



## Arrangements for the Distribution of Song Royalties as Joint Property Are Regulated in Copyright Law

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**Abstract:** The purpose of this research is to be able to understand how the regulation of the distribution of song royalties as joint property according to Copyright. The research method used in this research is the type of legal research used in this research is normative legal research. Normative legal research can also be referred to as doctrinal legal research. In this study, the law is often conceptualized as what is written in the legislation (law in book) or the law is conceptualized as rules or norms that become a benchmark for community behavior towards what is considered appropriate. The results of research on the regulation of the distribution of song royalties as joint property in divorce cases are not specifically regulated in the Law. However, some of the provisions described in the Copyright Law can be a guideline in this case, especially Article 18 and Article 30 of the Copyright Law. These articles stipulate that after a period of 25 years, the economic rights to song creations that were previously transferred will return to the creator or performer. This is intended to protect the economic rights of the creator or performer over their creation and prevent the transfer of economic rights that are permanent or unlimited to other parties.

**Keywords :** Distribution of Royalties; Joint Property; Copyright

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## 1. Introduction

Marriage is the inner and outer bond between a man and a woman as husband and wife with the aim of forming a happy and eternal family (household) based on the Almighty God, and the creation of domestic harmony (sakinah, mawaddah warahmah) is the dream of everyone in the household; even the Qur'an proclaims marriage as the holiest, most solid agreement (bond) between husband and wife, firm and strong (miṭṭaḡan ghalīzan). In addition, the purpose of marriage is also to avoid adultery, the successor of offspring (children) and also aims at worship.<sup>1</sup>

Marriage is established due to the intertwining (contract) physically and mentally between a man and a woman. The relationship in marriage is not just a relationship or agreement known in ordinary agreements or contracts that are only outwardly binding. But more than that, marriage is created due to the existence of a physical and mental connection so that both parties to the marriage are obliged to protect this connection, by fulfilling their obligations and certainly want to get rights as husbands and wives.<sup>2</sup>

Creating a household that is Sakinah, Mawaddah Wa Rahmah, is the goal of marriage. Meanwhile, the goal in the Marriage Law is to create a lasting and happy marriage in accordance with divinity, this goal is the same as that in KHI. In customary law, the purpose of marriage can vary depending on the environment of the indigenous community, usually depending on the religion adhered to, if it has been carried out according to religious beliefs, it is considered valid.

Generally, everyone intends to get married only once in their lifetime. They never think about getting divorced, remarrying someone else, or choosing to remain single. However, in reality this is not the case. Not a few married couples, who finally have to choose to separate or divorce. Factors of incompatibility in a number of matters, different perceptions and views of life, are at least some of the causes of divorce. The breakup of a marriage due to disharmony is called "divorce", which stems from the non-performance of the rights and obligations as husband or wife as they should be according to the applicable marriage law.

In domestic life, in addition to the problem of rights and obligations as husband and wife, there will be problems regarding property, which then becomes the source of various chaos in marriage, because it is property that is the main reason for each married couple to decide to end their marital relationship and prefer to divorce. In the event of a divorce, one of the legal consequences that must be faced is the division of the couple's joint property. Conflicts in marriage that cause a rift in the relationship between

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<sup>1</sup> Akhmad Munawar, "Sahnya Perkawinan Menurut Hukum Positif Yang Berlaku Di Indonesia," *Al-Adl : Jurnal Hukum* 7, no. 13 (January 1, 2015), <https://doi.org/10.31602/al-adl.v7i13.208>.

<sup>2</sup> Tinuk Dwi Cahyani, *Hukum Perkawinan*, vol. 1 (UMMPress, 2020).

husband and wife or even lead to divorce, usually stem from the personality of the husband and wife and matters that are closely related to marriage.<sup>3</sup>

Joint property is property obtained during the marriage from the time the marriage is entered into until the marriage ends or the termination of the marriage due to divorce, death or court decision. According to Article 35 paragraph (1) of Law Number 1 Year 1974 concerning Marriage jo. Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage that, joint property of husband and wife only includes property obtained by husband and wife during marriage, so that what is included in joint property is the result and income of the husband and the wife's income.<sup>4</sup>

With the existence of a marriage bond between a man and a woman, by law there is a mixing of assets between the two. This mixing of property causes the emergence of joint property, which is the entire property obtained during the marriage period. However, there are exceptions to this mixing of property, namely against property obtained before marriage, property obtained based on gifts and property obtained based on inheritance.<sup>5</sup> Although the mixing of assets occurs by law, it does not mean that this situation cannot be avoided. Positive law provides a way out, namely by making a marriage agreement that expressly separates the assets of the husband and wife in marriage.

