

RESPECTING SONG COPYRIGHTS AND STRENGTHENING THE NATIONAL COLLECTIVE MANAGEMENT INSTITUTION IN REDUCING SOCIAL PROBLEMS IN INDONESIA

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ABSTRACT

Song is one of the creations that are protected by legal provisions regarding copyrights. Copyright is unique because it concerns economic and moral contexts.¹In Indonesia, there are several problems related to song copyrights. They are usually settled down through a mediation process, arbitration proceedings, and alternative dispute resolution processes. They are also settled down through a due process using criminal laws. They are also settled down through a due process using civil laws in a commerce court. The article aims at discussing a solution to problems related to song copyrights which do cause several social problems. Due to the pandemic era of Corona Virus 19 (Covid-19,) the author employs the qualitative approach through a literature study. The results of the study reveal that there are two kinds of problems related to song copyrights: disputes and infringements. Disputes can be solved using either criminal law or civil law. The author highly recommends to empower the National Collective Management Institution in order to help government solve cases related to disputes on song copyright ownerships. The author also highly recommends to reduce the registration fees so that more and more creators register their work or songs to the institution of intellectual property rights either nationally or internationally.

Keywords: *copyright cases, social problems, song copyrights*

¹Terkait dengan moral disebutkan dalam Berne Convention bahwa: The *Berne Convention* (Article 6bis) requires Member countries to grant to authors: (i) the right to claim authorship of the work, (sometimes called the right of paternity); and (ii) the right to object to any distortion or modification of the work, or other derogatory action in relation to the work, which would be prejudicial to the author's honor or reputation, (sometimes called the right of integrity).

1. INTRODUCTION

1.1 Background

In the international world, there are some well-known general terms in the context of exploiting the economic rights of the songwriters committed by song copyright infringers. They are (a) *Mechanical* rights—the rights to get royalties from the reproduction of the song on several media such as cassettes, CDs, and others; (b) *Performance* rights—the rights to receive royalties from the shows where the song is played or performed; (c) *Synchronization* Rights—the rights to get royalties if the song is used for various other forms of creation such as films, advertisements, videos, and others; and (d) *Print* rights—the rights to receive royalties if the song is sold in printed forms.² This means that the songwriter has many royalty rights over the use of the songs he creates. However, there are still many perpetrators of song copyright infringement do not respect and do not fulfill their obligations according to the existing laws and regulations.³

The results of several research conducted on song copyright problems in

Indonesia reveal that there are still a lot of song copyright problems between singers and song writers, such as conflicts between Jerinx and Via Vallen regarding the song "*Sunset di Tanah Anarki* (Sunset at the Anarchic Land)," between Family Band and Erie Suzan regarding the song "*Aku Rindu* (I Miss)," between Nurbayan and Eny Sagita regarding the song "*Oplosan*," between Yudhistira Massardi and Ban Dewa group related to the title song "*Arjuna Mencari Cinta* (Arjuna Looks for Love)," between Yockie Suryoprayogo and Debby Nasution and Chrisye's wife named Gusti Firoza Damayanti related to the song "*Angin Malam* (Night Wind)" and "*Juwita*," between Toto Goenarto and Iwan Fals related to the song "*Bencana Alam* (Natural Disaster)," between Nagaswara Music Label with Gen Halilintar, and still many others.

The beginning of 2021 is marked by a shocking and unbelievable news about a composer or song writer of Indonesian *dangdut* songs who was very productive between 1980 and 2000.⁴ The *dangdut* composer was found to be a scavenger in order to support his life and family (a wife and two children). Syam Permana (58 years old), the *dangdut* songwriter, has created several hits *dangdut* songs

²Risa Amrikasari., Jerat Hukum Jika Menyanyikan Lagu Orang Lain Tanpa Izin, dapat di baca secara online pada <https://www.hukumonline.com/klinik/detail/ulasan/lt54b9fc67d1bcd/jerat-hukum-jika-menyanyikan-lagu-orang-lain-tanpa-izin/>

³Politeknik Perkapalan Negeri Surabaya - Pusat Penelitian dan Pengabdian Masyarakat – Buku Panduan Pedoman pengurusan HaKI.Pdf, 2018, Hlm 8.

