected and respected.
2. Intolerant attitude, this attitude will lead to the emergence of mutual disrespect and disrespect for the position or existence of others.

External factors are factors beyond a person's ability to violate the moral rights of songwriters including:

1. The indecisiveness of law enforcement officers, this is related to the settlement of cases of violations of the moral rights of the creators which should provide stricter sanctions and provide a deterrent effect for perpetrators of violations of moral rights.
2. Misuse of technology, technological advances can have a positive impact, but can also have a negative impact and even trigger violations of moral rights. For example, there is a broadcasting institution that plays or broadcasts songs that are obtained from loading them through social media youtube, which is known that most songs do not have the name of the creator, only the name of the singer.

In addition, based on the results of an interview with Mr. Malikam Sangaji as Head of the Administration of RRI Ternate said that:

“...Every song playing on RRI mentions the name of the songwriter and there is no mention of the name of the creator because there is a song that was sent written NN (No Name) the name of the creator is not written and the actual creator is unknown anymore because the song is an old song that is not known to the songwriter the. In addition, the song playback system at RRI used to use cassettes where the names of the songwriters and singers were clearly written, whereas nowadays people always play. However, broadcasters often forget to mention the name of the songwriter when playing a song.”

Based on the results of the interview above, the author argues that there are several factors that become obstacles for RRI in broadcasting songs that do not mention the name of the creator, namely because most of the songs that are played are old songs, some of which are not known by the name of the creator and sometimes broadcasters forget to mention the name of the creator of the song broadcast on RRI Ternate. However, RRI Ternate should have found out about the name of the songwriter, even though the songs broadcast were old songs and songs taken on Youtube. This is because, there is no justifiable reason to broadcast, play, or publish a song without mentioning the name of the creator.

Based on the results of the interviews above, the authors argue that RRI has provided accountability relating to the rights of creators and copyright holders, namely paying royalties on songs broadcast by RRI. This certainly deserves appreciation as a Broadcasting Institution should show something that can be exemplified by the general public. By showing how the form of appreciation of a work to the creator and copyright holder. However, RRI must also show other forms of appreciation for a work that is broadcast by taking into account that every broadcast of a song must be accompanied by mentioning the name of the songwriter.

CONCLUSION

Based on the research that the author conducted regarding the Legal Protection of Moral Rights Against Songwriters at the Indonesian Radio Broadcasting Institute (RRI) Ternate, the authors drew the following conclusions:

1. The legal protection of the moral rights of songwriters at the Ternate Radio Broadcasting Institute (RRI) is regulated in Law Number 28 of 2014 concerning Copyright. Other preventive measures are carried out by recording the copyright of songwriters on the works carried out through the Ministry of Law and Human Rights and the Indonesian Broadcasting Commission to play a more active role in supervising broadcasting institutions that broadcast songs without mentioning the name of the author and providing counseling to the public. about the importance of a person's copyright to be respected because it has economic and moral value. As for repressive legal remedies, there were no sanctions regarding violations of moral rights.
2. The factor that causes moral rights to be ignored by the broadcaster RRI Ternate regarding songs that do not mention the name of the author, namely, because most of the songs played are old songs, some of which are not known by the name of the author and sometimes the broadcasters forget to mention the name. creator.

Suggestions

1. The government needs to pay attention to the protection of moral rights in Indonesia. This can be done by socializing the laws and regulations in the field of copyright, especially Law Number 28 of 2014 concerning Copyright, so that the public in general can understand it comprehensively. If there are violations related to the moral rights of the creator, then the creator already knows the efforts that must be made to resolve the problem.
2. Broadcasting institutions must have a better understanding of the rights of the creators as stipulated in the applicable laws and regulations so as not to violate the moral rights of the creators related to broadcasting songs without mentioning the name of the author.

BIBLIOGRAPHY

- Achmad, A. (2002). *Menguak Tabir Hukum (Suatu Kajian Filosofi dan Sosiologis)*. Jakarta: PT Toko Agung Tbk.
- Adami, C. (2011). *Pelajaran Hukum Pidana Bagian 2 : Penafsiran Hukum Pidana, Dasar Penindakan, Pemberatan, Peringatan, Kejahatan Aduan, Perbarengan, dan Ajaran Kausalitas*. Jakarta: Rajawali Press.
- Chazawi, A. (2007). *Tindak Pidana Mengenai Kesopanan*. Jakarta: Raja Grafindo Persada.
- Damian, E. (2009). *Hukum Hak Cipta*. Bandung: Alumni.
- Ginting, E. R. (2012). *Hukum Hak Cipta Indonesia*. Bandung: PT Citra Aditya Bakti.
- Hasibuan, O. (2008). *Hak Cipta di Indonesia*. Bandung: Alumni.
- Korban Eksploitasi Ekonomi* (Universitas Atma Jaya Yogyakarta). (n.d.). Retrieved from <http://e-journal.uajy.ac.id/7178/Jurnal.Pdf>
- Muthiah, A. (2016). *Hukum Dagang dan Pelaksanaannya di Indonesia*. Yogyakarta: Pustaka Baru Press.
- No Title. (n.d.-a). Retrieved from <https://ppid.rrri.co.id/profil-rrri>
- No Title. (n.d.-b). Retrieved from https://repository.uin-suska.ac.id/14763/8/8.BAB_III_201889IH.pdf
- No Title. (n.d.-c). Retrieved from

- | No | Title. | (n.d.-d). | Retrieved | from |
|----|--|-----------|-----------|------|
| | https://ejournal.balitbangham.go.id/index.php/kebijakan/artice | | | |
| | Pemerintah Republik Indonesia. <i>Undang-Undang Nomor 32 Tahun 2002 tentang Penyiaran.</i> , Pub. L. No. 32/2002 (2002). Indonesia: Lembaran Negara Republik Indonesia. | | | |
| | Pemerintah Republik Indonesia. <i>Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta atau literatur.</i> , Pub. L. No. 28/2014 (2014). Indonesia: Lembaran Negara Republik Indonesia. | | | |
| | Roisah, K. (2015). <i>Konsep Hukum Hak Kekayaan Intelktual (Sejarah, Pengertian dan Filosofi Pengakuan HKI dari Masa ke Masa)</i> . Malang: Setara Press. | | | |
| | Soelistyo, H. (2011). <i>Hak Cipta Tanpa Hak Moral</i> . Jakarta: Raja Grafindo Persada. | | | |
| | Sosilowati, E. (2013). <i>Hak Kekayaan Intelektual dan Lisensi pada HKI</i> . Semarang: Undip Press. | | | |
| | Sudarmanto. (2021). <i>KI dan HKI serta Implementasinya bagi Indonesia</i> . Jakarta: PT Elex Media Komputindo. | | | |
| | Utomo, T. S. (2010). <i>Hak Kekayaan Intelektual (HKI) di Era Global (Sebuah Kajian Kontemporer)</i> . Yogyakarta: Graha Ilmu. | | | |
| | Zainuddin, A. (2011). <i>Metode Penelitian Hukum</i> . Jakarta: Sinar Grafika. | | | |