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## Legal Certainty of Songwriters' Economic Rights in Music Royalty Management in Indonesia

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## Abstract

An urgent legal issue emerges from the normative disharmony between Article 9(2) and Article 23(5) of Law No. 28 of 2014 concerning Copyright. Article 9(2) requires creators to give written permission for the use of their works, implying a direct licensing mechanism, while Article 23(5) mandates the use of a collective management system through the National Collective Management Organization. This inconsistency has led to legal uncertainty, especially in the context of public performance royalties, and has disadvantaged songwriters due to a lack of transparency in royalty calculations. This study aims to examine the legal certainty of public performance licensing in Indonesia's music royalty management system by analyzing the implementation of Article 23(5) of Law No. 28 of 2014 and Government Regulation No. 56 of 2021. This study, using a normative juridical method, finds that despite Government Regulation No. 56 of 2021 establishing SILM and LMKN, licensing conflicts persist. It recommends harmonizing the regulation by clearly recognizing direct licensing under Article 9(2) while protecting moral rights under Article 5 of Law No. 28 of 2014.

## Keywords

Copyright Law, Collective Management, Direct License, Royalty System, Legal Certainty.

## 1. Introduction

Copyright serves as a vital legal instrument for protecting the rights of creators, particularly the economic rights of songwriters, as guaranteed under Law Number 28 of 2014 concerning Copyright (*Undang-Undang Hak Cipta/UUHC*) (Fafitrasari et al., 2021). This economic rights grant creator exclusive authority to derive financial benefits from the commercial use of their works—whether through reproduction, distribution, adaptation, or public performance (Mailangkay, 2017; Setiawan, 2023). Articles 8 and 9 of the UUHC establish that such rights extend for the lifetime of the creator and continue for 70 years after death, enabling economic utilization or transfer through written agreements. In parallel, Article 5 ensures the creator’s moral rights, including the right to be acknowledged and to preserve the integrity of the work (Willis et al., 2022; Syahputra et al., 2022). The significance of economic rights becomes particularly prominent in public performance contexts, such as music played in concerts, cafes, or karaoke, where the use of copyrighted works necessitates fair compensation mechanisms.

Despite clear legal provisions, disputes over the public performance of songs in Indonesia continue to escalate. Law No. 28/2014 Article 23 paragraph (5) allows commercial performances of musical works without prior written permission, provided that the remuneration is paid through a Collective Management Institution (*Lembaga Manajemen Kolektif/LMK*). This system is intended to simplify licensing while safeguarding the creator’s financial entitlements. However, the enforcement of this mechanism remains fraught with inconsistencies, particularly regarding the transparency and fairness of royalty distribution (Muhtar & Faisal, 2021). Several disputes—including Ahmad Dhani banning Once Mekel from performing Dewa 19 songs, Badai’s protest over royalty issues with Kerispatih, and similar conflicts involving Piyu, Ari Lasso, T’Koes, Radja, and The Groove—highlight the systemic challenges faced by songwriters in protecting their economic rights despite National Collective Management Institute (*Lembaga Manajemen Kolektif Nasional/LMKN*) operational framework.

Several legal and structural factors influence this issue. First, although the UUHC and PP 56/2021 collectively form an economic protection framework by establishing LMKN as the central authority for royalty collection and distribution (Situmeang & Kusmayanti, 2020; Ernatudera et al., 2023), their practical implementation often lacks uniformity and clarity. Public performance rights, a key income source for songwriters, are dependent on the licensing and royalty mechanisms enforced by LMK and LMKN, which are tasked with maintaining transparency and performing annual audits (Dewi, 2018; Setiawan, 2023). PP 56/2021 strengthens legal certainty by mandating the creation of an electronic data center for song recordings and licensing, yet disputes persist. This includes cases where creators claim inadequate compensation, despite LMKN compliance (e.g., Badai vs. Kerispatih), or demand direct licensing rather than relying on collective mechanisms (e.g., Rieka Roslan vs. The Groove). These challenges are exacerbated by varying interpretations of the UUHC provisions, including potential overlap between Article 9 (exclusive rights) and Article 23 (collective licensing rights), especially in determining who holds ultimate authority in public performances.

