

Comparison of Legal Protection for Social Media Choreography Creators Reviewed from Copyright Law

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Abstract

Choreography is one of the creations in art that is protected and regulated in Law Number 28 of 2014 concerning Copyright. This legal writing will discuss the comparison of TikTok, Youtube, and Instagram's rules in protecting choreography copyright, as well as reviewing these rules based on Law Number 28 of 2014 concerning Copyright. The method used is normative juridical by comparing the rules of TikTok, Youtube, and Instagram, and reviewing them with the Copyright Law. The results of the study show that choreography uploaded to social media is protected by law. Then the results of the comparison of TikTok, Youtube, and Instagram rules reviewed with the Copyright Law show that Youtube provides the best protection for choreography copyright, which is then followed by Instagram and finally TikTok. _

I. Introduction

Choreography is the art of designing and arranging body movements in a structured sequence to create aesthetic, emotional, or narrative expressions (Fadiyah et al., 2021). In this context, choreography not only functions as a medium of expression, but also as a form of communication involving interactions between the body, space, time, and energy (Asmaul et al., 2023). The process of creating choreography involves exploring elements of movement, such as levels, dynamics, spatial patterns, and relationships between dancers, which are then integrated into the overall composition. Stylization in choreography is usually done by considering aspects of dramaturgy, music, and certain themes to produce a holistic experience for the audience (Saputri & Suryono, 2024). Choreography represents a combination of technical skills and deep artistic sensitivity. Choreography on social media has developed into a very effective cultural promotion tool, allowing various cultures and body movement styles to spread throughout the world in a short time (Farhan et al., 2022).

Social media is a digital platform that allows users to interact, share information, and create content in various forms, such as text, images, videos, and audio (Islam & Sumatera, 2022). Its presence has changed the way of communication and distribution of information globally, providing space for creativity, self-expression, and economic opportunities through content monetization (Rifki et al., 2022). The development of social media also presents challenges, especially in Copyright protection, where uploaded content is often violated without permission from its creator (Teknologi & Unhan, 1945). Regulation and user awareness of the rights and obligations in using social media are important aspects in creating a fair and sustainable digital ecosystem. Through platforms such as TikTok, YouTube, and Instagram, choreography has become not only an artistic expression but also a viral phenomenon that encourages global interaction (Daiva et al., n.d.). Interesting choreography content often gets widespread attention and is followed by many users, creating trends that influence other industries such as music and fashion. Songs combined with certain choreography often become global hits, increasing the popularity of the song exponentially (Jaman et al., 2014). Creators who produce choreography can earn additional income through endorsements, advertisements, or collaborations with famous brands, further strengthening their position in the creative economy ecosystem. Thus, choreography on social media not only enriches digital culture but also creates significant economic opportunities for creators and related industries (Hukum et al., 2024).

The advancement of technology and cyberspace in the current digital era is developing very rapidly, having a major impact on the way people communicate and share information. The COVID-19 pandemic that has hit the world has accelerated the

use of digital technology as the main medium for interacting and enjoying entertainment (Fernando & Chandra, 2024). Among the various social media platforms available, TikTok, YouTube, and Instagram stand out as three leading platforms that provide opportunities for users to create and widely distribute video content. According to data from the AppStore, these three platforms are among the top five social media with the most users (Mulyani et al., 2024). TikTok is identified as a platform that focuses on short videos, YouTube as the largest video sharing service, and Instagram continues to grow by offering features for sharing photos and videos.