⁴Disebutkan dalam Undang Undang Nomor 28 Tahun 2014 tentang Hak Cipta, Pasal 1 ayat 2 bahwa: "Pencipta adalah seorang atau beberapa orang yang secara sendiri-sendiri atau bersama-sama menghasilkan suatu ciptaan yang bersifat khas dan pribadi".

entitled *Biarkan Ku Sendiri* (Let me Alone), *Biar Berlalu* (Let it Go), *Dia Yang Kejam* (He is Cruel), *Pernyataan Cinta* (Love Statement), *Benalu Cinta* (Love Parasite), *Bagaimana Bisa* (How can), *Pita Merah Jambu* (Pink Tape), *Di Matamu Kulihat Rembulan* (I See the Moon in your eyes), *Masih Terbayang* (Still be imagined), *Pajangan Mimpi* (Dream Display), *Terimakasih* (Thanks), *Kasih yang Terbuang* (The Neglected Affection), and still many other *dangdut* songs sung by popular *dangdut* singers.

Ironically the life of Syam Permana, the owner of the song copyrights is, in fact, contrary to the lives of the singers of his creations⁵ as well as the entertainment venues management which play his songs. In fact, Syam Permana has not received the royalties⁶ of the songs he created. Consequently, Syam Permana has stopped creating or writing *dangdut* songs since 2000s. Such condition is contrary to the spirit of the existence of the copyright law, which states, "Legal protection, monopoly rights or exclusive rights of people who have the ability to produce intellectual works are considered useful to protect the

⁵Disebutkan dalam Undang Undang Nomor 28 Tahun 2014 tentang Hak Cipta, Pasal 1 ayat 3 bahwa: "Ciptaan adalah setiap hasil karya cipta di bidang ilmu pengetahuan, seni, dan sastra yang dihasilkan atas inspirasi, kemampuan, pikiran, imajinasi, kecekatan, keterampilan, atau keahlian yang diekspresikan dalam bentuk nyata".

⁶Disebutkan dalam Undang Undang Nomor 28 Tahun 2014 tentang Hak Cipta, Pasal 1 ayat 21 bahwa: "Royalti adalah imbalan atas pemanfaatan Hak Ekonomi suatu Ciptaan atau Produk Hak Terkait yang diterima oleh pencipta atau pemilik hak terkait"

peace of the right holder from the intervention of others, in order to enjoy the widest possible economic benefits as compensation for his efforts and stimulate other human beings to work hard to compete in exploiting their intellect. Based on the statement, a person who, without the permission of the copyright holder, exploits the profits generated from the intellectual work is considered to have committed an offense."⁷

Currently, Syam Permana lives in the village of Babakan Jawa, RT 42 RW 18 Sukaresmi, Cisaat sub-district, Sukabumi Regency, West Java. In the legal context, there are more than twenty advocates who agree and are willing to help Syam Permana to get the royalties he deserves for his intellectual work. Based on the description above, we can see that song copyright infringement has generated other social problems.

1.2 Problem Formulation

Nationally, it seems that issues, problems or matters related to song copyrights get less attention from various relevant parties. Therefore, there are quite a lot of song copyright violations that occur in Indonesia. They are not resolved properly and immediately, especially because of the culture of the community that considers song copyright to be a common property (*res communis*) which

⁷Adi Sulistiyono., Mekanisme Penyelesaian Sengketa HaKI (Hak atas Kekayaan Intelektual), Cetakan 1 . Surakarta . UNS Press . 2004, Hlm 18.

contradicts the principles of the copyright regime which see that song copyrights belong to individuals (*res nullius*). In addition, nowadays, songs are recorded electronically on CDs, DVDs or hard drives and other modern electronic recording devices, then uploaded on social media (free or paid), modified into karaoke songs so that they can be used in some venues such as recreational parks, reflexology, live music venue, nightclubs, massage parlors, discotheques, pubs and karaoke as well as other entertainment venues. All of the activities occur in the venues mentioned above usually generate money for the management or the venues.⁸ However, someone is forgotten, that is, the song writers. Very few of the money generated is given in a form of the composer's royalties. Inevitably, such conditions will lead to social problems. In the study, the author is interested in how to solve song copyright infringement causing social problems.