In Article 35 paragraph (1) of Law Number 1 of 1974 concerning Marriage jo. Law Number 16 of 2019 concerning Amendments to Law Number 1 of 1974 concerning Marriage (hereinafter referred to as the Marriage Law) which states that property obtained during marriage becomes joint property. The property obtained during the marriage or hereinafter referred to as joint property, can be in the form of movable or immovable property, tangible objects or intangible property. As Article 91 of the Compilation of Islamic Law states "joint property can be in the form of tangible or intangible objects. Tangible joint assets can include immovable objects, movable objects and securities. Intangible joint property can be in the form of rights and obligations. Joint assets can be used as collateral by one party with the consent of the other party".<sup>6</sup>

Copyright Law does not specifically regulate the joint property. However, copyright can be considered as part of the joint property. Article 16 paragraph (2) of the Copyright Law states that Copyright may be transferred or assigned, either in whole or in part due

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<sup>3</sup> Moh Ali Wafa, "Hukum Perkawinan Di Indonesia: Sebuah Kajian Dalam Hukum Islam Dan Hukum Materil" (YASMI (Yayasan Asy-Syari'ah Modern Indonesia), 2018), <https://repository.uinjkt.ac.id/dspace/bitstream/123456789/71252/1/Buku.pdf>.

<sup>4</sup> Besse Sugiswati, "Konsepsi Harta Bersama Dari Perspektif Hukum Islam, Kitab Undang-Undang Hukum Perdata Dan Hukum Adat," *Perspektif* 19, no. 3 (2014): 201-11.

<sup>5</sup> Dahlia Putri Afnim Tri, "PEMBAGIAN HARTA BERSAMA ATAS ROYALTI HAK KEKAYAAN INTELEKTUAL (HKI) BERUPA HAK CIPTA (COPYRIGHTS)" (PhD Thesis, Universitas Andalas, 2024), <http://scholar.unand.ac.id/467163/>.

<sup>6</sup> Titie Rachmiati Poetri, "Penyelesaian Pembagian Hak Cipta Dan Hak Atas Merek Sebagai Harta Bersama Dalam Perceraian Islam," *Lex Renaissance* 5, no. 2 (2020): 344-57.

to: (a) inheritance; (b) grants; (c) waqf; (d) will; (e) written agreement; or (f) other causes justified in accordance with the provisions of laws and regulations. In the context of joint property, point (e) written agreements can include marital agreements governing joint property. The Copyright Law distinguishes between moral rights and economic rights. Moral rights remain attached to the creator, while economic rights can be transferred. In the case of joint property, what is generally divided is the economic rights of the copyright, not the moral rights.<sup>7</sup>

However, there are some things that are regulated in Law Number 28 of 2014 concerning Copyright that can be a guideline in the distribution of royalties, namely in Article 18 which reads "Creation of books, and / or all other written works, songs and / or music with or without text transferred in a sale and / or transfer agreement indefinitely, the Copyright passes back to the Creator when the agreement reaches a period of 25 (twenty-five) years. " and Article 30 which reads "Performers' works in the form of songs and/or music that are transferred and/or sold for economic rights, ownership of the economic rights reverts back to the performers after a period of 25 (twenty-five) years." These two articles stipulate that after a period of 25 years, the economic rights to song creations that were previously transferred will revert back to the creator or performer. Thus these two articles aim to protect the economic rights of creators or performers over their creations and prevent the transfer of economic rights permanently or indefinitely to other parties.

In Indonesia, Copyright and Related Rights as part of Intellectual Property Rights (IPR), now have a regulatory place in Law No. 28 of 2014 concerning Copyright, hereinafter abbreviated as UUHC 2014. One of the creations protected by copyright is a song and / or music. The work of songs and / or music as Article 40 letter (d) of the UUHC can be interpreted as a whole creation that only has elements of songs or melodies, poems or lyrics as well as arrangements, including notations in the sense that the song and / or music is a unitary copyrighted work.<sup>8</sup>

Copyright as mentioned in Article 1 letter (a) UUHC 2014, is an intangible property right that is born automatically based on the declarative principle after a creation is realized in real form. Especially in the field of songs and music, the development of digital technology makes access to both so easy. Music or song as a protected creation gives rise to economic rights for its creator. Law number 28 of 2014 concerning copyright reads; "Economic rights are the exclusive rights of the Creator or Copyright Holder to obtain economic benefits for the Creation".

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<sup>7</sup> Nur Azizah, Ach Faisol, and Moh Muslim, "TINJAUAN HUKUM POSITIF DAN HUKUM ISLAM TERHADAP PEMBAGIAN HAK ROYALTI SEBAGAI HARTA BERSAMA PASCA PERCERAIAN," *Jurnal Hikmatina* 6, no. 1 (2024): 158–66.

<sup>8</sup> Muhammad Frengki, "ANALISIS YURIDIS TERHADAP ROYALTI ATAS KARYA SENI MUSIK SEBAGAI OBJEK DARI HARTA BERSAMA MENURUT PERATURAN PERUNDANG-UNDANGAN DI INDONESIA" (PhD Thesis, UPN Veteran Jawa Timur, 2024), <https://repository.upnjatim.ac.id/23694/>.