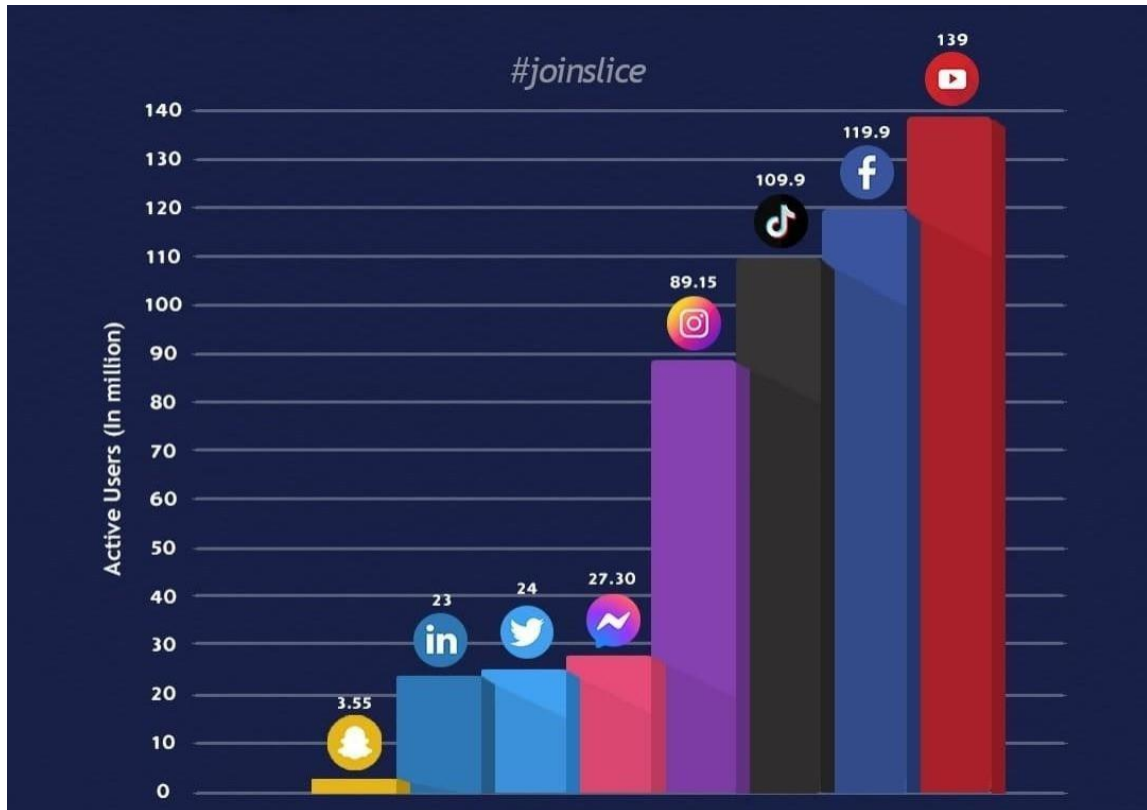


Figure 1 Indonesian Social Media User Data

Figure 1 shows the number of monthly active users (MAU) for various social media platforms in Indonesia in 2023. Data sourced from DataReportal. YouTube leads with 139 million monthly active users, followed by Facebook (119.9 million), TikTok (109.9 million), and Instagram (89.15 million). Other platforms, including Messenger, Twitter, and LinkedIn, have significantly fewer monthly active users, with LinkedIn having the lowest number of users (23 million).

These three platforms provide facilities for users to create and distribute choreography videos that are often combined with popular songs. This type of content is in great demand, especially among the younger generation, because it

allows them to express their creativity while being part of popular culture trends. However, amid its popularity, problems related to copyright infringement of choreography uploaded to these platforms cannot be avoided (Restuningsih et al., 2021). In Indonesia, copyright protection is regulated through Law Number 28 of 2014 concerning Copyright, which recognizes choreography as one type of work that is protected by law. This law gives creators exclusive rights to announce and use their work. However, in practice, copyright infringement often occurs, such as acts of imitating choreography without permission or using the work outside its original platform, for example for television shows (Malang, 2021).

Launched by ByteDance in 2016, TikTok has become a global phenomenon that has attracted millions of users in Indonesia. The application offers short video creation features equipped with creative effects and music, making it a favorite among young people. Choreography content that often goes viral on this platform motivates many other users to imitate or adapt the dance without paying attention to the copyright of its creator (Bella & Setianingrum, 2014). The same thing also applies to YouTube, which was introduced in 2005, and Instagram, which was initially focused on sharing photos before evolving into a video-based platform with features such as IGTV and Reels. Both of these platforms have also become popular places to share choreography content. Although each has its own rules regarding copyright protection, the effectiveness of the regulations applied varies across platforms.

One of the biggest challenges in monitoring and enforcing copyright rules on digital platforms is the global scale and the amount of content uploaded every day. With millions of videos, photos, and music uploaded every second, platforms like TikTok, YouTube, and Instagram face great difficulties in ensuring that their content complies with copyright laws in various countries. Differences in copyright protection rules between countries further complicate the situation as each region has different policies in protecting intellectual property (Darmawan et al., 2023). Automated algorithms used to detect copyright infringement have limitations, especially in understanding context, such as fair use or creatively altered works. This can lead to errors in the assessment process or the actions taken. With the huge volume of content and the limitations in verifying ownership or permission for use, efforts to enforce copyright on digital platforms are a complex challenge that must be faced by copyright owners, platform providers, and policymakers.

