

CHAPTER I

INTRODUCTION

1.1 Research Background

Intellectual Property can be referred to the notion of creations of mind which comprises: inventions, literary, and artistic work, can also in form of symbol,

names, and images used for commercial purpose.¹ Intellectual Property is divided into industrial property and copyright. Industrial property includes patents for inventions, trademarks, industrial designs, and geographical indications. Copyright consists of literary works such as novels and poems, films, music, and artistic works such as drawings, paintings, photographs and sculptures, also architectural design. Rights which related to copyright includes those of performing artists in their performances, producers of phonograms in their recordings, and broadcasters in their radio and television programs.²

These artists basically hold the rights upon their intellectual property adhered to their creations or works. This intellectual property rights is fundamentally similar the other property rights which prioritize the owner or creator as the author of the property (the creation or work) on behalf of their own.

The discrepancy lies on the origin of the property, that property in form of a parcel

¹ THE WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO) , *What is Intellectual Property Rights?*, 450 (E),(Switzerland: World Intellectual Property Organization (WIPO), 2007) pg.2

² Ibid.

of land derives from the Almighty God whereas property in form of works derives from the intellectual power of human.³ As it is stated in Article 27(2) of Universal Declaration of Human Rights as follows:

“Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.”

Intellectual property rights protect the author’s rights of interest from what he has created from being unfairly misused apart from his beneficial used upon his works. In Indonesia, intellectual property right is recognized as *Hak Kekayaan Intelektual (HKI)*. This notion basically refers to the asset or property which derives from the intellectual ability of human. The asset or property here are embodied in works in the realm of technology, art, literary, and science based on the invested time, energy, creativity, sense, and willingness contributed by the author or creator.⁴ Those works derive from intellectual ability of human have particular value and economic utility for humanity hence it could be regarded as commercial asset which is under the protection of the law.

³ Krisnani Setyowati et al, *Kekayaan Intelektual dan Tantangan Implementasinya di Perguruan Tinggi*, (Bogor, Kantor HKI-IPB,2005), pg.1

⁴ Ibid.

The holder of intellectual property right has these three rights of economic⁵, morality⁶, and social. Economic right conceived in intellectual property right enables the holder to commercialize his invention in such a monopolistic system in which the holder could enjoy and exploit his creation in particular period of time as the reward for his creativity in creating such intellectual property. Morality right on the other side bestows appreciation for the integrity of the holder by preserving it. The other right is social right which enables the holder to freely publish his creation and also to seek for support from government regarding the development of intellectual property right system in Indonesia.⁷

Here, in this thesis, further elaboration would be on copyright upon photographic works and its arising issues in Indonesia. Copyright in Indonesia are regulated under Law 28/2014 on Copyright as part of intellectual property rights legislation enacted by the government.

In international realm, copyright are regulated by Berne Convention, Universal Copyright Convention, and TRIPs Agreement (Trade-Related Aspects of Intellectual Property Rights). As Indonesia has ratified TRIPs Agreement, also taken part as member of WTO (World Trade Organization), Indonesia has the obligation to maintain and harmonize the legal system of intellectual property rights.

⁵Economic right the exclusive right of the Creator or the Copyright Holder to gain economic benefits of Creation (Law 28/2014 on Copyright)

⁶ Morality right is eternally inherent right to self-Creator (Law 28/2014 on Copyright)

⁷ Krisnani Setyowati, et al, Ibid., pg. 5

Copyright according to Article 1(1) of Law 28/2014 is the exclusive right of the creator that arise automatically based on the principle of declarative after an invention is embodied in a tangible form without prejudice to the restrictions in accordance with the provisions of the legislation. Stewart, explained further concept of copyright as follows:⁸

“Copyright is a property right but the subject of the property is incorporeal. The property in the work is justified by the fact that the right owner has created or made it.”

As has been stated above, it is clear that copyright is applied to intangible subject which has no physical embodiment and the applicability of copyright is on the basis of the ability of the creator in creating his works.

Based on its historical trace, copyright patched on the creation had not been recognized decently in the past. The act of creating had not yet been considered as one profession. Thus, the violation of multiplying or counterfeiting a creation was only considered as immoral act and not the cause of economic detriment to the creator.

