



The Concept of Balanced Justice on the Distribution of Music Royalty

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Abstract. Nowadays, musical work is an artwork providing benefits and high business value. The public enjoys and loves it as an artwork. The role of songwriters and singers determines the success and valuable song works loved by the public. It is a marketable factor and has high economic value. In some cases, the situation makes the relationship between songwriters and singers raises problems. Even some songwriters prohibit particular singers from performing their songs. Both of them claim the rights to the songs based on law. Based on the abovementioned reasons, this study reviewed some aspects of the balanced justice value, so it is expected to be one of the solutions for the conflicts of interest between the songwriters and the singers. This study applied normative juridical research as the research method. It was conducted by illustrating the applicable regulations and some legal theories from secondary data sources.

Keywords: Songs, Songwriters, Singers, Balanced Justice

1 Introduction

Songwriters or composers and singers are two roles taking part in creating and delivering music. The two professions have different responsibilities. However, they complement each other in the processes of creating and presenting songs to the audience. Moreover, songwriters are responsible for creating melodies, harmonies, and lyrics by using their musical skills and creativity to compose songs from beginning to end. Even songwriters often have a specific artistic vision in conveying messages or emotions through their musical works.

Meanwhile, a singer is someone performing a song with her/his melodious voice and applying her/his vocal abilities to interpret and disseminate it to listeners. Moreover, singers contribute to making songs more pleasant to hear. Therefore, the collaboration between songwriters and singers is crucial in the world of music. The two can work together to produce tuneful songs with solid characters and deep meanings.

The songwriter provides the musical foundation and lyrics, and the singer performs the song to life with her/his vocal expression. The success of a song often depends on the synchronization between the songwriter and the singer in understanding and communicating the message conveyed through a song. In this case, songwriters

and singers have essential roles that are interrelated and mutually supportive in creating songs affecting the audiences' feelings and experiences.

The relationship between songwriters and singers is not always harmonious. In fact, the relationship between songwriters and singers raises some troubles. Even in some cases, several songwriters prohibit particular singers from performing their songs. In the current issue, Ahmad Dani, the songwriter, clashed with Once Mekel, the singer. The case occurred some time ago, and people did not completely understand it, but it may happen again.

Referring to profound observation, the triggers for conflict between songwriters and singers are right reasons, personal reasons, and reasons for royalties (economic rights issues). Based on these reasons, this study illustrates the alternative solutions to conflict resolution between songwriters and singers through the approach of the balanced justice principle. Therefore, the potential for future conflict between songwriters and singers can be minimized.

2 Methodology

The normative juridical method was applied as the research method of this study. In this case, the research issue explained events or law phenomena in terms of the rule of law deriving from statutory regulations, court decisions, and the doctrines of legal experts [1]. Moreover, this study employed descriptive analysis to analyze the research data. In addition, the evidence is systematically presented and interpreted to make it easier to conclude and reach the research results.

3 Analysis and Discussion

3.1 The Phenomena of Banned Songs Performance

In Indonesia, the issues of banned song performance have occurred several times, including the case of banned song performance between Ahmad Dani and Once Mekel. In addition, in 2012, Yokie Suryoprayogo and Debi Nasution banned Chrisye's song from being sung at the Kidung Abadi concert. Even in 2003, Haji Rhoma Irama banned Inul Daratista and Anisa Bahar from singing his songs.

The banned song performance case of Haji Rhoma Irama occurred in 2003. The legal reference of the case was the Copyright Law Number 6 of 1982. Subsequently, the law was updated with the issuance of the Copyright Law Number 12 of 1997. Furthermore, the Law was renewed again into the Copyright Law No. 19 of 2002 and took effect on July 29, 2003. The next banned song was entitled "Kidung Abadi." The performance of the song was banned by Yokie Suryoprayogo and Debi Nasution in 2012. The legal reference of the case was the Copyright Law Number 19 of 2002.

Meanwhile, the case of banned song performance carried out by Ahmad Dani against Once Mekel in 2023 refers to the Copyright Law Number 28 of 2014. All conflicts show that songwriters and singers argue that they have rights based on the

law. However, if these two parties continue to clash, they will have no harmonious relationship. Therefore, the beneficial artworks, especially the economic aspects of musical works providing very high financial returns, will not be reached.

3.2 Implications of Copyright Law on Conflicts between Songwriters and Singers

Copyright is a reflection of the Human Rights recognition for freedom of expression and delivering opinions through sound, images, writing, or other creations possessing artistic and economic value. This definition has been stated in the Preamble and Body of the Constitution of the Republic of Indonesia of 1945.

