



JLPH: Journal of Law, Politic and Humanities

E-ISSN: 2962-2816
P-ISSN: 2747-1985<https://dinastires.org/JLPH> dinasti.info@gmail.com +62 811 7404 455DOI: <https://doi.org/10.38035/jlph.v5i2>
<https://creativecommons.org/licenses/by/4.0/>

Analysis of Copyright Implementation and Challenges in Photography in the Digital Era in Indonesia

Mochamad Habiibi¹, Dr. R. Rahaditya, SH.,MH².

¹Tarumanagara University, Jakarta, Indonesia, mochamad.205210089@stu.untar.ac.id.

²Tarumanagara University, Jakarta, Indonesia, rahaditya@fh.untar.ac.id.

Corresponding Author: mochamad.205210089@stu.untar.ac.id¹

Abstract: The enforcement of copyright law against photography infringements in Indonesia faces several challenges in the digital age. Although Law Number 28 of 2014 on Copyright provides clear legal protection for photographic works, effective law enforcement is often hindered by the lack of legal awareness among the public, limited surveillance of works spread across the internet, and the use of new technologies that facilitate copyright violations. This study aims to examine the effectiveness of law enforcement against copyright infringements on photography in Indonesia and identify the key challenges faced by photographers in protecting their copyrights in the digital era. Strategic steps involving the government, law enforcement agencies, and the private sector are needed to raise legal awareness and strengthen the law enforcement system in addressing the increasingly complex photography copyright violations.

Keyword: Copyright Protection, Law Enforcement, Photoography.

INTRODUCTION

Copyright is part of the intellectual property law system that functions to provide legal protection to creators for their intellectual works. In photography, copyright becomes an essential instrument to protect photographers from misuse, plagiarism, and exploitation of their work. In Indonesia, copyright protection is regulated under Law Number 28 of 2014 on Copyright. This law recognizes photographers as creators who have rights over their work, both morally and economically. However, despite this legal framework being available, the implementation and protection of photography copyright face significant challenges, especially in an increasingly complex digital era (Wulandari, 2022).

The digital era has brought major changes to the world of photography, from production to distribution. Technological developments allow anyone to easily produce, edit, and share photos through devices such as camera phones, computers, and editing applications. Photography can be instantly uploaded to digital platforms such as social media, photo-sharing sites, and e-commerce sites, allowing these works to reach global audiences in seconds. On one side, this opens up great opportunities for photographers to showcase their work. However, on

the other side, this ease increases the risk of copyright infringement, such as downloading, using, and duplicating works without permission or without crediting their creators (Komdigi, 2024).

One of the biggest challenges in protecting photography copyright in the digital era is the lack of public awareness regarding the importance of copyright. Many internet users in Indonesia consider photographic works available online to be public property that can be used freely without regard to legal rules. This often causes photographers to suffer both moral and material losses, such as loss of recognition for their work and reduced potential income. This problem is exacerbated by the minimal education about copyright among the public, especially young people who are active on social media (Wirabuwana and Indrawati, 2021).

Additionally, the digital era poses challenges in proving ownership of photographic works. Legally, copyright arises automatically when a work is created, without requiring registration. However, in practice, proving ownership often becomes an obstacle in resolving copyright disputes. When a photo is widely distributed on the internet without metadata or watermarks, it becomes difficult for photographers to prove that the work is theirs. This creates opportunities for irresponsible parties to claim the work as their own (Atsar, 2018).

Another challenge is the weak law enforcement against photography copyright violations in Indonesia. Although the Copyright Law provides legal protection, the process of resolving violation cases often proceeds slowly and ineffectively. Several factors contributing to this problem include the lack of reports from aggrieved parties, limited valid digital evidence, and insufficient understanding and capacity of law enforcement in handling cases involving digital technology. This makes many photographers reluctant to report violations they experience, feeling that the process will not yield adequate results (Purnamasari, 2020).

Technological advances also bring new challenges in copyright protection. For instance, artificial intelligence technology can now be used to generate images or automatically modify photos, raising questions about who owns the copyright to such works. Additionally, photo manipulation techniques and deepfakes also create legal dilemmas that are not yet clearly regulated in existing regulations. Current laws are not fully capable of accommodating these changes, thus creating legal loopholes that could potentially be exploited for violations (Kristina, 2021).

