

Legal Protection for Film Copyright Holders Against Illegal Downloading and Streaming Activities on the Internet

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Abstract

Copyright holders have exclusive rights to their creations or work. Illegal downloading and streaming of movies can be detrimental to copyright holders and countries. Therefore, perpetrators can be subject to criminal and civil sanctions. This study aims to: (1) determine the protection for the Moral Rights and Economic Rights of film creators or Copyright Holders from illegal downloading and streaming of films on the Internet (2) determine how the law should regulate the rights of creators from illegal downloading and streaming activities to provide legal protection. The type of research used in this study is normative juridical by using data collection techniques through literature studies. The results show that: (1) the protection of Economic Rights and Moral Rights of film copyright is still lacking in providing legal protection because sanctions for violators of Moral Rights have not been regulated in the Copyright Law (2) the Copyright Law has regulated legal steps that Copyright Holders can take to obtain legal protection in the field of Copyright through mediation, criminal complaints, claims for compensation, and reports on the closure of content and access rights

Keywords: Legal Protection; Copyright; Illegal Download and Streaming.

Abstrak

Pemegang hak cipta memiliki Hak Eksklusif atas ciptaan atau karyanya. Pengunduhan dan streaming film secara ilegal dapat merugikan pemegang hak cipta dan negara. Oleh karena itu, pelaku dapat dikenakan sanksi pidana maupun perdata. Penelitian ini bertujuan untuk: (1) mengetahui perlindungan Hak Moral dan Hak Ekonomi pencipta film atau Pemegang Hak Cipta dari pengunduhan dan streaming film secara ilegal di Internet (2) mengetahui bagaimana seharusnya Undang-Undang mengatur hak pencipta dari kegiatan ilegal download dan streaming sehingga memberikan perlindungan hukum. Jenis penelitian yang digunakan dalam penelitian ini adalah yuridis normatif dengan menggunakan teknik pengumpulan data melalui studi literatur. Hasil penelitian menunjukkan bahwa: (1) perlindungan hak ekonomi dan hak moral dari pemilik hak cipta film masih kurang dalam memberikan perlindungan hukum karena sanksi bagi pelanggar hak moral belum diatur secara jelas dalam Undang-Undang Hak Cipta (2) UU Hak Cipta telah mengatur langkah hukum yang Pemegang Hak Cipta dapat menempuh untuk mendapatkan perlindungan hukum di bidang Hak Cipta melalui mediasi, pengaduan pidana, tuntutan ganti rugi, dan laporan penutupan konten dan hak akses.

Keywords: Perlindungan Hukum; Hak Cipta; Pengunduhan dan Streaming Ilegal.



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A. INTRODUCTION

Film is a work of art in the form of a communication medium based on cinematography principles with sound/no sound. As a work of art, film is a mass medium that carries messages and contains very important ideas.^{1,2} So that nowadays the function of film which previously only had the function of entertainment, turns out that film also has other functions, namely information, education and as a stimulus for creativity.³

Downloading or watching activities via the internet is divided into two ways, namely paid and non-paid. Paid film sites have permission from the original copyright holder to reproduce their creations.⁴ Meanwhile, non-paid sites do not have permission from the original copyright holder to reproduce film works.⁵

Film works are works of art that have an important role so that films are included in Copyright objects protected by Law Number 28 of 2014 concerning Copyright. Copyright is part of the most special Intellectual Property Rights and has its own uniqueness compared to other rights in Intellectual Property Rights.⁶ The definition of Copyright is in accordance with the provisions of Article 1 Number 1 of Law Number 28 of 2014 concerning Copyright.

Copyright holders have the right to protect their personal interests in their creations or work.^{7,8} Basically, this right becomes an exclusive right that arises from the first time the

¹ Naili Wirdatul Muna, Sugeng Solehuddin, and Umi Mahmudah, "Nilai Pendidikan Karakter Religius Dan Sains Dalam Film Animasi 'Riko The Series' Sebagai Media Pembentuk Pengetahuan Dan Karakter Religius Anak Us," *IBTIDA- Jurnal Kajian Pendidikan Dasar* 2, no. 1 (June 30, 2022): 40–56, <https://doi.org/10.33507/ibtida.v2i1.549>.