Songs are included in the realm of protected IPR as stipulated in Article 58 letter (d) of law number 28 of 2014 concerning Copyright (UUHC), namely copyright protection for song or music creations with or without text. As protected by the UUHC, songwriters are entitled to economic rights over their creations. This economic right is needed as a form of appreciation or value for the creative results of his creation in the form of songs that can be enjoyed by the public or people when listening to it. This means that the creator is entitled to economic rights from songs enjoyed by the public.<sup>9</sup>

Royalties according to KBBI are service money paid by publishers to authors for each book published, or service money paid by people (companies, etc.) for the goods they produce to people (companies) who have rights to the goods. While royalties according to the provisions of Article 1 number 21 of the UUHC, "Royalties are compensation for the utilization of economic rights of a creation or related rights product received by the creator or owner of related rights".<sup>10</sup> Royalties are the creator's right in return for a license, either a compulsory license or a voluntary license. Thus, royalty is a reward given by the user of the protected creation to the creator.

Royalty itself can be interpreted as compensation for the use of a creation including copyrighted works of songs. Users of songs or music that often listen to songs created by someone for commercial purposes, which means that the song or music is listened to again by someone's creation that is beneficial to him for example hotels, discos, restaurants, radio and television, karaoke and so on are required to pay royalties to the copyright holder of the song.

For example, a case related to the demand for royalty rights in the divorce lawsuit of Inara Rusli, the ex-wife of Last Child music group vocalist Virgoun Putra Tambunan. If granted, Inara asked for 2/3 of the royalty fee for Virgoun's songs for the needs of her children after their divorce. Inara Rusli and Virgoun themselves got married on December 14, 2014. Through Virgoun's Youtube channel, there are songs he released in the span of his marriage year to date. Virgoun in 2017 had said that one of his songs entitled "Bukti" was a song he created for Inara Rusli, who was his wife at the time.

If the work is proven to have existed after the marriage, then there is also a sharing of the economic value of the royalties from the work to the ex-spouse who will divorce. Therefore, Inara Rusli's royalty claim against Virgoun in her divorce suit can be justified and implemented in accordance with positive law. The amount of value can follow the arrangements related to the division of joint property stipulated in Article 97 of the Compilation of Islamic Law which states that divorced widows or widowers are each

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<sup>9</sup> Dyah Auliah Rachma Ruslan, "Royalti Lagu Sebagai Harta Bersama Dalam Perkawinan Menurut Hukum Nasional Dan Hukum Islam," *Jurnal Tana Mana* 5, no. 2 (2024): 227-41.

<sup>10</sup> Arso Arso, "Hak Atas Kekayaan Intelektual (HAKI) Sebagai Harta Bersama Dalam Perspektif Undang-Undang Nomor 1 Tahun 1974 Dan Kompilasi Hukum Islam" (PhD Thesis, Pascasarjana UIN-SU, 2016), <http://repository.uinsu.ac.id/3785/1/Disertasi%20Revisi%202012-09-2017.pdf>.

entitled to one-half of the joint property as long as it is not specified otherwise in the marriage agreement.

On Friday, November 10, 2023 at the West Jakarta Religious Court, the divorce of singer Virgoun and Inara Rusli found its final chapter after the Panel of Judges read out the verdict in Case Number 1622/PDT.G/2023/PA.JB. The Panel of Judges of the West Jakarta Religious Court determined that 50% (fifty percent) of the net royalty income obtained by the Convention Defendant as the creator of the songs Surat Cinta Untuk Starla, Bukti, and Selamat from PT Digital Rantai Maya as the publisher is the joint property of Inara Rusli and Virgoun. The Panel determines that one-half of the joint property belongs to Inara Rusli and the other one-half belongs to Virgoun. Ordering Virgoun to divide and deliver one-half of the royalties to Inara Rusli to which she is entitled.<sup>11</sup>

Inara won joint property status for the song "Surat Cinta untuk Starla, Bukti, dan Selamat". Inara explained that her decision to choose the three songs as joint property was not without reason. This is due to his involvement as the center of Virgoun's inspiration. Virgoun's ex-wife claims that Virgoun admitted himself that the three songs were inspired by him. Inara's attorney, Arjana Bagaskara also said that if the song did not have economic value, Inara would not sue him. But because this has economic value and is important for the survival of Inara and her children.

## **2. Method**

The type of legal research used in this research is normative legal research. Normative legal research can also be called doctrinal legal research. In this research, law is often conceptualized as what is written in statutory regulations (law in book) or law is conceptualized as rules or norms which are a benchmark for people's behavior towards what is considered appropriate. However, in fact, law can also be conceptualized as what is in action (law in action). Law in the book is a law that should work as expected, both are different, meaning that the law in the book is often different from the law in people's lives.<sup>12</sup>

## **3. Arrangements for distribution of song royalties as joint assets according to Law Number 28 of 2014 concerning Copyright**

Royalties according to the provisions of Article 1 point 21 of the Copyright Law, namely, "Royalties are compensation for the use of the Economic Rights of a Creation or Related Rights Product received by the creator or owner of the related rights". According to Article 1 number 1 Government Regulation no. 56 of 2021 concerning Management of

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<sup>11</sup> Sugiswati, "Konsepsi Harta Bersama Dari Perspektif Hukum Islam, Kitab Undang-Undang Hukum Perdata Dan Hukum Adat."