1.3 Research purpose

The purpose of the research is to find out a solution to the social problems caused by the song copyrights

⁸Perbuatan tersebut jika tidak se ijin penciptanya, maka telah melanggar ketentuan Pasal 43D Undang Undang Nomor 28 Tahun 2014 tentang Hak Cipta, yaitu: “pembuatan dan penyebarluasan konten Hak Cipta melalui media teknologi informasi dan komunikasi yang bersifat tidak komersial dan/atau menguntungkan Pencipta atau pihak terkait, atau Pencipta tersebut menyatakan tidak keberatan atas pembuatan dan penyebarluasan tersebut”.

infringements. If the basic context of the solution—for example in a form of establishing a special institution that deals with solving copyright problems—has existed, then the next objective of the research is to strengthen that institution in charge of solving song copyright issues, so that the problem does not become an event that causes social problems and have a broad impact.

2. LITERATURE REVIEW

2.1 Social Problems

Quite a number of experts⁹ have put forward the definition of social problems. They basically state that social problems involve a gap between hope and reality. Earl Rubington and Martin S. Weinberg even state that social problems include things that are abstract, such as feelings and responses. Furthermore, they suggest, “The morning paper reports a variety of social problems: war, pollution, traffic jams, and crimes. It also reports a decrease in automobile sales, rising prices, violence in high schools, an increase in drug use and cigarette smoking, and so on. After reading the news, readers find themselves upset about some of these report, and, wanting to do something about them, they have mixed feelings about other news stories. On occasion, readers even experience

⁹Dapat disebutkan nama ahli tersebut, seperti Janssen; Arnold Rose; Raab dan Selznick; Richard dan Richard; Soerjono Soekanto (Indonesia); Martin S. Weinberg; Bulmer dan Thompson; Soetomo (Indonesia); Lesli, ahli lainnya di luar lingkup sosiologi dan sosiologi hukum.

secret or open delight at the misfortunes of others. The variety and inconsistency of these responses point to the complexities that surround the idea of social problems.”¹⁰

The explanation above has explicitly states that the scope of social problems is very broad. Therefore, Earl Rubington and Martin S.Weinberg limit it by stating that social problems can be viewed from seven perspectives. They are (1) Social pathology, (2) Social disorganization, (3) Value conflict, (4) Deviant behaviour, (5) Labeling, (6) Critical perspective, and (7) Social constructionism.¹¹

Each of the seven perspectives above is not a single and complete perspective. Each of them has many other branches or subdivisions. As an example, social pathology still has other branches of the problem, such as gambling, sexual acts (such as adultery, homosexuality or LGBT, cohabitation, sodomy, rape, sexual harassment, prostitution, fetism, pornography and the like, theft (including corruption), drunkenness (drugs or alcohol/ liquor), student fights or brawls, and vagabonds/ beggars.

Each item from the derivative of the above perspective has branching studies.

¹⁰Earl rubington and Martin S.Weinberg, The study of social problems, seven perspectives, fifth edition, Oxford University Press, New York, 1995. Pages 3

¹¹Earl rubington and Martin S.Weinberg, Ibid.

For example the homeless / beggar problem as explained by Teresa Gowan et. al, “There are many different causes of homelessness. Poverty and the inability to afford adequate housing are central to the cause of homelessness. These circumstances may result form a number of different experiences, including long-term or short-term unemployment, debt an other financial pressures and housing market pressures, such a rising rental and house prices an the lack of public housing. Financial difficulty is often accompanied by other personal or family problems, such as family breakdown, domestic violence, poor physical and metal health, substance and other addictions. The inability to cope with the combinations of the problems can push individuals and families even closer to edge.”¹²

By looking at the description on social problems, it can be seen that social problems involve very broad matters. Therefore, it is reasonable to say that song copyright infringement is a social problem that needs a good and immediate solution.