² Gan Gan Giantika, "Representasi Ketidakadilan Gender Pada Film Uang Panai (Analisis Isi Kuantitatif Ketidakadilan Gender Dalam Film Uang Panai)," *Jurnal Komunikasi* 8, no. 2 (2017): 65–72, <https://doi.org/10.31294/jkom.v8i2.2779>.

³ Siti Mahmudah Hendro Saptono Daniel Andre Stefano*, "Perlindungan Hukum Pemegang Hak Cipta Film Terhadap Pelanggaran Hak Cipta Yang Dilakukan Situs Penyedia Layanan Film Streaming Gratis Di Internet (Menurut Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta)," *Diponegoro Law Journal; Vol 5, No 3 (2016): Volume 5, Nomor 3, Tahun 2016* DO - 10.14710/Dlj.2016.11384, April 13, 2016, <https://doi.org/10.14710/dlj.2016.11384>.

⁴ Ayup Suran Ningsih and Balqis Hedyati Maharani, "Penegakan Hukum Hak Cipta Terhadap Pembajakan Film Secara Daring," *Jurnal Meta Yuridis*, September 2019, 13–32, <https://doi.org/10.26877/m-y.v2i1.3440>.

⁵ Gan Gan Gunawan Raharja, "PENERAPAN HUKUM TERHADAP PELANGGARAN HAK CIPTA DI BIDANG PEMBAJAKAN FILM," *Jurnal Meta-Yuridis* 3, no. 2 (September 2020), <https://doi.org/10.26877/m-y.v3i2.6029>.

⁶ Gede Sastrawan and Gede Sastrawan, "ANALISIS YURIDIS PELANGGARAN HAK CIPTA PADA PERBUATAN MEMFOTOKOPI BUKU ILMU PENGETAHUAN," *Ganesha Law Review* 3, no. 2 (July 2021): 111–24, <https://doi.org/10.23887/glr.v3i2.446>.

⁷ Annisa Justisia Tirtakoesoemah and Muhammad Rusli Arafat, "Penerapan Teori Perlindungan Hukum Terhadap Hak Cipta Atas Penyiaran," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 18, no. 1 (July 21, 2020), <https://doi.org/10.31941/pj.v18i1.1084>.

⁸ Vera Ayu Riandini and Lisa Gusrianti, "Analisis Hukum Keterkaitan Perjanjian Dan Perlindungan Hak Cipta Karya Fotografi Di Indonesia," *Jurnal Komunikasi Hukum (JKH)* 7, no. 2 (2021): 867–82, <https://doi.org/10.23887/jkh.v7i2.38708>.

creation is realized or created⁹. A work can be said to have been born if the work is published to the general public.^{10,11} At that time also the creator of a work has exclusive rights without the need for formal registration of rights.

Previous research showed apart from violating copyright, the activity of illegally downloading or watching films also has an impact on reducing the creativity and enthusiasm of filmmakers.^{12,13} Other impacts include hampering economic development in Indonesia. Because illegal films are not subject to tax, downloading films illegally creates a sizable loss for the Indonesian government^{14,15}.

Legal awareness in Indonesia is still too minimal, causing legal efforts and law enforcement to not work properly. Therefore, the writer is interested in researching whether the new Copyright Law, namely Law Number 28 of 2014 concerning Copyright. This research has similarities and differences with previous studies. The writing similarities are found in the government's role in protecting film works on the internet, while the differences are in the legal consequences of illegal downloading/streaming activities on the internet and the protection of executive rights (moral rights and economic rights) for copyright holders. Therefore the author intends to compile a thesis with the title "Legal Protection for Film Copyright Holders Against Illegal Downloading and Streaming Activities on the Internet"

B. METHOD

The type of research used in this research is normative juridical. Normative juridical research that uses primary data sources of this research is carried out using literature law materials such as books and journals as the source.¹⁶ Furthermore, the legal materials are systematically compiled, then reviewed and conclusions drawn based on the problem formulation. The types of data used are primary legal materials, secondary legal materials and tertiary legal materials. The data collection technique is through literature study and also using secondary legal materials in this writing, data obtained from books, laws and

⁹ Charlos Victor Jobul et al., "Legal Review of Copyright by Analyzing Case Decision Number 25 / Pdt . Sus-Copyright / 2022 / PN Niaga Jkt Pst," *Asian Journal of Legal Studies* 2, no. 1 (2023): 1–7.