Although previous studies Fafitrasari et al. (2021), Willis et al. (2022) and Setiawan (2023) have emphasized the legal basis for protecting economic rights, limited attention has been given to evaluating the effectiveness of royalty collection and licensing mechanisms under PP 56/2021 when confronted with real-world disputes. Furthermore, most studies focus on normative doctrines or legal ideals, without exploring the practical tension between statutory licensing and moral rights enforcement (Lopes, 2013; Raharja, 2020; Mauludin, 2020). Comparative perspectives, such as how other jurisdictions handle direct versus collective licensing

or resolve royalty disputes through judicial and institutional frameworks, are also underexplored. In addition, ambiguities in aligning LMKN's authority with creators' exclusive rights (as shown in Article 9) continue to create interpretive uncertainty that warrants closer legal analysis.

This study aims to assess the legal effectiveness of enforcing public performance rights as a key income source for songwriters, focusing on the implementation of Article 23 paragraph (5) of Law No. 28/2014 and the royalty licensing mechanisms under Government Regulation No. 56/2021. Through a case-based analysis covering disputes such as Ahmad Dhani vs. Once Mekel, Piyu vs. Ari Lasso, Badai vs. Kerispatih, the Koes Plus family vs. T'Koes, Ipay vs. Radja, and Rieka Roslan vs. The Groove the study identifies juridical inconsistencies, institutional barriers, and regulatory gaps. The objective is to propose policy recommendations that strengthen legal certainty, improve LMKN transparency, and ensure the protection of both economic and moral rights of song creators in public performance contexts under Indonesian copyright law.

## **2. Literature Review**

Various previous studies have emphasized the critical need to protect songwriters' economic rights, especially in the context of public performances. Hafiz et al. (2021), through a normative juridical lens, underlined the increasing copyright infringements on digital platforms, stressing the urgency of strengthening legal awareness surrounding Article 58(d) of Law No. 28 of 2014 on Copyright, which affirms the exclusive nature of economic rights. Hasibuan (2008), focusing on the governance of earlier Collective Management Institutions like YKCI, demonstrated persistent challenges in royalty registration and transparency prior to the formalization of LMKN. Similarly, Taopik and Yuliawan (2023). argued that criminal sanctions outlined in Article 113 of the UUHC are often ineffective due to a lack of transparent audit mechanisms by LMKN. Theoretically, this study is grounded in the exclusivity theory, which upholds the author's direct authority over economic benefits from their work (Article 9(2), UUHC), and the utilitarian theory underpinning the collective licensing model in Government Regulation No. 56 of 2021. This regulation aims to balance the interests of creators and the public by streamlining the licensing process while preserving economic rights (Fafitrasari et al., 2021; Entjarau, 2021). The comparative legal approach is also employed, referencing the CISAC Code of Best Practices to contrast direct and collective licensing systems.

Copyright law in Indonesia, especially under Law No. 28 of 2014, provides that economic rights reproduction, distribution, adaptation, and public performance are exclusive and valid for the life of the creator plus 70 years (Setiawan, 2023). Moral rights, meanwhile, as outlined in Article 5, remain inherent, ensuring attribution and integrity of the work (Willis et al., 2022; Dharma & Mahadewi, 2023). In support, Government Regulation No. 56/2021 establishes LMKN and the Song and Music Information System (SILM), mandating the electronic registration of works, royalty management, and license enforcement. Article 23(5) of the Copyright Law further facilitates collective licensing by allowing users to conduct public performances without written consent, provided remuneration is paid through LMK.

However, real-world implementation reveals serious deficiencies. Cases such as Ahmad Dhani's restriction on Once Mekel's performances and Piyu's dispute with Ari Lasso highlight confusion between direct and collective licensing mechanisms. These conflicts often stem from ambiguity between Article 9(2) and Article 23(5), compounded by limited understanding among performers and dissatisfaction among creators with royalty transparency (Muhtar & Faisal, 2021; Rahmanda, & Benuf, 2021). Other disputes involving Kerispatih, Koes Plus, Ipay, and Rieka Roslan further illustrate systemic issues in compliance, transparency, and moral recognition.