<sup>12</sup> Budi Juliarda et al., *Metode Penelitian Hukum* (CV. Gita Lentera, 2023),

Song and/or Music Copyright Royalties, royalties are compensation received by the creator or owner of related rights for the use of economic rights from copyrighted works or related rights products.<sup>13</sup>

Intellectual property, including copyright, is a unique work of art and is protected by the Copyright Law.<sup>14</sup> Copyright as joint ownership cannot be equated with other types of property because of its unique nature. According to Kadri Mohamad, an intellectual property rights expert, music copyright cannot be given completely to another party. He argues that copyright ownership is a personal right of the creator that is related to moral rights. Except for economic rights that can be inherited, copyright to songs remains with the creator even after they die. The exclusive right of the creator or copyright holder to obtain financial benefits from their work is known as economic rights. These economic rights can be given to other parties in various ways, such as by providing a license. Creators can enter into licensing agreements without the consent of both parties. The Copyright Law also limits license ownership of copyright to 25 years.<sup>15</sup>

Although moral rights cannot be transferred or inherited while the owner of the rights is still alive, royalty rights can be inherited or owned by another person through a will or other means after the creator dies. If the moral rights of the creator are transferred, the recipient of the rights can waive or refuse to fulfill these rights with a written statement. Publishing, duplicating, translating, arranging, distributing, performing and renting copyright works can be carried out by the creator or copyright owner in accordance with their authority. As a result of these provisions, copyrights can be assigned to other parties and have commercial value. As a result, copyright can be categorized as a material right.

The problem of dividing joint assets is now increasingly complex, especially regarding Intellectual Property Rights. IPR, or what is known as Intellectual Property Rights (IPR), is defined as the result of creativity that produces products or processes that are beneficial to humans.<sup>16</sup> Article 27 paragraph 2 of the 1948 World Declaration of Human Rights states that "Everyone has the right to obtain the protection of moral and material

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<sup>13</sup> Hanifah Indriyani Anhar, "Analisis Royalti Hak Cipta Lagu Sebagai Harta Bersama Dalam Gugatan Cerai," *Jurnal Res Justitia: Jurnal Ilmu Hukum* 4, no. 1 (2024): 89-95.

<sup>14</sup> Salsabila Asha, "PELAKSANAAN UNDANG-UNDANG NOMOR 28 TAHUN 2014 TENTANG HAK CIPTA TERKAIT PEMUNGUTAN ROYALTI PADA RUMAH KARAOKE DI KOTA JAMBI Telah" (PhD Thesis, Ilmu Hukum, 2021), <https://repository.unja.ac.id/25682/>.

<sup>15</sup> Nafisah Muthmainnah, Praxedis Ajeng Pradita, and Cika Alfiah Putri Abu Bakar, "Perlindungan Hukum Terhadap Hak Cipta Bidang Lagu Dan/Atau Musik Berdasarkan PP Nomor 56 Tahun 2021 Tentang Pengelolaan Royalti Hak Cipta Lagu Dan/Atau Musik," *Padjadjaran Law Review* 10, no. 1 (2022): 110-23.

<sup>16</sup> Ezgie Riadhi Saleh, "PELANGGARAN PEMALSUAN HAK CIPTA DALAM DUNIA MAYA PERSPEKTIF HUKUM ISLAM DAN HUKUM POSITIF" (B.S. thesis, Fakultas Syariah dan Hukum Universitas Islam Negeri Syarif Hidayatullah Jakarta), accessed July 27, 2024, <https://repository.uinjkt.ac.id/dspace/handle/123456789/57300>.

interests derived from the production of scientific, artistic literature in terms of ideas as a creator."

Works created by creators, designers, or investors are protected from unauthorized exploitation by others by intellectual property law. This includes human intellectual works in the fields of literature, art, science, and invention, as well as protection of brands owned by individuals or companies that reflect the quality, reputation, or quality of goods or services. In short, the right to obtain financial benefits from intellectual creativity is defined as intellectual property.<sup>17</sup>

Article 58 Law no. 28 of 2014 concerning Copyright defines songs and music, both with text and without text, as works protected by copyright in Indonesia. Copyright is an exclusive right that includes moral and financial rights. Economic rights to songs, in particular, are maintained for seventy years after the creator dies or fifty years after the announcement of copyright by a legal entity.

Creators, copyright holders and owners of rights related to songs and/or music are legally protected and guaranteed by Law no. 28 of 2014 concerning Copyright to increase national creativity, especially in the field of songs and/or music. The work has economic rights for commercial use as royalties, namely compensation for the use of the economic rights of a work or related rights product. A clear, high-quality and well-targeted royalty management mechanism supported by information technology is needed to guarantee legal protection and certainty for the economic rights of creators, copyright holders and owners of related rights to songs and/or music. LMKN, an institution authorized under the law whose task is to collect, collect and protect the economic rights of creators and owners of related rights to songs and/or music.