2.2 Song Copyrights

It is necessary to undertand that intellectual property is usually divided into two branches: (1) industrial property, which broadly

¹²Teresa Gowan., Hobos, Hustlers, and Blacksliders: Homeless In San Francisco, University Minnesota Press, Minneapolis, 2010, page 18

speaking protects inventions; and (2) copyright, which protects literary and artistic works¹³ which are mentioned in the 2015 WIPO (World Intellectual Property Organization) Book. Then, the explanation above is amended in the 2016 WIPO Book to become “intellectual property is usually divided into two branches, namely (1) industrial property and (2) copyright.”¹⁴

Although the implementation of IPR (Intellectual Property Rights) enforcement is given to country, the standards on copyright have been agreed upon by the international community. This is clearly explained in Berne convention¹⁵ which states, “It shall, however, be a matter for legislation in the countries of the Union to prescribe that works in general or any specified categories of works shall not

be protected unless they have been fixed in some material form.”¹⁶

The World Intellectual Property Organization (WIPO) states that intellectual property is increasingly being recognized as an important tool for economic development and wealth creation. Copyright, in particular, can be a powerful catalyst within national economies. Several studies have shown that comprehensive copyright legislation sustained by effective enforcement mechanisms and an efficient collective management structure can have a significant, measurable impact on Gross Domestic Product (GDP).¹⁷

Indonesia as one of the countries that has signed the Berne Convention, has also ratified the copyright provisions into the Indonesian Copyright Law¹⁸ (often abbreviated as UUHC in Bahasa). The Indonesian Copyright Law states that, “unless proven otherwise, the person who is considered to be the creator, namely the person whose name (a) mentioned a creation or a work; (b) is declared as the

¹³World Intellectual Property Organization., *WIPO Publication No. 909(E): Understanding Copyright and Related Right*, CH-1211 Geneva 20 - Switzerland, first edition, 2015 p.4. (Catatan: bisa juga di lihat secara online pada www.wipo.int/new/en/links/addresses/ip/index.htm)

¹⁴World Intellectual Property Organization., *WIPO Publication No. 909(E): Understanding Copyright and Related Right*, CH-1211 Geneva 20 - Switzerland, Second edition, 2016, p.4. (Catatan: bisa juga di lihat secara online pada www.wipo.int/new/en/links/addresses/ip/index.htm)

¹⁵Berne Convention bisa di lihat secara online pada <https://www.wipo.int/treaties/en/ip/berne/>

¹⁶Berne Convention for the Protection of Literary and Artistic Works (atau disebut dengan nama “Berne Convention” saja) Pasal 2 ayat (2).

¹⁷World Intellectual Property Organization., *Principles Of Copyright Cases And Materials*, WIPO Publication No. 844 (A/E/F) Foreword, p.6.

¹⁸Republik Indonesia., Undang-Undang Nomor 28 Tahun 2014 (Lembaran Negara Nomor 266 Tahun 2014 – Tambahan Lembara Negara Nomor 5599, berlaku sejak 16 Oktober 2014)

creator of a creation or a work; (c) is mentioned in a registration letter of a creation or a work; and/or listed in the general register of a creation or a work as a creator.¹⁹

The Indonesian Ministry of Industry states that intellectual property right is not only a technical matter of law but also concerns economic interests. In addition to cause losses to the state, inventors/ creators and society, intellectual property rights infringement violations have an impact on economic, socio-cultural, legal relations and can even cause political tensions between countries. Cases related to intellectual property rights, particularly copyright, have become one of the reasons for several countries to stop the General Preference System (GSP) facility which lead to hamper the export of Indonesian products.²⁰ This is in line with Adi Sulistiyono's thinking. He states that developing countries, which have different cultures regarding the concept of property rights regarding intellectual property right, the low purchasing power of the people, and the limited number of human resources who have the potential to become inventors or creators, seem to have a little difficulty to voluntarily adopt the concepts of the legal protection of

intellectual property right. It is not surprising that at the beginning of the socialization of the application of the concepts of intellectual property right which is successfully carried out by developed countries, is often ignored by people living in developing countries. Such situation and condition have caused the developed countries to socialize such application using hard approaches.²¹

In the context of the royalties of song copyright, Indonesia has proposed and encouraged the persuasive solutions of various song copyright conflicts through article clauses that accommodate the existence of a Collective Management Institution.²² The article clauses state that the Collective Management Institutions are institutions in the form of non-profit legal entities authorized by the creator, the holder of copyright, and/ or the owners of related rights in order to manage their economic rights in the form of collecting and distributing the royalties.²³ The Collective Management Institute has been established since January 20, 2015.