Amid these various challenges, the role of government, relevant institutions, and society becomes very important in enhancing photography copyright protection in the digital era. The government needs to strengthen relevant regulations and educate the public about the importance of copyright. On the other hand, photographers must also be proactive in protecting their work, for example by adding clear watermarks or metadata (Purnamasari, 2020).

This research aims to analyze copyright implementation in photography in Indonesia, especially in facing digital era challenges. The research focus includes evaluating the effectiveness of the Copyright Law, identifying obstacles in law enforcement, and providing strategic recommendations to strengthen copyright protection for photographers. Thus, this research is expected to make a significant contribution in supporting the development of the photography industry and creating a fairer digital ecosystem for creators in Indonesia. Based on this background, the author is very interested in discussing a study made in a scientific journal titled "ANALYSIS OF COPYRIGHT IMPLEMENTATION AND CHALLENGES IN PHOTOGRAPHY IN THE DIGITAL ERA IN INDONESIA".

METHOD

In the study titled "Analysis of Copyright Implementation and Challenges in Photography in the Digital Era in Indonesia", the research methods used can be explained as follows:

Type of Research

This research employs a normative juridical approach. This approach is conducted by examining various formal legal materials, such as legislation. The research focus is directed at analyzing Law Number 28 of 2014 on Copyright and its relevance in providing protection for photographic works in the digital era. This research also highlights the legal challenges that arise in the implementation of this law.

Research Approach

The approaches used in this research include the statute approach and conceptual approach. The statute approach is conducted through an in-depth examination of the provisions in the Copyright Law and other related regulations, while the conceptual approach is used to understand the basic concepts of copyright protection and the problems faced in the context of photography in the digital era.

Research Material Sources

This research relies on three main types of legal materials as data sources, namely:

1. Primary Legal Materials

Primary legal materials include relevant legislation, such as Law Number 28 of 2014 on Copyright and other regulations related to intellectual property protection.

2. Secondary Legal Materials

Secondary legal materials include literature that explains or analyzes primary legal materials, such as legal books, journal articles, previous research findings, and expert opinions related to copyright protection and challenges in the digital era.

3. Tertiary Legal Materials

Tertiary legal materials are used as additional references to support the analysis, such as legal dictionaries, the Indonesian Language Dictionary (KBBI), and legal encyclopedias that help explain relevant terms or concepts.

Research Analysis Method

The method used for data analysis is qualitative method. Data from primary, secondary, and tertiary legal materials are analyzed systematically to reach conclusions that correspond to the research problems. The analysis process begins with examining existing legal regulations, identifying challenges that emerge in protecting photography copyright in the digital era, and evaluating their implementation effectiveness.

Using this method, the research is expected to provide a comprehensive picture of copyright implementation in photographic works in Indonesia, including the challenges faced by photographers in the digital era and proposed solutions.

RESULTS AND DISCUSSION

Implementation and Challenges of Copyright in Photography in Indonesia's Digital Era

Copyright is a form of legal protection for intellectual works that includes photography as its object. In Indonesia, this protection is regulated under Law Number 28 of 2014 on Copyright (hereinafter referred to as the Copyright Law). Copyright in photography encompasses two main aspects: moral rights and economic rights. Moral rights provide recognition to photographers as creators, including the right to be credited for each use of their work and the right to refuse alterations or manipulations that compromise the work's integrity. These moral rights are permanently attached to the creator and cannot be transferred to other parties (Burhanuddin, 2014). Meanwhile, economic rights allow photographers to gain financial benefits from the exploitation of their work, such as through licensing, sales, or use for other commercial purposes. This economic rights protection lasts for the creator's lifetime and

continues for 70 years after their death. Although copyright in photography automatically applies when a work is created in tangible form, registration with the Directorate General of Intellectual Property (DJKI) provides additional advantages in the form of authentic proof of ownership. This evidence is crucial in legal dispute resolution, especially in the digital era, where distribution and use of works are increasingly difficult to control. The Indonesian government has provided digital platforms such as e-Copyright to facilitate online registration. However, many photographers do not understand the importance of this step, so they often lack strong legal grounds when their work is used illegally (Rosando, 2019).