In Indonesia, the legal basis for copyright protection is currently *lex specialis* regulated through Law Number 28 of 2014 concerning Copyright (UUHC). One of the artworks protected by copyright is a song and/or music. Songs and/or music works refer to in Article 40 letter (d) of the Law. The songs are interpreted as complete artwork. It contains elements of songs or melodies, poetry or lyrics, as well as arrangements, including the notation. It means that the song and/or music are a unit of the artwork [2].

Copyright protects real and tangible ideas, meaning that creation should have an authenticity to possess the rights granted by law. Authenticity is closely related to the embodiment of creation [3]. In copyright, there are the concepts of moral rights and economic rights. Moral rights are inherent rights of the creator that cannot be removed for any reason, even though they have been transferred. Meanwhile, economic rights are the rights to obtain economic benefits from the artworks.

One of the moral rights is the inclusion of the creator's name on his work, even though the copyright to the creation has been sold for use by other parties. Meanwhile, the economic rights of the creator are the announcement and commercial use of a copyrighted work in the form of royalties when the copyrighted work is produced in various forms and post-production. In implementing the economic rights, obstacles and problems often arise, such as optimizing information technology and optimizing the effectiveness of royalty-collecting collective management institutions [4].

Based on the law, the basis of the statutory regulations governing the three incidents of the banned song performances mentioned above originates from the legal basis of the different copyright laws and regulations, namely the Copyright Law Number 6 of 1982, recently amended into Law No. 12 of 1997. Then, the law was updated to Copyright Law Number 19 of 2002. Currently, the legal reference of the artworks is Copyright Law Number 28 of 2014. Therefore, the potential for conflict between songwriters and singers in the view of the Law Copyright Law No. 28 of 2014 each has equal legal solid arguments.

Releasing the Copyright Law Number 28 of 2014 is a form of new enthusiasm in copyrighted works. It brought significant changes regarding the commercial use of songs in a show. Due to the issuance of this law, the Government issued a policy by establishing a Collective Management Organization not regulated in the previous Copyright law. The existence of the Collective Management Institute provides great

expectations for artists, especially songwriters, to obtain more economic rights through their works.

Moreover, Copyright Law Number 28 of 2014 states that a singer, as the copyright user, can sing a song in a performance without the songwriter's permission, but the singer only pays compensation in the form of royalties through the Collective Management Institute. Moreover, this law encourages every musician and regulates the importance of a creator to become a member of the Collective Management Institute to obtain compensation through royalties from performing songs in performances. Besides, this law states that as long as the copyright users have paid royalties to the Collective Management Institute as stipulated in Article 87 paragraph (4), it is not considered a form of copyright infringement because the copyright users have fulfilled their obligations under the agreement with the Collective Management Institute. Therefore, singers as copyright users at a performance cannot be deemed to have violated the law.

The development and orientation of Law Number 28 of 2014 concerning copyright provides broad scope and authority to the Collective Management Institute as an institution established under a copyright law order. The Collective Management Institute is categorized as a state administration tool built to prioritize the effectiveness of achieving an expected goal, especially the guarantee of receiving royalties for musicians and songwriters as the appreciation and confession for artworks.

In this case, the state has the authority to intervene in community activities to carry out tasks and realize its citizens' public interest and social welfare. Thus, there is a philosophical value in the Government's role in providing direction for regulating the distribution of royalties through a Collective Management Institution. It is compatible with the state's role in regulating its citizens' affairs, especially on those that have a negative impact and on efforts to improve the welfare of its citizens. Even the Government possesses the authority to intervene in all areas of people's lives. It means that the Government is required to act actively in the dynamics of people's lives [5]. Referring to the reasons, the purpose of forming a collective management institution is to manage the economic rights of creators or songwriters in collecting and distributing royalties to creators or songwriters.

Nevertheless, in reality, the existence of this Collective Management Institution gives the impression that it is taking rights and authority from creators and giving creators limited space for their work, which the institution automatically regulates. In addition, it can affect the creativity level of the artwork and the financial rights of the creator of a work of art, especially in composing a song.

In the world of art, especially music, moral values or ethical values receive less attention. In this case, ethical value is the copyright acknowledgement of the creators, appreciation for their creativities, and even the philosophical values of the artworks inspiring others and possessing deep impressions. Therefore, in copyrighted works, awards prioritize the fulfillment of economic rights and take into account the moral values or ethical values contained in the musical works created by the songwriters and pay attention to the moral rights of the creators or songwriters.