3. RESEARCH METHOD

3.1 Method and Approach

As it is explained above that a song copyright is related to an economic

¹⁹Republik Indonesia., Undang-Undang Nomor 28 Tahun 2014 . . . Ibid, Pasal 31.

²⁰Departemen Perindustrian - Direktorat Jenderal Industri Kecil dan Menengah – Klinik Konsultasi HKI, Buku panduan Pengenalan HKI , Hlm. 1.

²¹Adi Sulistiyono., Mekanisme Penyelesaian Sengketa HaKI (Hak atas Kekayaan Intelektual), Cetakan 1 . Surakarta . UNS Press . 2004 , Hlm 20

²²Dapat dilihat profile Companynya secara online pada <https://www.lmkn.id/>

²³Republik Indonesia., Undang-Undang Nomor 28 Tahun 2014 . . . Ibid, Pasal 1 ayat 22.

and moral context, where conflicts can occur and lead to social problems as experienced by Syam Permana.²⁴ In the context of the emergence of social problems, the appropriate approach employed by the study should be an approach that is suitable to social problems. Therefore, the author of the study decides to employ a social approach that cannot be represented by numbers that is also known as qualitative approach. Judith Pressie in Creswell, J., states that qualitative research is a loosely defined category of research designs or models, all of which elicit verbal, visual, tactile, olfactory, and gesture data in the form of descriptive narratives like field notes, recordings, or other transcriptions from audio and videotapes and other written records and pictures or films.²⁵

Using the qualitative context, this paper is built through five important stages. They are (1) raising the research problem, (2) raising the research question, (3) collecting the relevant data, (4) performing the data analysis, and (5) answering the research question.

²⁴Lihat uraian Background, pada paragraph 3.

²⁵Creswell, J.W., *Qualitative Inquiry and Research Design: Choosing among Five Tradition*. London: Sage Publications, 1998, p.24

3.2 Data Collection Techniques

When this paper is being compiled, a pandemic—Novel Corona Virus 19 (Covid-19)—has been rampant internationally. Such condition has limited the movement of all people in the world, including the author. The pandemic has pushed the author to cancel the plan to gather data related to the topic of the paper. The only one available technique is library research. The author has employed the technique online.

3.3 Data Analysis Techniques

As a literature research, the data collected by author will be analysed through the following steps:

- a. collecting all existing information and data related to song copyrights in Indonesia;
- b. separating data and information into: valid data used in the paper; invalid data that is excluded from the paper; comparative data or other data that is related to the topic and can be used as a comparison in the paper;
- c. analyzing the collected data and information; and
- d. arranging the paper according to the systematics determined by the publisher.

4. DISCUSSION

Article 95 of the Indonesia Law Number 28/2014 regarding Copyright states that (1) the settlement of copyright disputes can be done through alternative dispute resolutions, arbitrations, or courts; (2) the authorized court as referred to in paragraph (1) is Commercial Court; (3) other courts other than Commercial Court as referred to in paragraph (2) are not authorized to handle copyright dispute resolutions; (4) apart from copyright infringements and/ or related rights in the form of piracy, as long as the parties involved in the dispute are known to exist and/ or are in the territory of the Republic of Indonesia, they must first seek a dispute resolution through a mediation before making a law suit.²⁶

Based on the Article 95 of the copyright law above, it can be concluded that in the issue of song copyrights there are two main areas as follows:

- a. Dispute—a situation in which two or more parties claim that a song is their work or creation and lead to a conflict and must be resolved in using civil law in a commercial court.
- b. Violation—a situation in which another party violates the copyright of a song and must be resolved using criminal law²⁷ in a general court.

²⁶Republik Indonesia., Undang-Undang Nomor 28 Tahun 2014 . . .Ibid, Pasal 95.

²⁷ketentuan pidana hak cipta di atur dalam Pasal 112 sampai Pasal 120 Undang-Undang Nomor 28 Tahun 2014 tentang hak cipta.