¹⁰ Jessica Djaja Putra et al., "Speech Composing Menurut Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta," *JCH (Jurnal Cendekia Hukum)* 5, no. 1 (September 30, 2019): 49, <https://doi.org/10.33760/jch.v5i1.174>.

¹¹ Riko Sulung Raharjo, M. Khoidin, and Ermanto Fahamsyah, "Perlindungan Hukum Terhadap Pencipta Atas Pencatatan Suatu Ciptaan Yang Sama," *Lentera Hukum* 5, no. 3 (December 2018): 437, <https://doi.org/10.19184/ejrh.v5i3.8809>.

¹² Relys Sandi Ariani, Luna Dezeana Ticoalu, and Herlin Sri Wahyuni, "Mengoptimalkan Peran Lembaga Perfilman Indonesia: Analisis Aspek Hak Cipta Terhadap Praktik Siaran Video Ilegal," *Jurnal Kajian Pembaruan Hukum* 1, no. 2 (July 2021): 175, <https://doi.org/10.19184/jkph.v1i2.24475>.

¹³ Khelvin Risandi and Tantimin Tantimin, "Kajian Hukum Pembajakan Film Di Platform Telegram Di Indonesia," *Jurnal Pendidikan Kewarganegaraan Undiksha* 10, no. 1 (2022): 429–40, <https://doi.org/10.23887/jpku.v10i1.45325>.

¹⁴ Sani Rizki Fauzi, Fakhur Fakhur, and Dewic Sri Ratnaning Dhumillah, "Legal Provisions Regarding Film Piracy in the Perspective of Copyright in Indonesia," *POSTULAT* 1, no. 2 (August 15, 2023): 55–59, <https://doi.org/10.37010/POSTULAT.V1I2.1217>.

¹⁵ Johnny Nhan, Kendra Bowen, and Aaron Bartula, "A Comparison of a Public and Private University of the Effects of Low-Cost Streaming Services and Income on Movie Piracy," *Technology in Society* 60 (February 1, 2020): 101213, <https://doi.org/10.1016/J.TECHSOC.2019.101213>.

¹⁶ Kornelius Benuf and Muhammad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer," *Gema Keadilan* 7, no. 1 (2020): 20–33, <https://doi.org/10.24246/jrh.2019.v3.i2.p145-160>.

regulations, and journals. Researchers in this normative study used descriptive qualitative data analysis techniques.

C. RESULTS AND DISCUSSIONS

1. Description of Illegal Downloads and Streaming

Illegal streaming activities in Indonesia are increasingly prevalent every year. The Ministry of Communication and Informatics (Kominfo) stated that in 2017 there were at least 170 sites that were known to carry out illegal streaming actions which eventually led to blocking. This number then increased to 412 in 2018, and in 2019 the number of illegal streaming sites reached 1493 sites.¹⁷

It is alleged that illegal streaming itself provides profits of up to Rp. 19 trillion each year.¹⁸ Actors like they don't want to stop making illegal streaming sites because of the big profit factor. In fact, the modus operandi also changes from year to year. Before the blocking, everyone could easily access illegal streaming sites by simply typing the url name in the browser column. For example, a user wants to visit lk21, then the user just needs to type the url lk21.com in the browser and can immediately enjoy movies. After blocking, the perpetrator redirected the url to another domain, even now the url is not displayed but only displays the IP address (such as 169.97.152.47 for access to the lk21 site).

The presence of illegal streaming sites is clearly very detrimental to filmmakers. Losses due to learning are estimated at IDR 1.4 trillion each year. National film activist Mira Lesmana stated that the losses that filmmakers get are greater, namely IDR 5 trillion each year.¹⁹

An example of film violations that the author will discuss in this study is the case of the owner of an illegal website, DuniaFilm21. The site was proven to have hijacked one of the films, namely Keluarga Cemara. PT Visinema Pictures succeeded in reporting the piracy perpetrator from Jambi, Aditya Fernando Phasyah (AFP) in April 2020 for alleged criminal piracy of the film Cemara Family. Aditya was found guilty and received a 14 month prison sentence from the Jambi District Court. Starting from that one case, the police conducted an investigation and found that since 2018 the defendant had hijacked approximately 3,000 local and foreign film titles. In this case, the defendant uploaded the film Keluarga Cemara on the illegal website DuniaFilm21. The defendant committed these acts to seek profit from advertisements on these illegal sites. According to the CEO and Founder of PT Visinema, this is the first step and a movement to fight against and reduce piracy of film works.