Creators and related rights owners benefit from royalties because it helps them obtain profits or economic rights from the use of songs and music collected through the National Collective Management Institute (LMKN). LMKN was formed by the government to collect and distribute royalty payments and monitor their economic rights. Articles 3, 8 and 9 PP no. 56 of 2021 explains the duties of LMKN. LMKN manages royalties using integrated data from the song and/or music data center. This means that anyone who wants to use songs and music commercially for public services must apply for a license to LMKN from the copyright holder or owner of related rights.<sup>18</sup>

As previously mentioned, LMKN is responsible for collecting and distributing royalties to copyright holders, related rights and creators. LMKN's vision is to increase income from the use of copyrighted songs and/or music for copyright holders and related rights. In addition, LMKN's mission is to manage royalties for the use of copyrighted

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<sup>17</sup> Maria Alfons, "Implementasi Hak Kekayaan Intelektual Dalam Perspektif Negara Hukum," *Jurnal Legislasi Indonesia* 14, no. 3 (2017): 301-11.

<sup>18</sup> Antonio Rajoli Ginting, "Peran Lembaga Manajemen Kolektif Nasional Dalam Perkembangan Aplikasi Musik Streaming," *Jurnal Ilmiah Kebijakan Hukum* 13, no. 3 (2019): 379.



songs and/or music in a transparent, proportional and fair manner in accordance with the law.<sup>19</sup>

Copyright for songs and/or music owned by the creator is the starting point for the formation of economic rights in the form of royalties.<sup>20</sup> Royalties resulting from copyrights created and registered during the marriage period are objects of joint property, in accordance with the provisions of Article 35 paragraph (1) of the UUP, Article 119 of the Civil Code, and Articles 85-97 of the KHI. Article 91 KHI details the forms of joint property, which include tangible objects, intangible objects in the form of rights and obligations, immovable objects and movable objects. Copyright is included in the category of intangible objects in the form of rights, because it originates from human intellectual activity and provides exclusive rights in the form of economic rights.

In the decision on Case Number 1622/PDT.G/2023/PA.JB, the West Jakarta Religious Court Panel of Judges decided that 50% of the net royalty income obtained by Virgoun as the creator of the songs "Surat Cinta untuk Starla", "Bukti", and " "Congratulations" from PT Digital Chain Maya as publisher, which is a joint treasure between Inara Rusli and Virgoun.

Based on Article 35 paragraph (1) Law no. 1 of 1974 concerning Marriage jo . UU no. 16 of 2019 concerning Marriage states: "Property acquired during marriage becomes joint property." Then, Article 1 letter (f) of the Compilation of Islamic Law states: "Wealth assets or syirkah are assets acquired either individually or together by husband and wife during the marriage bond and are hereinafter referred to as joint assets, regardless of whether they are registered in anyone's name." Meanwhile, Article 91 of the Compilation of Islamic Law explains: "that joint assets can be in the form of immovable objects, movable objects and securities, then the intangibles can be in the form of rights or obligations." So based on these articles, according to the judge, Virgoun's songs which were released during the years of their marriage became joint property.

The legal process did not go through the subpoena stage against Inara and Virgoun in the case of their joint property dispute. There was no agreement regarding the copyright dispute as part of joint assets through mediation, so the case went to the evidentiary hearing stage in court. The District Court handles copyright disputes to determine who is entitled to copyright royalties. On the other hand, royalty calculations are carried out in the Commercial Court. In accordance with Article 50 (1) Law no. 50 of 2009 concerning the Second Amendment to Law no. 7 of 1989 concerning Religious Courts, these disputes must be resolved in the Religious Courts. However, if a dispute regarding the

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<sup>19</sup> DARI HAK CIPTA, "PERAN LEMBAGA MANAJEMEN KOLEKTIF NASIONAL (LMKN) DALAM MENGHIMPUN ROYALTY," accessed July 27, 2024, <https://jdih.univpancasila.ac.id/common/dokumen/ekidupt220063.pdf>.