As stated by the Article 95 of the Law Number 28/ 2014 above, the settlement rules are clear, but that does not mean there is not a chance to combine the two ways above. It should be noted that in the context of song copyrights, the solutions to social problems through a criminal process is a solution that produces suffering and a deterrent effect on the perpetrator. However, such solutions do not provide economic benefits to the songwriter. They even become big burdens to the songwriter because the criminal act mentioned in the law is a complaint offense.²⁸

A dispute of copyrights that is resolved by a civil law tends to benefit both parties involved in the dispute because ‘every act violating the law which generate losses to others obliges the person who makes a mistake and because of his or her wrongdoing to compensate for the loss.’²⁹ This is in line with the statement of Dushyant Kumar Sharma, saying ‘every creation requires time, energy and effort. The time involved varies greatly between projects. It may vary from a few minutes to a few years. In addition, any creative work also requires certain amount of real capital and of course the education or knowledge. All these

²⁸Republik Indonesia., Undang-Undang Nomor 28 Tahun 2014 . . .Ibid, Pasal 120.

²⁹Lihat Kitab Undang-Undang Hukum Perdata, terjemahan R. Subekti dan R.Tjitrosudibio, 1983, Pradnya Paramita, Jakarta , Pasal 1365.

things add up to a huge investment on the part of any creative professional. Thus, it is necessary to recognize and respect the intellectual creations of a creator.”³⁰

There is an ambiguous article and contrary to Article 95, but it provides a legal loophole for song copyright owners. It is Article 105 of the Law Number 28/ 2014 regarding Copyright. The article states, “The right to file a civil suit for infringement of copyright and/ or related rights does not reduce the rights of the creator and/ or the owner of the related rights to sue criminally.”³¹ This means that violations (not disputes) can also be resolved through a civil process. Another legal loophole is to classify all crimes in Article 112 to Article 120 of the copyright law as violations, because there are only two types of problems in the copyright law, namely disputes and violations.

Based on the brief discussion above, the author suggest civil settlements of disputes and song copyright infringements because they provide more benefits to both parties involved in the dispute: the offender and the owner

of the song copyright. It should be clearly understood that a civil settlement does not always have to go through a civil court process.

In addition to the due process mentioned in Law Number 28/ 2014 regarding Copyrights, there is another alternative effort. It is to strengthen the existence of the National Collective Management Institute (LMKN). The establishment of such institute has been accommodated by the copyright law as described in the sub-discussion ‘Understanding Song Copyright’ in this paper. Although the National Collective Management does not have the repressive authority, the strengthening of the National Collective Management Institute can be done by adopting the operational stages of the police: pre-emptive, preventive, and repressive. Therefore, the operational stages that can be carried out by the National Collective Management adopted from the operational stages of how the police work are as follows:

- a. In the pre-emptive stage or the appeal and outreach stage, the National Collective Management Institute carries out several initial activities, such as:
 - 1) collecting all data regarding all creators and their creations or work; a list of all the artists and songs they sing; a list of all entertainment venues that play songs;

³⁰Dushyant Kumar Sharma., Intellectual Property And The Need To Protect It, researchgate Article 19 October 2014, DOI: 10.5958/2250-0138.2014.00014.5, pp. 084-087 (p.084). (catatan: bisa di lihat online pada <https://www.researchgate.net/publication/267039883>)

³¹Republik Indonesia., Undang-Undang Nomor 28 Tahun 2014 . . .Ibid, Pasal 105.