Indonesia has committed to aligning Law Number 28 of 2014 concerning Copyright with international standards stipulated in agreements such as the Berne Convention and the TRIPS Agreement (Fadilah et al., 2022). This step aims to create a comprehensive legal framework to protect the rights of local creators, while supporting the creation of an ecosystem that is conducive to creativity and innovation. This regulatory adjustment allows Indonesia to provide stronger

legal protection for intellectual works, both at the national level and in a global context, especially in the digital era (Hauzan & Haryanto, 2014). Indonesia not only protects the economic and moral rights of local creators, but also integrates its domestic policies into global copyright governance, so that it can ensure fairness and respect for intellectual property across digital platforms.

Choreographic works uploaded on digital platforms are legally protected under Law Number 28 of 2014 concerning Copyright. This law stipulates that recognition of copyright is granted automatically from the time the work is manifested in a tangible form without requiring a formal registration procedure. This provision is reinforced by Article 28D of the 1945 Constitution, which guarantees the right of every individual to obtain recognition, protection, and fair legal certainty for the results of their work (Najla et al., 2024). Protection of choreography includes recognition of the moral rights and economic rights of the creator, which aims to protect the reputation and provide material benefits from the work. Therefore, this regulation reflects legislative and constitutional efforts to guarantee respect for intellectual works, especially in the digital realm which is vulnerable to copyright infringement.

The purpose of this research study is the copyright protection policies implemented by three major digital platforms, namely TikTok, YouTube, and Instagram, in order to deepen understanding of copyright protection mechanisms in the digital era. All three platforms have internal policies designed to protect the rights of creators against unauthorized use of content, but the approach and effectiveness of their implementation can vary. By comparing these policies, the study is expected to identify the advantages and disadvantages of each platform in dealing with copyright infringement issues. The results of this study are also expected to provide a more comprehensive picture of the extent to which existing policies are in line with national legal regulations, especially Law Number 28 of 2014 concerning Copyright, and their relevance to the needs of creators and users in the era of digital transformation.

2. Research Method

This study adopts a normative legal approach that focuses on the analysis of relevant laws and regulations and legal norms to protect the copyright of choreographic works on digital platforms (Disemadi et al., 2022). Using a deductive approach, this study draws conclusions from existing legal theories and applies them to the phenomenon of copyright protection on social media, without requiring empirical data. The sources of legal materials used include primary, secondary, and tertiary materials, which are collected through literature studies to gain a deeper understanding of the regulation and implementation of laws related to copyright.

The data collection method carried out through this literature review provides a

strong theoretical basis for evaluating copyright protection policies on digital platforms (Wati & Zulfiko, 2024). Normative analysis procedures are used to assess the effectiveness of the application of copyright law and its compliance with the Terms of Service of platforms such as TikTok, YouTube, and Instagram. Thus, this study aims to provide an objective and systematic assessment of the legal issues faced in the protection of copyright of digital works.

3. Results and Discussion

Legal Protection for Choreography Owners in Social Media from the Perspective of Copyright Law

Copyright is part of Intellectual Property Rights that provides protection for the results of human intellectual work. According to Law Number 28 of 2014 concerning Copyright, Copyright is the exclusive right of the creator that arises automatically after a creation is embodied in a tangible form. This exclusive right includes Economic Rights and Moral Rights (Firdausa et al., 2021). Economic Rights grant the creator the right to obtain economic benefits from their creations, while Moral Rights are rights that are inherent in the creator and cannot be removed even though the economic rights have been transferred. In Article 9 of the Copyright Law, Economic Rights encompass various forms of utilization of creations, such as publication, reproduction, translation, distribution, performance, to communication and rental of creations. Meanwhile, Moral Rights listed in Article 5 include the right to include or not include the creator's name, use a pseudonym, modify the creation according to propriety, as well as maintain rights in the event of distortion or modification that damages the creator's honor.