<sup>20</sup> Egi Reksa Saputra, Fahmi Fahmi, and Yusuf Daeng, "Mekanisme Pembayaran Royalti Untuk Kepentingan Komersial Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta," *Jurnal Pendidikan Tambusai* 6, no. 3 (2022): 13658–378.

object of royalty rights to copyright has been resolved in the Religious Court, then the dispute regarding this matter can be processed in the Commercial Court.<sup>21</sup>

The distribution of royalties in the context of divorce does not have regulations that specifically regulate it in law. However, several aspects related to royalty distribution can be referred to the provisions contained in Law no. 28 of 2014 concerning Copyright as a guide:

1. Article 8 of Law Number 28 of 2014 concerning Copyright explains that "Economic rights are the exclusive rights of the Creator or Copyright Holder to obtain economic benefits from the Creation."
2. Article 18 of Law Number 28 of 2014 concerning Copyright which reads "Book creations, and/or all other written works, songs and/or music with or without text which are transferred in a sale and/or transfer agreement without time limit, "The copyright passes back to the creator when the agreement reaches a term of 25 (twenty five) years."
3. Article 30 of Law Number 28 of 2014 concerning Copyright "The work of the Performer in the form of songs and/or music whose economic rights are transferred and/or sold, ownership of the economic rights is transferred back to the Performer after a period of 25 (twenty five ) years. "
4. Article 58 paragraph (1) of Law Number 28 of 2014 concerning Copyright explains the validity period of economic rights which reads "Copyright protection for song or music creations with or without text is valid for the lifetime of the creator and continues for 70 (seventy) years after the Creator dies, starting from January 1 of the following year."

The division of community property, including copyright royalties, involves vigorous efforts by the copyright holder to gain legal recognition of his or her right to obtain the financial benefits necessary for a good life. It is known that the process of obtaining economic rights to copyright is very different from the process of acquiring property in general.<sup>22</sup> Consequently, to ensure a fair distribution of joint assets, careful consideration and evaluation is necessary.

According to researchers, there are 2 differences in statutory regulations, where the provisions regarding royalties in accordance with Article 18 of the Copyright Law state that "Book creations, and/or all other written works, songs and/or music with or without transferred text in a sale and/or transfer agreement without a time limit, the copyright is transferred back to the creator when the agreement reaches a period of 25 (twenty five) years." Meanwhile, according to the Marriage Law, Article 35 paragraph (1) states "Property acquired during marriage becomes joint property".

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<sup>21</sup> Andry Setiawan and Muchammad Shidqon Prabowo, "IMPLEMENTASI LEMBAGA MANAJEMEN KOLEKTIF NASIONAL (LMKN) DALAM PENARIKAN ROYALTI KARYA CIPTA LAGU," *Hukum Dan Politik Dalam Berbagai Perspektif*, no. 1 (2023): 24-45.

<sup>22</sup> Anhar, "Analisis Royalti Hak Cipta Lagu Sebagai Harta Bersama Dalam Gugatan Cerai."

The purpose of copyright law is to protect the rights of creators to their works, including giving songwriters the right to obtain financial benefits from these works. However, the Marriage Law regulates marital relations, including the fair division of joint assets in cases of divorce. The Marriage Law stipulates that property acquired during marriage, including song royalties, is joint property. Therefore, the researcher believes that, even though there is a conflict between these two laws, the interests and rights of each party can be considered to reach a fair and balanced settlement. They also believe that the principle of justice will be applied in the division of joint assets in divorce cases.

### 3.1 The Role Of Each Party In Song Creation

Song or music creators are individuals or groups of people who create songs or music based on their own inspiration and dexterity, skill, skill or expertise, which is realized in a unique and personal form. A song or musical work consists of various elements, such as melody, lyrics and musical notation, which form a creative whole.<sup>23</sup>

In the case of a married couple creating songs, they can perform various roles, such as writing lyrics, music writer, producer, vocalist, etc. The court in a divorce case can determine a fair distribution of royalties based on the role and contribution of each party in the creation of the song.<sup>24</sup> Those who make larger contributions are also more likely to receive a larger share of royalties.

HAKI Database , a number of songs sung by Virgoun have been released starting from the year of her marriage until now. Inara Rusli and Virgoun married on December 14 2014. In 2017, Virgoun stated that one of his songs entitled "Evidence" was a work he created for Inara Rusli, who was then his wife. It's important to consider the contribution to song ownership or copyright. If someone is directly involved in the process of creating a song, they can be considered to have contributed to its creation.

A person who provides inspiration cannot claim to be the creator, according to IPR expert Kadri Mohamad, unless they took part in the process of creating the work. Songwriters have the exclusive right to compose songs without having to record the source of inspiration. However, if a wife claims that she has written some song lyrics but they were not recorded by her husband, then the wife can file a lawsuit at the Commercial Court. On the other hand, if the husband admits that the wife has written the song, then a declaration and re-registration is required by the Directorate General of Intellectual Property Rights.

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<sup>23</sup> Rezky Lendi Maramis, "Perlindungan Hukum Hak Cipta Atas Karya Musik Dan Lagu Dalam Hubungan Dengan Pembayaran Royalti," *Lex Privatum* 2, no. 2 (2014), <https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/4537>.

<sup>24</sup> Arya Utama, Titin Titawati, and Aline Febryani Loilewen, "Perlindungan Hukum Terhadap Hak Cipta Lagu Dan Musik Menurut Undang-Undang Nomor 28 Tahun 2004," *Ganec Swara* 13, no. 1 (2019): 78-83.