- 2) appealing to songwriters to register the copyrights of their songs to intellectual property rights institutions in Indonesia as well as to international intellectual property right institutions;
 - 3) appealing to the creators to register themselves and their songs to the National Collective Management Institute; and
 - 4) appealing to artists and entertainment venues to comply with the provisions of the copyright law.
- b. In the preventive stage, the National Collective Management Institute carries out several activities such as:
- 1) monitoring every activity in which there are activities related to the use of songs;
 - 2) attending as a guest of entertainment venues in general and asking them to play certain songs that have been put in the data of the National Collective Management Institute.
- The preventive effort is part of the prevention of social problems in the context of song copyrights. It should be understood that there are ten basic principles of prevention, as stated by the National Crime Prevention Council (NCPC) as follows:
- 1) Preventing crime is everyone's business.
 - 2) Preventing crime is more than security.
 - 3) Preventing crime is a responsibility of all levels and agencies of government.
 - 4) Preventing crime is linked with solving social problems.
 - 5) Preventing crime is cost effective.
 - 6) Preventing crime requires a central role in law enforcement.
 - 7) Preventing crime requires cooperation and collaboration by all elements of the community.
 - 8) Preventing crime requires education.
 - 9) Preventing crime requires tailoring to local needs and conditions.
 - 10) Preventing crime requires continual evaluation and improvement.³²
- c. In the repressive stage or legal action, although the National Collective Management Institute does not have a repressive authority, it still take several limited actions such as:
- 1) providing subpoena (indeed by using a lawyer/ attorney) to the perpetrator of copyright infringement;
 - 2) asking the perpetrator to discuss and clarify about the song's copyright infringement;
 - 3) discussing, together with the perpetrators, and finding the best solutions to the disputes or

³²The National Crime Prevention Council (NCPC), *National Crime Prevention Council Strategic Plan*. (Arlington: NCPC, 2013) www.ncpc.org

- violations applying the principles of Restorative Justice; and
- 4) in case the above efforts do work, the National Collective Management Institute can take further actions as follows:
- a) preparing the files needed for processing the dispute or song copyright infringement;
 - b) preparing advocates/ legal advisors for songwriters;
 - c) assisting songwriters in making a civil complaint to a commercial court, or requesting the authorized power from the songwriter in order to accompany the songwriter in the mediation process in a civil process in a commercial court in the context of a dispute; and
 - d) providing an assistance to songwriters to make reports to the police, because the violation is a complaint offense.

Basically, the repressive actions suggested by the author/ researcher for the National Collective Management Institute are the initial or still within the scope of the joint efforts (see the venn diagram) between prevention and repression efforts. In order to understand this, it is necessary to put forward Andrew Karmen's view on the difference

between crime prevention and crime control: "The term crime prevention refers to strategies that are pursued to head off the development of illegal activities as opposed to crime control measures that are taken in response to acts that have already been committed. Formerly, crime prevention strategies centered on government programs designed to eradicate the social roots of illegal behavior, such as desperation for money, job shortages, failing school systems, and racial discrimination. Community-based crime prevention campaigns focus on lowering the dropout rate in school system, providing decent jobs for all those who want to work, and developing meaningful recreational outlets for otherwise idle youth. But crime prevention in a practical sense means the anticipation, recognition, and appraisal of crime risks, and the initiation of some actions to remove or reduce the risks (National Crime Prevention Institute, 1978)."³³

5. CONCLUSIONS

Based on the discussion above, the author can conclude the following things:

- 1) Song copyright disputes and infringements are social issues that can have either small or large bad impacts.
- 2) International justification and punishments against Indonesia in the

³³Andrew Karmen, Crime Victims – An introduction to victimology. Fourth Edition, USA:Wadsworth Thomson Learning, 2000. Pages 95

field of copyrights are mostly influenced by the number of cases related to copyright disputes and infringements. Therefore, it is necessary to minimize the number of copyright cases by strengthening the National Collective Management Institute (LMKN) in taking appropriate steps discussed in this paper.

- 3) Song copyright infringement is included in the scope of infringement according to the copyright law, thus there is an opportunity to resolve the violations (criminal acts) of song copyrights through a negotiation process.

6. IMPLICATIONS

- 1) It is highly recommended to reduce the registration fee for song copyrights in order to increase the interest of creators to get the copyrights for their work or songs because one of the obstacles to get copyrights for songs is the fee registration.
- 2) The National Collective Management Institute should cooperate with related parties (law enforcement and security officials, tourism department and tax directorate) to conduct inspections of various entertainment venues to curb song copyright infringements.
- 3) The National Collective Management Institute should do several efforts in order to encourage songwriters to register their song

copyrights to the intellectual property rights institution in Indonesia as well as to the international intellectual property right institutions.

- 4) It is highly recommended to the National Collective Management Institute to establish its own legal division.

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