The moral right to copyright acknowledgment includes the name of the songwriter, and the message in each stanza of a song text has its meaning for a songwriter.

Most songwriters need a longer time to accomplish artwork because the spirits of the songs are influenced by the mood of the composers or songwriters until the singers sing the songs. Thus, the aspect of morality is one of the reasons for the high value of a songwriting work.

Explicitly the prohibition of songwriters on singers to perform their songs is not accommodated in the provisions of the Copyright Law. In addition, based on the copyright provisions stated in the Copyright Law Number 28 of 2014, out of 9 (nine) existing Articles, almost the entire content of the law regulates criminal acts of songwriters' economic rights and rights holders. However, there is only 1 (one) Criminal Provisions article in 2014, i.e., Article 112, explaining Copyright Law concerning moral rights.

Referring to the deep analysis, the article is not referred to as a provision regarding violations of the songwriter's moral rights or related to rights holders. The arrangements clearly show that the Copyright Law of 2014 prioritizes protecting the songwriters' economic rights rather than moral ones. Meanwhile, in reality, many songwriters are more concerned with their moral rights, as in the 3 (three) examples of cases mentioned above [6].

3.3 The Balanced Justice Concept in the Music Royalty Distribution

The concept of balanced justice is still rarely used in the legal paradigm. The term balanced justice has been widely discussed by Islamic jurists, especially when explaining the division of inheritance to heirs emphasizing the distribution of shares from each right owner.

Theoretically, the principle of balanced justice is the distribution of assets to the owners' rights focusing on the balance between rights and obligations, especially something that someone gets and has to pay. This concept is applied to the provisions of the rights obtained by the heirs (the recipients of the rights). Islam does not look at gender, which is the reason for differences in the acquisition of rights between male and female heirs who will receive rights commensurate with the obligations they bear towards sons accompanying the significant rights and responsibilities given by law [7].

In inheritance law, according to Islam, the principle of balanced justice implies that there must be a balance between the rights a person obtains from an inheritance with the obligations or burdens of living expenses that must be fulfilled [8]. The enforcement of the balanced concept is manifested in detailed arrangements regarding the number of shares to be received by each of the rightful heirs.

The Islamic legal system concerning inheritance and heirs receiving the inheritance aims to continue the responsibilities of each heir towards the family. Men have a double obligation towards themselves and their families, so the portion of their inheritance will also follow the magnitude of this responsibility [9].

The next understanding explaining that balanced justice is a condition with ethical values or moral value. It is indicated by the rights that must be distributed to both parents (father and mother) possessing the same value. It means that confession of a

child's assets (as heir/precedence of parents) cannot be separated from the efforts and prayers of both parents.

The values of the balanced justice principles are examined by referring to the following criteria:

1. There is recognition of the rights of owners
2. The concept of balance between rights and obligations and compatibility between what is obtained and what is used.
3. The owners are entitled to financial rights
4. There is a distribution based on appreciation and recognition for services (moral values)
5. The wisdom behind the success of the heir is the share of the heir.

Regarding the distribution of royalties, if it is assumed to be a financial distribution to the owners of the rights (songwriters and singers), it is an acknowledgment of the owners of the rights based on their portion and responsibilities for receiving payments (royalties). Another crucial aspect is the existence of appreciation for services (moral values) and collaboration between songwriters and singers, where it is only possible for a song to be performed by a singer without the songwriter's contribution.

Nowadays, the distribution of royalties focuses on materialistic aspects and is considered not by the principle of justice. Thus, it impacts the existence of a ban from the songwriters on song performances by a singer. It is a very humane action, and it is a reaction to the loss or lack of respect and recognition of the moral value of the contribution given by the songwriters.

The distribution of economic rights is only one of the things for a songwriter, although it is essential. However, the crucial thing is the acknowledgment of moral and ethical values since not a few songwriters feel pretty proud when their names, capacities, and meanings of values are conveyed to music lovers, moral values as described above, it gives a very significant impression (invaluable).

4 Conclusion and Suggestion

4.1 Conclusion

The concept of the balanced justice principles offered as a solution to conflicts between singers and songwriters can be enforced as a legal reference. It is expected that there will be a re-orientation of Law Number 28 of 2014 concerning Copyrights. In addition, it is expected that there will be improvements, primarily related to the protection of the moral rights of songwriters who do not only prioritize protecting their economic rights so that there is balanced justice between the singer and the songwriter. Furthermore, the author or the copyright holder possesses the right to exploit an artwork.

4.2 Suggestion

Copyright regulations are not only financially oriented, it needs to include elements of the moral or ethical values of artworks to be recognized in regulations.

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