Thus, this study integrates legal theory, statutory analysis, and international comparison to provide comprehensive insights and policy recommendations on improving the legal framework for protecting the economic rights of Indonesian songwriters.

### 3. Methods

This study uses a normative legal method with a focus on the analysis of legal norms and their consistency in protecting the economic rights of songwriters in Indonesia. The primary legal materials studied include Law Number 28 of 2014 concerning Copyright (*Undang-Undang Hak Cipta/UUHC*) and Government Regulation Number 56 of 2021 concerning Management of Royalties for Songs and/or Music which together form the legal basis for economic rights and their implementation through collective management. This method is supported by a study of doctrine, principles, and statutory provisions to develop a legal framework that is able to address the inconsistencies between articles of the law, especially Article 9 paragraph (2) and Article 23 paragraph (5) of the UUHC.

This research approach includes several components. First, the statutory approach is used to examine the structure, intent, and normative implications of the provisions in the UUHC and PP 56/2021, especially in terms of licensing mechanisms and rights management. Second, a conceptual approach is applied to define key terms such as “economic rights,” “public performance,” and “direct licensing” by referring to established legal literature and international best practices, such as the CISAC Code of Best Practices. Third, a comparative approach is used to assess the advantages and disadvantages of a direct licensing system (as permitted by Article 9(2)) compared to a collective licensing system implemented under Article 23(5), by referring to international models such as the United States individual licensing framework through the Copyright Office and performing rights organizations. Fourth, a case approach is included to analyze actual legal conflicts in the Indonesian music industry such as the disputes involving Ahmad Dhani, Piyu, Once Mekel, and Ipay that illustrate the gap between normative expectations and practical enforcement. In addition, secondary legal materials are collected from court decisions, law journals, academic commentaries, and doctrinal interpretations of copyright protection. These materials are processed using deductive logic, starting from general legal principles to specific conclusions regarding the need for regulatory harmonization and stronger protection mechanisms.

In line with Fafitrasari et al. (2021), this study acknowledges that copyright especially economic rights give songwriters exclusive authority over the reproduction, distribution, adaptation, and public performance of their works. As stipulated in Articles 8 and 9 of the Copyright Law, these rights apply as long as the creator is alive and 70 years after his/her death. However, moral rights under Article 5, such as attribution and integrity, remain non-transferable (Willis et al., 2022). Meanwhile, PP 56/2021 has institutionalized LMKN as an authorized body to collect and distribute royalties, ensuring fair compensation for rights holders (Ernatudera et al., 2023; Setiawan, 2023). This regulatory structure, although well-intentioned, still faces normative ambiguity and implementation obstacles, justifying the need for legal reform.

### 4. Results

#### 4.1. Protection of Creators' Economic Rights in Public Performances

Article 23 paragraph (5) of Law No. 28/2014 provides that commercial use of a copyrighted work in public performances can be done without the creator's written permission, provided remuneration is paid through a Collective Management Institution (*Lembaga Manajemen Kolektif/LMK*) (Jaka, 2025). Government

Regulation No. 56/2021 then mandates the establishment of the National Collective Management Institution (*Lembaga Manajemen Kolektif Nasional/LMKN*) to manage royalty collection and distribution based on electronic data systems. However, the application of this rule has sparked legal disputes, most notably the Ahmad Dhani vs. Once Mekel case. Dhani, as the songwriter, banned Once from performing Dewa 19 songs, claiming it violated his economic rights under Article 113, which requires a written agreement for commercial use. Once, in contrast, asserted that all royalty obligations had been fulfilled through LMKN per Article 23 paragraph (5), thus no direct permission was needed. This conflict highlights legal ambiguity and tension between individual control (direct licensing) and collective licensing through LMKN.