2. Legal Protection for Moral and Economic Rights of Film Creators from Illegal Downloading and Streaming Activities on The Internet

The concept of protecting the rights of film creators can be broken down into 2, including

¹⁷ Arif Budiansyah, "Curhat Kominfo Soal Berantas Streaming Film Serupa IndoXXI," n.d.

¹⁸ Novina Putri Bestari, "Riset: Omset Situs Streaming Ilegal Rp 19 Triliun Setahun," n.d.

¹⁹ Dina Fitri Anisa, "Pelaku Industri Film Indonesia Terus Melawan Pembajakan," n.d.

preventive protection and repressive protection.^{20,21} For preventive protection as a form of prevention through regulations issued by the Government of Indonesia through Law Number 28 of 2014 concerning Copyright which is nothing but a legal umbrella for copyright owners.

The provisions on Moral Rights themselves refer to the Copyright Law which cannot be transferred to other people as long as the copyright holder is still alive. If the creator has died, they can transfer their moral rights to someone else with the mechanism, namely 1) the recipient through a will; and 2) the recipient party for other reasons accepts the right referring to statutory regulations. The receiving party has the power to refuse the transfer of moral rights through a written statement. Moral rights also apply to artists if they are treated the same and cannot be ruled out for any reason.²²

The copyright holder also has economic rights, namely the right to commercialize his work so that he gets economic benefits from the creation,²³ with reference to statutory regulations. In terms of economic rights, creators can transfer to other parties either in whole or in part.^{24,25,26} The transfer of economic rights has been stated in Article 16 paragraph (2).

Apart from referring to Law Number 28 of 2014 concerning Copyright, preventive protection with regulations is also known through Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE) jo. Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions. The presence of the ITE Law as legal protection for copyright owners is due to cyber crime.

The ITE Law finally provides protection to creators or copyright owners. However, the ITE Law does not mention protection regarding moral rights or economic rights, but only in one area, namely Intellectual Property Rights. The protection itself is contained in Article 25 and Article 26 of the ITE Law.

Legal protection for film or cinematography actors is also written in Law Number 33 of 2009 concerning Film. However, the form of protection does not describe the protection of moral rights or economic rights. Protection intended for legal protection for film actors. Film Protection is explained through Article 20 paragraphs (4) and (5). Paragraph (4) states that protection applies to all filmmakers, while Article (5) states that protection for children filmmakers must fulfill their rights in the form of the right to learn and the right to play.

From the several laws and regulations above, so far they have not been effective in

²⁰ Annisa Rachmasari, Zaenal Arifin, and Dhian Indah Astanti, "Perlindungan Hukum Hak Cipta Pada Film Yang Diakses Secara Ilegal Melalui Telegram," *Semarang Law Review (SLR)* 3, no. 2 (December 2022): 13, <https://doi.org/10.26623/slr.v3i2.5564>.

²¹ Alifia Bissil Mikafa, Tioma R. Hariandja, and Muhammad Hoiru Nail, "Perlindungan Hukum Pemilik Hak Cipta Terkait Pembajakan Karya Sinematografi Pada Platform Telegram," *WELFARE STATE Jurnal Hukum* 1, no. 2 (October 2022): 187–216, <https://doi.org/10.56013/welfarestate.v1i2.1669>.

²² Theresia Gabriella Pohan et al., "Perlindungan Hak Moral Pencipta Dalam Hak Cipta Terhadap Distorsi Karya Sinematografi Di Media Sosial," *Padjadjaran Law Review* 9, no. 1 (2021).

²³ Mr Tarmidzi, "Undang-Undang Hak Cipta Nomor 28 Tahun 2014 Dalam Prespektif Ekonomi Hukum Ekonomi Islam," *Jurnal Hukum Islam IAIN Pekalongan* 15, no. 2 (2017): 201–28, <https://doi.org/10.28918/jhi.v15i2.1022>.

²⁴ Lailatusafa'ah Indrasrani, "Perubahan Status Penerima Lisensi Terhadap Perjanjian Lisensi Hak Cipta," *Populis : Jurnal Sosial Dan Humaniora* 3, no. 2 (December 2018): 865–74, <https://doi.org/10.47313/pjsh.v3i2.475>.