## 4. Conclusion

Arrangements regarding the distribution of song royalties as joint assets in divorce cases are not specifically regulated in the law. However, several provisions explained in Law Number 28 of 2014 concerning Copyright can be a guide in this matter, especially Article 18 and Article 30 of the Copyright Law. These articles stipulate that after a period of 25 years, the economic rights to song creations that were previously transferred will return to the creator or performer. This is intended to protect the economic rights of the creator or performer over their work and prevent the permanent or indefinite transfer of economic rights to another party.

## References

- Alfons, Maria. "Implementasi Hak Kekayaan Intelektual Dalam Perspektif Negara Hukum." *Jurnal Legislasi Indonesia* 14, No. 3 (2017): 301-11.
- Anhar, Hanifah Indriyani. "Analisis Royalti Hak Cipta Lagu Sebagai Harta Bersama Dalam Gugatan Cerai." *Jurnal Res Justitia: Jurnal Ilmu Hukum* 4, No. 1 (2024): 89-95.
- Ahmad; Wantu, Fence M.; Ismail, Dian Ekawaty. "Constitutional Dialogue In Judicial Review At The Indonesian Constitutional Court: The Future Prospects." *J. Legal Ethical & Regul. Issues* 25 (2022): 1.
- Arso, Arso. "Hak Atas Kekayaan Intelektual (HAKI) Sebagai Harta Bersama Dalam Perspektif Undang-Undang Nomor 1 Tahun 1974 Dan Kompilasi Hukum Islam." Phd Thesis, Pascasarjana UIN-SU, 2016. [Http://Repository.Uinsu.Ac.Id/3785/1/Disertasi%20Revisi%2012-09-2017.Pdf](http://Repository.Uinsu.Ac.Id/3785/1/Disertasi%20Revisi%2012-09-2017.Pdf).
- Asha, Salsabila. "PELAKSANAAN UNDANG-UNDANG NOMOR 28 TAHUN 2014 TENTANG HAK CIPTA TERKAIT PEMUNGUTAN ROYALTI PADA RUMAH KARAOKE DI KOTA JAMBI Telah." Phd Thesis, Ilmu Hukum, 2021. [Https://Repository.Unja.Ac.Id/25682/](https://Repository.Unja.Ac.Id/25682/).
- Azizah, Nur, Ach Faisol, And Moh Muslim. "TINJAUAN HUKUM POSITIF DAN HUKUM ISLAM TERHADAP PEMBAGIAN HAK ROYALTI SEBAGAI HARTA BERSAMA PASCA PERCERAIAN." *Jurnal Hikmatina* 6, No. 1 (2024): 158-66.
- Cahyani, Tinuk Dwi. *Hukum Perkawinan*. Vol. 1. Ummpress, 2020.
- CIPTA, DARI HAK. "PERAN LEMBAGA MANAJEMEN KOLEKTIF NASIONAL (LMKN) DALAM MENGHIMPUN ROYALTY." Accessed July 27, 2024. [Https://Jdih.Univpancasila.Ac.Id/Common/Dokumen/Ekidupt220063.Pdf](https://Jdih.Univpancasila.Ac.Id/Common/Dokumen/Ekidupt220063.Pdf).
- Frengki, Muhammad. "ANALISIS YURIDIS TERHADAP ROYALTI ATAS KARYA SENI MUSIK SEBAGAI OBJEK DARI HARTA BERSAMA MENURUT PERATURAN PERUNDANG-UNDANGAN DI INDONESIA." Phd Thesis, UPN Veteran Jawa Timur, 2024. [Https://Repository.Upnjatim.Ac.Id/23694/](https://Repository.Upnjatim.Ac.Id/23694/).
- Ginting, Antonio Rajoli. "Peran Lembaga Manajemen Kolektif Nasional Dalam Perkembangan Aplikasi Musik Streaming." *Jurnal Ilmiah Kebijakan Hukum* 13, No. 3 (2019): 379.