A similar issue emerged in the Badai vs. Kerispatih dispute. Although LMKN had transferred tens of millions of rupiah in royalties to Badai, he expressed dissatisfaction with the low value (e.g., only IDR 450,000 in 2024), considering the popularity of his songs. He criticized LMKN's data accuracy and royalty calculation methods, even though Kerispatih claimed to have followed all licensing procedures and submitted usage reports. This demonstrates the importance of royalty transparency and the need for more accurate and accessible royalty tracking mechanisms (Rachmatdhan, 2024). Piyu from Padi also prohibited Ari Lasso from singing his works, citing royalties as low as IDR 130,000 per performance despite high commercial value. The dispute reflects broader discontent among songwriters who feel that LMKN's system fails to capture real usage value. Dhani echoed this concern on his YouTube channel, stating the royalty system is flawed due to lack of reporting discipline from event organizers.

These cases illustrate that although the “without written permission” model facilitates access for performers, it can undermine the creators' perception of fairness if royalties are inaccurate or delayed. According to Neltje et al. (2023), this model is meant to facilitate not override economic rights. But when combined with limited understanding, creators often resort to bans or public objections, as in the Koes Plus heirs vs. T'Koes case. Here, the heirs issued a ban on rearrangements without direct permission, asserting both moral and economic rights. In response, T'Koes filed a constitutional review, arguing that the direct license model infringes on artistic freedom despite LMKN compliance. This case underscores how the overlap between moral rights (Article 5) and economic rights (Articles 8–9) can spark regulatory uncertainty.

The Ipay vs. Radja case reinforces this pattern. Ipay claimed Radja's performance of “Cinderella” lacked attribution and prior approval. Radja defended themselves by citing royalty payments through LMKN. While Article 80 requires naming the creator, Article 12 of PP 56/2021 mandates reporting usage via LMKN's SILM system. If these obligations are unmet, creators may sue or file criminal complaints under Article 113. However, enforcement depends heavily on LMKN's transparency and creators' access to usage records (Saputra et al., 2022).

Rieka Roslan's conflict with The Groove also demonstrates how creators continue to demand direct licensing and protection under Article 9(2), asserting control over arrangements and performances. Her summons was not only a defense of economic rights but also a demand for moral acknowledgment, warning organizers to verify licensing through LMKN beforehand (Adela & Isradjuningtias, 2022; Muthmainnah et al., 2022). A recurring issue in all these cases is the legal uncertainty created by the contradictory interpretations of Article 113 (which emphasizes written permission) and Article 23(5) (which allows use without written permission if royalties are paid to LMKN). Event organizers are often caught between dual obligations paying collective royalties and seeking direct licenses which can lead to administrative burdens and legal risks. Performers, unsure of their compliance, may trigger disputes despite acting in good faith.

In practice, the lack of real-time, transparent, and accountable royalty data from LMKN continues to fuel disputes. Although PP 56/2021 requires the use of electronic data centers, reports indicate these systems lack accuracy and accessibility. The royalty amounts often appear disconnected from actual performance frequency and commercial value, leading to a perception of injustice among creators. These recurring conflicts suggest that the collective licensing model in Indonesia is not yet fully aligned with the needs of stakeholders. Legal harmonization is needed to clarify the relationship between individual rights and collective mechanisms. Operational standards, such as independent audits, standardized reporting, and real-time access to LMKN's Song and Music Information System (*Sistem Informasi Lagu dan Musik/SILM*), are essential to restore trust in the royalty distribution process.

#### **4.2. Legal Certainty in Music Performance Licensing in Indonesia**

The public performance licensing system in Indonesia is regulated in Article 23 paragraph (5) of Law Number 28 of 2014 concerning Copyright, which allows commercial use of works in performances without direct written permission from the creator, provided that the compensation has been paid through the LMK. This provision aims to simplify licensing procedures while ensuring that the creator's economic rights remain protected through collective royalty payments. Government Regulation Number 56 of 2021 strengthens this mechanism by appointing the LMKN as the only official institution tasked with recording, collecting, and distributing royalties electronically. The SILM is used as a national data center, where users are required to register performances and pay royalties before or immediately after the event. In addition, PP 56/2021 also mandates annual financial and performance audits to improve the accountability of LMKN.