²⁵ Zainul Amin, "Penegakan Hukum Terhadap Hak Cipta Dalam Bidang Industri Kreatif Di Negara Kesatuan Republik Indonesia," *Mimbar Keadilan*, September 2018, <https://doi.org/10.30996/mk.v0i0.1609>.

²⁶ Dwi Anindya Harimurti, "Copyright And Music And Song Art Works In The Digital Era," *Jurnal Gagasan Hukum* 5, no. 01 (July 2023): 51–59, <https://doi.org/10.31849/jgh.v5i01.14228>.

reducing the rise of illegal movie streaming sites on the Internet. Thus, law enforcement agencies that deal with illegal downloading and illegal streaming violations cannot function properly. This regulation can only be carried out by closing or blocking pirated movie streaming sites. In addition, based on all legal protection regulations regarding illegal streaming, it can be seen that violations of moral rights and economic rights contained in cinematographic works are only answered in the Copyright Law.

Regarding violators of moral rights and economic rights, repressive protection, i.e. settlement of cases by imposing sanctions/fines on violators, does not directly state the form of violation of moral rights, but rather the type of action committed by the violators. For example, violation of moral rights through acts of piracy can be subject to criminal sanctions in Article 113 paragraph (4) where each violator will be subject to imprisonment for a maximum of 10 (ten) years and/or a maximum fine of Rp. 4,000,000,000 (four billion rupiah).

Meanwhile, on the side of violating economic rights, the Copyright Law has elaborated on Articles 112 to 118. The difference between them is the crime committed by giving various prison sentences. Starting from imprisonment for a minimum of 1 (one) year in prison and a maximum of 10 (ten) years. For the fine itself, the minimum value is IDR 100,000,000 (one hundred million rupiah) and the maximum is IDR 4,000,000,000 (four billion rupiah).

Another view is that when combining violations of both rights, namely moral rights and economic rights by presenting them through illegal streaming, they can eventually be subject to violations of the ITE Law. However, the imposition of the article itself is spelled out in Article 32 paragraph (2) where the form of the violation is moving or transferring electronic information/electronic documents to other people's electronic systems without rights. Each violator of this article can finally be subject to sanctions in Article 48 paragraph (2) with a maximum imprisonment of 9 (nine) years and a maximum fine of Rp. 3,000,000,000 (three billion rupiahs).

Primary regulations are the basis for giving obligations to certain legal systems, for example in the Copyright Law which regulates the obligation to respect the work of copyright owners by prohibiting film piracy. Furthermore, secondary regulations form the basis for the formation of primary regulations which are divided into three types, including recognition rules, amendment rules, and termination rules.²⁷

When referring to the substance of the law, there are still weaknesses in the Copyright Law when viewed from a normative perspective, including the Copyright Law which still adheres to complaint offenses in terms of Copyright crime, this is what then causes law enforcement to require a more rigorous process longer.

Furthermore, when viewed in terms of legal culture, the Indonesian people still lack respect for cinematographic works.²⁸ This is evidenced by the rampant cases of piracy of film art as well as the views of some people who still think that intellectual property, including copyrights, only functions socially, but in fact it is also an individual right in which there is economic value.

²⁷ Sudjana Sudjana, "Efektivitas Penanggulangan Pembajakan Karya Cipta Dalam Perspektif Sistem Hukum," *Res Nullius Law Journal* 4, no. 1 (January 2022): 77–99, <https://doi.org/10.34010/rnlj.v4i1.5939>.

²⁸ Suran Ningsih and Hedyati Maharani, "Penegakan Hukum Hak Cipta Terhadap Pembajakan Film Secara Daring."

3. Legal Protection for Moral and Economic Rights of Film Creators from Illegal Downloading and Streaming Activities on The Internet

Legal protection for the rights of film creators from illegal downloading and streaming activities is very crucial, both nationally and internationally. Copyright legal protection is regulated in Law Number 28 of 2014 concerning Copyright. For changes to the Copyright Law Number 19 of 2002 concerning Copyright regarding Copyright protection such as Copyright protection for a long period of time, limiting the transfer of Economic Rights in the form of sold flats, settlement of disputes through mediation, arbitration or court proceedings , and apply the offense of appeal to law enforcement, and others.²⁹

The Copyright Law has regulated legal actions that can be taken by Copyright Holders so that the owner of the work has legal protection from perpetrators of copyright infringement, including:

a. Mediation

Mediation is an attempt to resolve a problem by negotiating, where the disputing parties will meet to resolve the problem mediated by a neutral third party, which is referred to as a mediator.³⁰ The mediator in the mediation process only helps the disputing parties to reach an agreement.