The digital era brings major challenges in protecting photography copyright. One of the main challenges is the high rate of digital violations, such as unauthorized use of works, illegal distribution, and manipulation of works using technologies like artificial intelligence. Social media, blogs, and image-sharing sites become primary channels where these violations frequently occur. Photographic works uploaded to the internet can be easily copied, downloaded, and reused by others without the creator's knowledge. This not only causes economic losses but also violates the creator's moral rights (Kusmayanti, 2018).

Another challenge is the lack of legal awareness in society. Many individuals and companies use photographic works without understanding that such actions violate copyright law. Conversely, photographers, especially those just starting their careers, often fail to recognize the importance of legal protection for their work. As a result, photography copyright infringement cases often go unreported or unprocessed (Wirabuwana and Indrawati, 2021).

Beyond the challenges related to distribution and use of works on social media, another major challenge in implementing photography copyright is the limited legal understanding among photographers, particularly those working in newer creative sectors. Many novice photographers or freelancers don't fully understand the importance of protecting their work's copyright. They often assume that their works uploaded to the internet or published on social media are automatically protected by copyright. However, although copyright is automatically granted when a work is created in tangible form, official copyright registration can provide significant advantages in terms of proving ownership. Without registration, photographers face difficulties in proving they are the original owners of the work, especially in cases of infringement or legal disputes (Yanto et al., 2022).

Furthermore, the law enforcement system faces major constraints in handling copyright violations in the digital era. One main constraint is the lack of supervision over work distribution on the internet. Current technology has not been able to provide global protection for photography copyright. Many violation cases occur on international platforms, making the law enforcement process increasingly difficult. Even when violations occur domestically, legal processes often require lengthy time and considerable costs. This becomes a major obstacle for independent photographers or small creative communities that lack resources to pursue legal justice (Dewi and Darmadi, 2016).

Technological advances also present new challenges in manipulation, such as deepfakes or artificial intelligence-based editing, which enable illegal photographic modification without leaving clear traces. Additionally, the absence of universal standards for tracking work usage on the internet further complicates photographers' efforts to protect their copyright effectively (Nugraha, 2020). To address these challenges, strategic steps involving various parties are needed. First, the government needs to increase public awareness about the importance of respecting copyright through educational campaigns. Second, digital surveillance technology needs strengthening, such as developing artificial intelligence-based copyright violation detection tools. Third, legal processes must be simplified to be more accessible to independent photographers. Finally, international collaboration must be enhanced to ensure work protection at the global level. With these measures, it is hoped that photography copyright in Indonesia

can be implemented more effectively while reducing the risk of violations in an increasingly complex digital era (Kristina, 2021).

Effectiveness of Law Enforcement Against Copyright Infringement in Photography in Indonesia.

Law enforcement effectiveness against copyright infringement in photography in Indonesia is a complex issue requiring attention from various parties, including the government, law enforcement, and society. Theoretically, Indonesia has an adequate legal system for protecting copyright, as regulated in Law Number 28 of 2014 on Copyright. This law provides clear protection for photographic works, both in terms of moral and economic rights, giving photographers the right to control and receive compensation for their work. However, legal implementation in practice often faces various obstacles affecting its effectiveness, especially in the context of copyright infringement in the digital era (Suprana, 2020).

Law enforcement in Indonesia regarding photography copyright infringement is often limited to cases involving parties with high legal awareness or cases that receive public attention. Many copyright violations of photographic works occurring in the digital realm, such as unauthorized image use on social media or websites, are not always reported or legally handled. This happens due to lack of understanding or legal awareness among society, including among photographers themselves. Most photographers whose works are violated don't know they have legal rights to sue, or even if they know, they feel the legal process is too complicated and expensive. Thus, despite clear regulations, copyright violations often go unprocessed (Dewi and Darmadi, 2016). One factor hampering law enforcement effectiveness against copyright infringement in Indonesia is the limitation of existing resources and supervision. The Directorate General of Intellectual Property (DJKI) and other related institutions are often overwhelmed by the volume of violations occurring on digital platforms. With the growing use of internet and social media as means for sharing images and photographic works, supervising works uploaded to cyberspace becomes increasingly difficult. Many violations occur on international platforms, such as social media, image-sharing sites, and blogs, which are beyond Indonesian law's reach. This makes it difficult for photographers to get the protection they need and adds challenges to law enforcement in this country (Kristina, 2021).