- Juliardi, Budi, Yoan Barbara Runtunuwu, Mohammad Hendy Musthofa, Andi Darmawansya TL, Arini Asriyani, Raju Moh Hazmi, Muh Akbar Fhad Syahril, Tri Eka Saputra, Zuhdi Arman, And Muhammad A. Rauf. *Metode Penelitian Hukum*. CV. Gita Lentera, 2023. [https://Books.Google.Com/Books?Hl=Id&Lr=&Id=Vyxbeaaqbj&Oi=Fnd&Pg=PA107&Dq=Metode+Penelitian+Hukum+2023&Ots=Ursvkn1yd1&Sig=Qzjh2foris3ga8\\_Dexukt\\_YWOYY](https://books.google.com/books?hl=id&lr=&id=Vyxbeaaqbj&oi=fnd&pg=PA107&dq=Metode+Penelitian+Hukum+2023&ots=Ursvkn1yd1&sig=Qzjh2foris3ga8_Dexukt_YWOYY).
- Maramis, Rezky Lendi. "Perlindungan Hukum Hak Cipta Atas Karya Musik Dan Lagu Dalam Hubungan Dengan Pembayaran Royalti." *Lex Privatum* 2, No. 2 (2014). [https://Ejournal.Unsrat.Ac.Id/Index.Php/Lexprivatum/Article/View/4537](https://ejournal.unsrat.ac.id/index.php/lexprivatum/article/view/4537).
- Munawar, Akhmad. "SAHNYA PERKAWINAN MENURUT HUKUM POSITIF YANG BERLAKU DI INDONESIA." *Al-Adl : Jurnal Hukum* 7, No. 13 (January 1, 2015). [https://Doi.Org/10.31602/Al-Adl.V7i13.208](https://doi.org/10.31602/Al-Adl.V7i13.208).
- Muthmainnah, Nafisah, Praxedis Ajeng Pradita, And Cika Alfiah Putri Abu Bakar. "Perlindungan Hukum Terhadap Hak Cipta Bidang Lagu Dan/Atau Musik Berdasarkan PP Nomor 56 Tahun 2021 Tentang Pengelolaan Royalti Hak Cipta Lagu Dan/Atau Musik." *Padjadjaran Law Review* 10, No. 1 (2022): 110-23.
- Paruki, Novia Rahmawati A., and Ahmad Ahmad. "Efektivitas Penegakan Hukum Tambang Ilegal." *Batulis Civil Law Review* 3.2 (2022): 177-186.
- Pulubolo, Rifky, Mutia Cherawaty Thalib, and Ahmad Ahmad. "Legal Process for Banking Negligence in Violations of Customers' Privacy Rights and Personal Data." *Estudiante Law Journal* 1.1 (2024): 1-13.
- Poetri, Titie Rachmiati. "Penyelesaian Pembagian Hak Cipta Dan Hak Atas Merek Sebagai Harta Bersama Dalam Perceraian Islam." *Lex Renaissance* 5, No. 2 (2020): 344-57.
- Ruslan, Dyah Auliah Rachma. "Royalti Lagu Sebagai Harta Bersama Dalam Perkawinan Menurut Hukum Nasional Dan Hukum Islam." *Jurnal Tana Mana* 5, No. 2 (2024): 227-41.
- Saleh, Ezgie Riadhi. "PELANGGARAN PEMALSUAN HAK CIPTA DALAM DUNIA MAYA PERSPEKTIF HUKUM ISLAM DAN HUKUM POSITIF." B.S. Thesis, Fakultas Syariah Dan Hukum Universitas Islam Negeri Syarif Hidayatullah Jakarta. Accessed July 27, 2024. [https://Repository.Uinjkt.Ac.Id/Dspace/Handle/123456789/57300](https://repository.uinjkt.ac.id/dspace/handle/123456789/57300).
- Saputra, Egi Reksa, Fahmi Fahmi, And Yusuf Daeng. "Mekanisme Pembayaran Royalti Untuk Kepentingan Komersial Berdasarkan Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta." *Jurnal Pendidikan Tambusai* 6, No. 3 (2022): 13658-378.
- Setiawan, Andry, And Muchammad Shidqon Prabowo. "IMPLEMENTASI LEMBAGA MANAJEMEN KOLEKTIF NASIONAL (LMKN) DALAM PENARIKAN ROYALTI KARYA CIPTA LAGU." *Hukum Dan Politik Dalam Berbagai Perspektif*, No. 1 (2023): 24-45.
- Sugiswati, Besse. "Konsepsi Harta Bersama Dari Perspektif Hukum Islam, Kitab Undang-Undang Hukum Perdata Dan Hukum Adat." *Perspektif* 19, No. 3 (2014): 201-11.

- Yassine, Chami, et al. "Admissibility of Lawsuits Based on Interest under Algerian Civil and Administrative Procedures." *Jambura Law Review* 6.2 (2024): 286-303.
- Tri, Dahlia Putri Afrim. "PEMBAGIAN HARTA BERSAMA ATAS ROYALTI HAK KEKAYAAN INTELLEKTUAL (HKI) BERUPA HAK CIPTA (COPYRIGHTS)." Phd Thesis, Universitas Andalas, 2024. [Http://Scholar.Unand.Ac.Id/467163/](http://Scholar.Unand.Ac.Id/467163/).
- Utama, Arya, Titin Titawati, And Aline Febryani Loilewen. "Perlindungan Hukum Terhadap Hak Cipta Lagu Dan Musik Menurut Undang-Undang Nomor 28 Tahun 2004." *Ganec Swara* 13, No. 1 (2019): 78-83.
- Wafa, Moh Ali. "Hukum Perkawinan Di Indonesia: Sebuah Kajian Dalam Hukum Islam Dan Hukum Materil." YASMI (Yayasan Asy-Syari'ah Modern Indonesia), 2018. [Https://Repository.Uinjkt.Ac.Id/Dspace/Bitstream/123456789/71252/1/Buku.Pdf](https://Repository.Uinjkt.Ac.Id/Dspace/Bitstream/123456789/71252/1/Buku.Pdf).