b. Criminal Complaints

This step is carried out by reporting the perpetrator to the realm of criminal law. Authors who have experienced losses in terms of economic rights and moral rights due to copyright infringement by other parties carried out without the creator's knowledge, the copyright owner can report the perpetrator as a form of crime to the Directorate General of Intellectual Property Rights by cooperating with the police. This is as regulated in Article 120 of the Copyright Act.

c. Lawsuit for Compensation

A person who owns a copyrighted work can make an effort by filing a lawsuit for compensation if the owner of this copyrighted work suffers a loss of economic rights and moral rights, so in this case civil law can be enforced, by filing a lawsuit with the Commercial Court by submitting all or part of the proceeds of copyright infringement.

d. Content Closing Reports and/or Access Rights

Closure of Content and/or Access Rights on the internet is one of the legal remedies that can be taken by the government through the Directorate General of Intellectual Property Rights as a form of legal protection for copyright owners from an administrative perspective. In this case the government through the Directorate General of Intellectual Property Rights can establish cooperation with the Director General of APTIKA as stipulated in Article 56 paragraph (2) of the Copyright Act which regulates

²⁹ Nurkhaliq Khussamad Noor, "Perlindungan Hukum Hak Cipta Atas Film Layar Lebar Yang Dipublikasi Melalui Media Sosial Tanpa Izin," *Riau Law Journal* 3, no. 1 (May 2019): 124, <https://doi.org/10.30652/rj.v3i1.7328>.

³⁰ Martha Elizabeth Sutrahitu, Sarah Selfina Kuahaty, and Agustina Balik, "Perlindungan Hukum Pemegang Hak Cipta Terhadap Pelanggaran Melalui Aplikasi Telegram," *TATOHI: Jurnal Ilmu Hukum; Vol 1, No 4 (2021): Volume 1 Nomor 4, Juni 2021* DO - 10.47268/Tatohi.V1i4.611, October 2021, <https://doi.org/10.47268/tatohi.v1i4.611>.

the formation of joint regulations in the case of closing content and/or access rights that violate copyrights. Create. Copyright owners can report sites that are proven to have violated Copyright to the Directorate of Investigation of the Director General of Intellectual Property Rights, Ministry of Law and Human Rights of the Republic of Indonesia. The report contains the identity of the reporter; Proof of rights to Works and/or Related Rights Products; Reported site address; Type and/or content that violates Copyright and/or Related Rights; Type of Violation, and; Other information regarding content that violates Copyright and/or Related Rights.

Intellectual Property Rights which are regulated through Law Number 28 of 2014 concerning Copyright, make the legal basis for film copyright holders to obtain their rights. The rights received are nothing but a form of appreciation and protection directly by the Indonesian government for creators. The hierarchical system of laws and regulations in Indonesia itself refers to Law Number 12 of 2011 concerning the Establishment of Legislation. The position of the Law is stated in Article 7 as having the third position after the 1945 Constitution of the Republic of Indonesia (1945 Constitution) and the Decree of the People's Consultative Assembly (TAP MPR).

The hierarchical system adopted in national legislation also has conditions that must be met, namely first, statutory regulations with a higher position can be used as the basis for lower statutory regulations. Second, lower laws and regulations must originate from higher regulations. Third, lower level laws and regulations may not deviate from higher level regulations. Fourth, statutory regulations are only repealed by higher or equivalent statutory regulations. Finally, fifth, laws and regulations that have a similar content must refer to the latest regulations even though they do not explicitly revoke old regulations and specific content must take precedence over general laws and regulations.³¹

Referring to the elaboration mentioned, finally copyright through Law Number 28 of 2014 concerning Copyright, makes researchers have two assumptions, namely the high position of the Law after the MPR Decree, making legal protection for copyright holders can be interpreted as having high priority referring to Copyright is based on statutory law and copyright has the principle of *lex specialis derogate lex generalis*, making copyright issues take precedence over other laws. From the two assumptions put forward, law enforcement against copyright owners against criminal acts of copyright infringement must occupy the main position by law enforcement officials.