Furthermore, the limited number of law enforcement officers specializing in copyright, and the lack of training regarding copyright issues in the digital world, becomes a significant problem. Law enforcement in Indonesia still heavily relies on individual efforts or complaints from aggrieved parties, while proactive surveillance by authorities over work distribution on the internet remains minimal. Consequently, many violations occur without receiving adequate legal attention (Yanto et al., 2022).

Another reason why law enforcement against photography copyright infringement is often ineffective is the slow legal process in courts. Although copyright violations can be reported and processed through legal channels, the procedures often take a long time and require substantial costs. Complex litigation processes, attorney fees, and time needed to obtain binding decisions make many photographers, especially independent ones or those working with limited budgets, reluctant to pursue their rights through legal channels. Even if a case successfully reaches court, the decision given may not provide adequate solutions. When copyright infringement lawsuits are filed, technical issues regarding proof of work ownership often become major obstacles. Without official copyright registration at DJKI, it is very difficult for photographers to prove they are the legitimate owners of the violated work (Suprana, 2020).

In this context, copyright law enforcement challenges share similarities with law enforcement issues in other fields, such as taxation. As explained by (Wala and Rasji 2023), the lack of government socialization to the public about the importance of legal compliance, and limited

understanding of sanctions for violating obligations, become major obstacles in law enforcement.

Copyright infringement in photography often occurs in cyberspace, where works can be copied and reused without permission. The problem is exacerbated by international websites that enable violations to occur without geographical limitations. For instance, global social media platforms like Facebook, Instagram, or Twitter often become places where photographic works are used without permission. Given the borderless nature of the internet, copyright violations occurring outside Indonesia cannot be easily handled by Indonesian law enforcement (Wirabuwana and Indrawati, 2021).

In this context, international regulations and procedures regarding copyright, such as those contained in the Berne Convention and other agreements, play an important role in providing cross-border protection. However, law enforcement at the international level is still often not as effective as expected, as dispute resolution mechanisms between countries are not well coordinated. Many photographers face difficulties in pursuing copyright violations occurring abroad, as the laws of countries where violations occur don't always provide equal protection (Rosando, 2019).

To improve law enforcement effectiveness against photography copyright infringement in Indonesia, several strategic steps need to be taken. First, there needs to be increased legal awareness among photographers about the importance of registering their works with DJKI for stronger legal protection. The government must intensify socialization about the benefits of copyright registration and provide easy access for photographers to register their works, including through more user-friendly digital platforms (Kusmayanti, 2018).

Second, there needs to be strengthening of capacity and specialization of law enforcement officers handling copyright infringement cases, especially in facing violations occurring in cyberspace. Increased training for law enforcement officers regarding digital technology, along with proper tools for tracking and detecting copyright violations, is crucial for faster and more efficient law enforcement (Nugraha, 2020).

Additionally, the government must encourage the development of more effective digital surveillance technology, such as AI-based copyright violation detection tools that can automatically check and follow up on internet violations. This technology can help photographers identify illegal use of their works and provide stronger grounds in legal processes (Kristina, 2021)

Finally, international cooperation is also very necessary to address global copyright infringement. The Indonesian government must be more active in advocating for international copyright protection and facilitating cooperation with other countries in terms of law enforcement and dispute resolution related to copyright (Dewi and Darmadi, 2016). With these measures, it is hoped that law enforcement effectiveness against photography copyright infringement in Indonesia can be improved, providing better protection for photographers and creating a fairer and more transparent creative ecosystem in the digital era.

Furthermore, to accelerate the handling of copyright violations, collaboration between public and private sectors needs to be strengthened. Many large digital platforms, such as Google, Facebook, and Instagram, already have copyright violation reporting systems that allow aggrieved parties to file claims. However, the implementation and follow-up of these claims often take a long time and are not always responded to quickly. The Indonesian government, together with technology companies, needs to build a more efficient framework to ensure copyright violation claims are handled quickly and appropriately. This collaboration can also include providing training for platform providers to recognize and respond to copyright violations more quickly, thus creating a safer digital ecosystem for creators, including photographers (Yanto et al., 2022).