One form of creation that receives legal protection is choreography. Choreography, as the process of creating dance movements with specific intent and purpose, is recognized as an art form protected under Article 40 paragraph (3) of Law Number 28 of 2014. To obtain legal protection, choreography must be embodied in tangible form. However, Copyright over choreography is not included in the category of Related Rights, because Related Rights are granted to performers, phonogram producers, and broadcasters. Choreography is not a performance, recording, or broadcast, so its creator only has Copyright without Related Rights.

With the development of the digital era, social media has become a medium for people to share various forms of content, including choreography. Choreography uploaded to social media must first be recorded in the form of a video, which in the Copyright Law is called fixation. Fixation refers to the recording of sound or images that can be heard, seen, duplicated, or communicated through any device. Thus, choreography that has undergone fixation and uploaded to social media has been embodied in tangible form and receives Copyright protection in accordance with Article 40 paragraph (3) of the Copyright Law. In addition, uploading choreography to social media is also included in the announcement of creation as mentioned in Article 1

point 11, which includes reading, broadcasting, or exhibiting a creation using electronic or non-electronic devices. In this case, social media functions as a means of broadcasting because it allows creations to be transmitted to a wide audience through digital networks (Willis & Jayakusuma, 2022). Choreography uploaded to social media has not only met the criteria as a protected creation, but also further strengthens its legal protection through the aspect of announcement.

As an art form, choreography receives legal protection both from Law Number 28 of 2014 and from the Berne Convention, which has been ratified by Indonesia. The Berne Convention aims to protect literary, artistic, and scientific works, so choreography as part of art is included in the scope of this protection. This protection gives the creator of choreography the exclusive right to enjoy the economic benefits of their creation while maintaining Moral Rights over the work (Gde et al., 2022). Choreography that has undergone fixation and uploaded to social media continues to receive Copyright protection as regulated in the Copyright Law in force in Indonesia.

Comparison of Copyright Protection for Choreography on TikTok, YouTube, and Instagram

TikTok, YouTube, and Instagram are social media platforms that allow users to upload videos, including videos containing choreography. All three platforms acknowledge and protect copyright, including copyright over choreography, through their terms of service that users must agree to before using their services. However, despite generally acknowledging copyright, there are differences in how each platform regulates the protection of choreography copyright. In copyright law, abstract ideas are not protected until they are expressed in tangible form, such as through recording and uploading to social media. Additionally, to obtain legal protection, uploaded choreography must be an original work and not a result of plagiarism. TikTok, YouTube, and Instagram regulate copyright protection in their policies (Januarsa et al., 2023). TikTok, for example, states that users may not use the platform to infringe on the intellectual property rights of others. If there is a copyright infringement, TikTok has the right to block access or close the account of the user involved in the infringement. Similar regulations are also set by YouTube and Instagram, where users are only allowed to upload content that is their own or that they have obtained permission from the copyright owner.

TikTok prohibits copyright infringement, but the platform does not provide protection for economic rights and moral rights for choreography copyright owners. TikTok explicitly states that users cannot monetize the content they upload, including claiming monetization on other platforms. Also, by uploading content to TikTok, users grant TikTok an unlimited license to use, modify, and distribute that content, as well as allow others to access and use it (Cipta, 2022). As a result, copyright owners cannot claim economic rights to their choreography on TikTok. In fact, the moral rights of copyright owners are also not recognized, as TikTok overrides those rights by allowing others to use and create derivative works from the uploaded choreography.

Unlike TikTok, YouTube has a more stringent and comprehensive copyright protection mechanism. YouTube states that users may only upload videos that are their own or that they have obtained permission from the copyright owner. To protect copyright, YouTube provides several tools such as Web Forms, Copyright Match Tool, and Content ID that allow copyright owners to identify and follow up on infringements. YouTube gives choreography copyright owners the opportunity to enjoy their economic rights through the YouTube Partner Program (YPP), which allows monetization of content if it meets certain requirements (Arman, 2024). Thus, YouTube not only protects choreography copyright but also provides a mechanism for copyright owners to enjoy the economic rights of their work.

Instagram also protects choreography copyright, although it does not provide protection as comprehensive as YouTube. In its terms of service, Instagram states that users may only upload content that does not infringe on the intellectual property rights of others. Instagram also provides a reporting mechanism for copyright owners who feel their content is being used without permission, including through reporting forms and Digital Millennium Copyright Act (DMCA) procedures. However, Instagram does not specifically regulate the fulfillment of economic rights for copyright owners, so monetization of choreography content on this platform is not guaranteed as it is on YouTube (Fathanudien & Maharani, 2023). The rule that requires permission to use other people's content indirectly guarantees the fulfillment of moral rights for choreography copyright owners.