Even though the presence of a legal product in the form of a law makes copyright holders a guarantee against copyright criminal acts, the presence of the Copyright Law is still felt to lack protection. The enforcement mechanisms that have been owned by Law Number 28 of 2014 concerning Copyright starting from mediation, criminal complaints, claims for compensation and reports to close content, cannot run optimally. The nature of Intellectual Property Rights has a character that is different from that of Indonesian society, in Intellectual Property Rights/copyrights apply individualistic and monopolistic characteristics which are in contrast to the character of Indonesian society which is communal and respects living in harmony with others. In fact, there is a growing stigma where property rights are not private

³¹ Hasanuddin Hasan, "Hierarki Peraturan Perundang-Undangan Negara Republik Indonesia Sebagai Suatu Sistem," *Madani Legal Review* 1, no. 2 (December 2017): 120–30, <https://doi.org/10.31850/malrev.v1i2.32>.

property but collective property, making law enforcement related to Intellectual Property Rights also run slowly.³²

Associated with illegal acts in the form of downloading and streaming, none other than the development of information technology. Utilization of information technology and the presence of several platforms that support it makes it easy for copyright owners to distribute, announce to store, the reverse also applies where works created are also easy to copy, distribute and even manipulate.

The convenience offered by information technology ultimately leads to awareness and a growing stigma in society regarding copyright itself. Many people still have the notion that illegal streaming and downloading activities are a natural thing, plus the modus operandi of illegal streaming and downloading criminals is developing.

It can be seen that according to the law itself, the Copyright Law itself can be said to have a high position in Indonesian positive law where the problem identified is public awareness that still lacks respect for copyright by making it normal for illegal streaming and downloading activities. A review of the Copyright Law, especially in illegal streaming and downloading activities, the distribution of copyrighted works is not referred to as a violation if the act or distribution of content through copyright is non-commercial or profitable. The phrase "not commercial or profitable" in Article 43 letter (d) of Law Number 28 of 2014 concerning Copyright, has a loophole considering that the spread of content in the realm of strong information technology cannot be stopped. Everyone can provide content to other parties to an unknown point, leading to an illegal platform.

The two articles, which are considered loopholes by researchers, need to be amended so that copyright holders can be protected by economic rights or other rights from illegal streaming and downloading. These changes are of course accompanied by criminal sanctions against perpetrators of illegal streaming and downloading crimes which can have a deterrent effect. Prohibition of the use of information technology can be applied to perpetrators of illegal streaming and downloading crimes.

Continuing to increase public awareness, it can be done by socializing from all agencies, both public and private, on a regular basis. Furthermore, legal counseling itself is still minimally carried out by related agencies so that there is no significant increase in public legal awareness. Limitations ranging from human resources, facilities and infrastructure to the budget are the main problems faced by each agency. However, these obstacles cannot be used as an excuse for conducting legal counseling to the public because the impact of public awareness can also increase.³³

³² Amalia Karunia Putri, "Kelemahan Undang-Undang Hak Cipta Dalam Melindungi Ekspresi Budaya Tradisional," *"Dharmasiswa" Jurnal Program Magister Hukum FHUI* 2, no. 2 (2022): 18.

³³ Yul Ernis, "Implikasi Penyuluhan Hukum Langsung Terhadap Peningkatan Kesadaran Hukum Masyarakat," *Jurnal Penelitian Hukum De Jure* 18, no. 4 (December 2018): 477, <https://doi.org/10.30641/dejure.2018.V18.477-496>.

D. CONCLUSION

1. Conclusion

Legal protection of the moral rights and economic rights of copyright owners must be increased considering the increasing number of perpetrators of film piracy from various illegal film sites on the internet. There are violations of moral rights and economic rights for copyright owners because there are still many individuals who do not respect the work of film creators by distributing films without permission from the copyright holder or often referred to as illegal film downloading and streaming activities. Illegal film sites are increasingly being made into business even though there have been efforts to block and close access from the government. According to the author, the protection of economic rights and moral rights of film copyright owners is still lacking in providing legal protection because sanctions for moral rights violators have not been clearly regulated in the Copyright Law.

The Copyright Law has regulated the Creator's Rights in the form of regulations made against Copyright Owners to obtain legal protection through mediation, criminal complaints, claims for compensation and reports on closing content and access rights. However, according to the author, it is necessary to make changes accompanied by criminal sanctions against violators so that they provide a deterrent effect and copyright owners can protect economic rights, moral rights and other rights from illegal streaming and downloading.

E. REFERENCE

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