CONCLUSION

The implementation of copyright in photography in Indonesia has been regulated in the Copyright Law; however, major challenges have emerged in the digital era, such as copyright infringement through illegal distribution on social media, websites, and the use of technologies like AI. Many photographers have not yet realized the importance of registering their works, and law enforcement processes are often hindered by lack of legal awareness, limited supervision, and technical barriers in tracking digital violations.

The effectiveness of law enforcement against photography copyright infringement in Indonesia is hampered by constraints such as limited resources, lack of specialization among law enforcement officers in digital copyright, and challenges in handling violations that occur on international platforms. To improve its effectiveness, there needs to be increased legal awareness among photographers, strengthening of law enforcement capacity, and collaboration with private and international sectors to accelerate violation handling.

REFERENCE

- Atsar, Abdul, *Mengenal Lebih Dekat Hukum Hak Kekayaan Intelektual*, (Yogyakarta : Deepublish, 2018).
- Burhanuddin, *Hak Fotografi*, (Yogyakarta, Graha Ilmu, 2014).
- Dewa Ayu Pringga Aristya Dewi, dan AA Sagung Wiratni Darmadi. "Pengaturan Perlindungan Karya Cipta Fotografi Yang Di Ambil Tanpa Izin Melalui Media Sosial Berdasarkan Undang-Undang N0. 28 Tahun 2014 Tentang Hak Cipta.". *Kertha Semaya: Journal Ilmu Hukum* 4 No 2, 2016.
- Gevan Naufal Wala dan Rasji, "Problems of Tax Collection by the Tax Mafia in the Perspective of Tax Law", *Aurelia: Jurnal Penelitian dan Pengabdian Masyarakat Indonesia* Vol. 2 No. 2, 2023, hlm. 1139.
- Ida Bagus Ngurah Wirabuwana dan Anak Agung Sri Indrawati, "Pengaturan Hak Cipta Fotografi dalam Perspektif Hukum Internasional dan Nasional (Studi Kasus Selfie yang Dilakukan Hewan)", *Jurnal Kertha Negara* Vol. 9 No. 5, 2021.
- Maria Kristina, "Tantangan Hukum dalam Melindungi Hak Cipta Karya Fotografi di Indonesia", *Jurnal Kekayaan Intelektual Indonesia* Vol. 6 No. 2, 2021.
- Novi Wulandari, "Perlindungan Hak Cipta Karya Fotografi dalam Era Digital", *Jurnal Hukum dan Teknologi* Vol. 7 No. 1, 2022.
- Nugraha, "Tantangan Teknologi dalam Penegakan Hukum Hak Cipta", *Cyber Law Review* Vol. 2 No. 1, 2020.
- Putu Rahayu Purnamasari, "Perlindungan Hukum Terhadap Hak Cipta Karya Fotografi yang Digunakan tanpa Izin", *Jurnal Konstrksi Hukum* Vol. 1 No. 1, 2020.
- Rifki Yanto, Muhammad Yusuf Ibrahim, dan Mohammad Nurman, "Perlindungan Hukum Karya Cipta Terhadap Pengambilan Fotografi Tanpa Izin di Tinjau Dari Undang-Undang Hak Cipta Nomor 28 Tahun 2014, *Jurnal Penelitian* Vol. 6 No. 2, 2022.
- Rita Kusmayanti, "Perbandingan Hukum Hak Cipta Fotografi Tanpa Izin Pencipta di Indonesia dan Amerika", *Journal of Judicial Review* Vol. 20 No. 2, 2018.
- Rosando, "Perlindungan Hukum Terhadap Hasil Foto Pribadi yang Digunakan Orang Lain di Instagram", *Jurnal Hukum Bisnis Bonum Commune* Vol. 2 No. 1, 2019.
- William Jaya Suprana, "Lisensi Hak Cipta dan Perlindungan Hukum Hak Cipta Atas Konten Fotografi dan Potret dalam Penggunaan Instagram", *Binamulia Hukum* Vol. 9 No. 2, 2020.
- Indonesia. Undang-Undang Nomor 28 Tahun 2014 Tentangg Hak Cipta. Lembaran Negara Republik Indonesia Tahun 2014 Nomor 298.

Anonim, “Pentingnya Kesadaran Hak Cipta dalam Era Digital”, <https://www.komdigi.go.id/>, diakses pada 18 November 2024, 12.14 WIB.