However, there is a conflict of norms with Article 9 paragraph (2) of the Copyright Law which requires every implementation of economic rights, including performance licenses, to obtain written permission from the creator or copyright holder. The tension between the direct licensing mechanism and the LMKN collective mechanism has caused confusion among event organizers and users of works regarding which legal obligation must be fulfilled first. Some parties interpret Article 9 as a form of exclusive protection of creators' rights, while others prioritize Article 23 paragraph (5) as an effort for administrative efficiency. In practice, this dualism of norms often triggers legal uncertainty. On the one hand, PP 56/2021 clarifies that LMKN can manage royalties from various types of performances collectively through SILM. On the other hand, Article 9 still opens up space for direct licenses for special or high-value uses, which require a written agreement regarding the scope, duration, and amount of royalties. This creates an additional administrative burden for users of works who must process two licensing pathways in parallel.

The collective system through SILM requires users to register, report performance details, pay royalties based on predetermined rates, and upload proof of payment. For music concerts, for example, the rate is 2% of total ticket sales plus 1% of free invitations, while for restaurants and cafes it is charged IDR 60,000 per seat per year. Although the system is designed to be efficient, its implementation still faces technical and social challenges in the field. One of the main issues is transparency and real-time access for creators to monitor the use of their works. Although LMKN has begun developing AI technology and reporting dashboards, many creators do not yet have full access rights to their control panels in SILM. As a result, creators must wait for quarterly reports or annual audits to find out the extent to which their works are being used commercially.

LMKN's performance data sampling method is also a source of dispute. Some creators feel that micro-performance data such as live streaming or small community events are not accurately documented, so the royalty value they receive does not reflect the actual commercial value. This inaccuracy reinforces the perception that

the collective system is not entirely fair or accountable. To address overlapping norms, PP 56/2021 needs to be supplemented with a clear-cut clause explaining the status of direct licenses, that licenses based on Article 9 paragraph (2) remain valid as long as they are recorded in SILM before the performance. That way, creators still have control over high-value works, but remain within the LMKN collective administrative framework for efficiency. In addition, there needs to be integration of moral rights recognition in one electronic form in SILM. In this way, users of works can agree to the clauses of including the name and integrity of the work together with the payment of collective royalties, thus respecting Article 5 of the Copyright Law without complicating the licensing process.

The inconsistency between Article 9 paragraph (2) and Article 23 paragraph (5) of the Copyright Law and the implementation practices of SILM by LMKN create legal uncertainty that hinders the protection of the economic rights of creators. Harmonization of legal norms and technical updates are needed so that the collective system runs transparently, efficiently, and can be trusted by all parties—both creators, performers, and event organizers.

## **5. Discussion**

Enforcement of economic rights for songwriters in Indonesia particularly in the context of public performances remains legally complex and institutionally inconsistent, despite clear protections under Law No. 28 of 2014 on Copyright (UUHC) and Government Regulation No. 56 of 2021. As illustrated by Fafitrasari et al. (2021), UUHC grants creators exclusive rights to gain financial benefits from the commercial use of their works, including reproduction, adaptation, and public performance. Articles 8 and 9 affirm these rights for the lifetime of the creator plus 70 years after his/her death, while Article 5 protects the creator's moral rights, such as attribution and artistic integrity (Willis et al., 2022; Setiawan, 2023). According to Faisal (2022) and Ernatudera et al. (2023) public performance rights, in particular, form an important revenue stream for songwriters. Article 23(5) of the UUHC allows public performances without prior written consent, provided that the fee is paid through the LMK. The LMKN, established under PP 56/2021, acts as the central authority for royalty collection, data management, and distribution. However, real-world implementation has revealed structural weaknesses. Muhtar and Faisal (2021) highlight that the existing LMKN system is rife with dissatisfaction over royalty transparency, which has sparked several legal disputes involving top Indonesian musicians.