Based on this comparison, it can be concluded that although TikTok, YouTube, and Instagram acknowledge the existence of copyright, the protection provided varies. TikTok, in practice, does not provide protection for the economic or moral rights of choreography copyright owners, so it does not fully protect copyright. Conversely, YouTube offers more comprehensive protection with mechanisms to identify violations and monetization opportunities for copyright owners. Instagram also protects choreography copyright, but it does not provide specific monetization mechanisms like YouTube (Sari et al., 2024). Choreography creators who want to ensure their economic and moral rights are protected, YouTube is the platform that best supports copyright protection compared to TikTok and Instagram.

Copyright Protection for Choreography on TikTok, YouTube, and Instagram from the Perspective of Copyright Law

Copyright is part of Intellectual Property Rights that provides protection to creators for their work. Law Number 28 of 2014 concerning Copyright explains that Copyright is exclusive and applies automatically after a creation is embodied in tangible form. This protection includes Economic Rights, which allow creators to obtain financial benefits, as well as Moral Rights, which ensure recognition for the work. One form of creation protected by Copyright is choreography (Hukum & Chosyali, 2018). Choreography becomes the object of protection after undergoing fixation, namely recording in a form that can be seen, heard, or disseminated through various media.

Currently, social media such as TikTok, YouTube, and Instagram have become the main platforms for creators to share their choreography. However, the regulations of each platform regarding Copyright protection have differences and sometimes conflict with the provisions in the Copyright Law.

TikTok, for example, states that users cannot claim their Moral Rights over the work they upload. TikTok prohibits users from monetizing content uploaded on the platform or on other media such as YouTube. This policy contradicts the Copyright Law, which guarantees the Moral Rights and Economic Rights of creators (Agustina et al., 2024). TikTok also has legally valid provisions, namely the implementation of royalty-free licenses for content uploaded by users, so users automatically grant usage rights to TikTok and third parties without compensation. YouTube implements stricter rules in protecting Copyright. This platform only allows users to upload content that is their own or that has been officially authorized. This is in line with the Copyright Law which requires permission for the use of copyrighted works and prohibits commercial use without the consent of the Copyright owner. Thus, YouTube's policy is more supportive of the protection of Economic Rights and Moral Rights of choreography creators compared to TikTok.

Based on the principle of contract law in the Civil Code, an agreement must not be contrary to law, morality, or public order. Therefore, digital platform policies should be in line with applicable laws in Indonesia, especially in guaranteeing Copyright protection (Latifiani, 2022). TikTok, which does not guarantee the full fulfillment of Economic Rights and Moral Rights, can be said to not fully protect choreography Copyright. YouTube is more compliant with regulations and provides better protection for creators.

4. Conclusion

Choreography, as a form of creation in the field of art, is protected by Copyright under Law Number 28 of 2014 and the Berne Convention, which guarantees exclusive rights for its creators, including Economic Rights and Moral Rights. In the context of social media, TikTok, YouTube, and Instagram have different policies regarding the protection of choreography Copyright. TikTok does not fully meet Economic Rights and Moral Rights, making it less supportive of Copyright protection. Conversely, YouTube is more aligned with the Copyright Law by providing monetization facilities and protection of Moral Rights through various mechanisms, such as Web Forms, Copyright Match Tool, and Content ID. Meanwhile, Instagram emphasizes the protection of Moral Rights by requiring permission for content use, although it does not explicitly regulate the fulfillment of Economic Rights. Therefore, when compared, YouTube provides the strongest protection for choreography Copyright, followed by Instagram, while TikTok is the weakest in guaranteeing the rights of choreography creators.

The Indonesian government needs to tighten supervision of Copyright in social media

so that digital platform policies can be aligned with Law Number 28 of 2014 concerning Copyright, so that protection for choreography content, including Moral Rights and Economic Rights, can be guaranteed for its creators. In addition, public awareness of the importance of protecting choreography Copyright must also be increased, especially by understanding the applicable rules on each social media before using it, because agreement to these terms is legally binding. By reading and understanding the policies of each platform, users can choose the social media that provides optimal protection for the rights of creators. This research has limitations in discussing TikTok's rules that are not fully aligned with the Copyright Law, so this aspect can be further investigated in future research.

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