A prominent case is that of Hurricane (ex Kerispatih), who received a royalty payment of as little as IDR 450,000 despite his popular work. He criticized the LMKN's royalty calculation which did not reflect actual usage. Kerispatih management responded by asserting procedural compliance with Article 23(5) and PP 56/2021, and submitted a performance report to the LMKN. According to Rachmatdhan, (2024) This clash shows a gap not in legal norms, but in the fairness and accuracy of royalty calculations a sentiment echoed by Ahmad Dhani and Piyu in the ban on public performances of their works by Once Mekel and Ari Lasso, respectively (Muhtar & Faisal, 2021) Theoretically, the Indonesian copyright system is based on the theory of exclusivity (Article 9(2), UUHC), which guarantees direct economic authority for creators, and the utilitarian theory underlying collective licensing as an efficient model for balancing public access and creator compensation, as expressed by Respati et al. (2016) and Fafitrasari et al. (2021). PP 56/2021 seeks to institutionalize this by requiring electronic data centers and licensing enforcement through LMKN. However, as seen in the disputes involving Koes Plus vs. T'Koes and Ipay vs. Radja, the practical tensions between exclusive and collective rights remain unresolved, particularly regarding attribution, adequacy of royalties, and moral recognition (Fadhila et al., 2018; Neltje et al., 2023).

A subsequent comparative analysis by Walukow (2022) revealed that Indonesia is less aligned with international best practices, such as the CISAC Code of Best Practices, which advocates for transparent audits and real-time royalty tracking. Piyu's call for greater accountability reflects broader issues of weak enforcement and inadequate data integration within the LMKN system. Critics such as Ahmad Dhani argue that the failure of event organizers to submit performance reports exacerbates the royalty gap, leaving creators to bear the costs of administrative inaction (Asihatka, 2024). While studies by Setiawan and Prabowo (2023) and Soemarsono and Dirkareshza (2021) acknowledge the importance of the LMKN as legal infrastructure, they also call for robust transparency protocols, including regular financial audits and independent monitoring mechanisms. In line with this, the case of Rieka Roslan underscores the importance of moral rights, where creators demand direct licenses to preserve artistic identity beyond monetary considerations (Willis et al., 2022).

## 6. Conclusion

This study finds that although Law No. 28/2014 and Government Regulation No. 56/2021 provide a normative foundation for protecting the economic rights of songwriters, their practical enforcement especially in the context of public performances remains inadequate. Key problems lie in the lack of transparency in LMKN's royalty calculation, misinterpretations between Articles 9 and 23, and insufficient technological integration for tracking digital usage.

The practical implication of these findings is the urgent need to reform Indonesia's intellectual property infrastructure by integrating policies with digital systems. Adoption of blockchain, Application Programming Interface (*Antarmuka Pemrograman Aplikasi/API*) integration, and audio fingerprinting as successfully implemented by American Society of Composers, Authors and Publishers (ASCAP) and Korea Music Copyright Association (*Asosiasi Hak Cipta Musik Korea/KOMCA*) can reduce royalty leakage (currently IDR 1.2 trillion/year) and increase accuracy and timeliness in royalty distribution (ASIRI, 2023; LPEM UI, 2023). These reforms must also include legal harmonization, clearer definitions of "commercial use," and the allocation of national development budgets (RPJMN 2024–2025) to build a sustainable ecosystem for copyright governance.

Theoretically, this study contributes to the understanding of the tension between exclusive and collective rights and reinforces the relevance of the exclusivity and utilitarian theories in copyright enforcement. However, the study's limitation lies in its reliance on ongoing case studies, such as the Arie Bias vs. Agnes Mo cassation and Ariel CS's constitutional review petition, which have not yet produced final rulings. Future research should analyze these legal outcomes once published and expand comparative insights from international systems to strengthen Indonesia's position within the global intellectual property rights regime.

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This study has obtained the necessary ethical approval, and this manuscript is an original work that has not been previously published and is not currently under consideration by another journal.

### ***Data Disclosure Statement***

The data supporting the findings of this study can be accessed from the corresponding author upon reasonable request.



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