However, over time within the developing technology and science, the act of creating was finally considered noticeable occupation as copyright was realized of

⁸Otto Hasibuan, *Hak Cipta di Indonesia: Tinjauan Khusus Hak Cipta Lagu, Neighbouring Rights, and Collecting Society*, (Bandung: Alumni, 2008), pg.58

reflecting rights of moral and economy. Moral right reflects the characteristic of the creator whereas economic right reflects the material need which the creator needs physically or physiologically.

Copyright is finally recognized as the part of the appreciation to the creator since the creation or invention may have contributed significantly to the society and so the creator definitely deserves distinctive prize for his intellectual ability in producing the creation.⁹ One of the recognizable supporter of copyright, Staniforth Ricketson states as follows:

It has been popular to argue, particularly in Continental jurisdictions, that a person has a natural property right in the creation of his mind. Thus, it is said, a person has a natural right to the product of his labor and this should be recognized as his property, whether tangible or intangible.¹⁰

Human is fundamentally and naturally entitled to of the right of the creation produced by his intellectual mind ability materially or immaterially. This statement could possibly be the core basis of copyright establishment if it could be implemented into copyright system.

Copyright has fundamental characteristics as the particular right protecting particular works which naturally attached to its establishment. Namely, as right of property, limited duration, exclusive right, and as a multiple right which is a bundle of rights in one work. As a right property, copyright as the product of the creator's intellectual ability is considered as the investment by the creator which is to be acknowledged, honored, and protected under the law. This is because

⁹ Otto Hasibuan, *Ibid.*, pp. 50-51

¹⁰ Ricketson, Sam, and Alice Paton, *The Law of Intellectual Property*, (Melbourne: Royal Victorian Institute for the Blind, Tertiary Resource Service, 1988), pg.6

copyright is intangible subject with particular value which are economic and wealth conceptual value. These two values render copyright as equally considerable asset to be individually claimed by the entitled creator.¹¹

Copyright as the right with only limited period is for the justice between society and the creator. In particular period of time, creator is entitled to be appreciated for his works but it has to be expired in specific period of time so that the law would retain the equity between the society and creator in enjoying the works which could possibly impactful inventions to public.

As an exclusive right, copyright gives privilege for the creator to avoid copyright infringement and unlawful multiplication of his creation but this exclusivity does not actually make copyright totally immune. In some cases, for instance in similarity on lyrics but different melody in two different song, it could not easily be considered as copyright infringement. As a multiple right, copyright bestows the creator the moral right into the extent of right which enables the creator to alter, perform, and also modify disguise name for the author.

All those characteristics of copyright are actually based on economic and moral right patched on copyright. As well as the intellectual property right, economic and moral rights equip the copyright. Moral right is a fundamentally adhered right to both the creator and his creation. It concludes rights of publicity, paternity, and integrity. On this basis, creator has kind of cohesive integral relationship with his

¹¹ Otto Hasibuan, Op.cit., pg. 57

creation which makes them cannot be separated from each other. This can be regarded as united characteristic of the creator and his creation.

In accordance with this characteristic, copyright morally prohibits a person or legal entity to alter the title or substance of the creation without the permission of the creator or the legally recognized heirs of the creator. Thus the right of making alteration upon the creation belongs only to the creator and his legitimate heirs. However, if the creator is not capable to modify his creation adapting to the developing era over time, the alteration right can be delegated to other party within the consent of the creator.¹² Therefore, moral right basically emphasizes about the moral value that is to be appreciated in giving respect to the creator who has contributed his intellectual ability to produce such creation and it has to be rewarded and legally protected.

The economic right came long after moral right was recognized. It is because in the past time, the activity of creating things with artsy or creative sense was not considered as real profession and thus the act of imitating it would be on the extent of moral violation and not a cause to the economic loss. As the era develops, more of studies and sciences improve human civilization.

This development in one of its impacts, change the view towards profession categories and so the activity of creating was back then regarded as real profession as it produces material just like the other occupations. Economic right comprises

¹² Rachmadi Usman, *Hukum Hak Atas Kekayaan Intelektual: Perlindungan dan Dimensi Hukumnya di Indonesia*, (Bandung: Alumni,2003),pp. 112-113

right of reproduction, adaptation, distribution, public performance, broadcasting, and cablecasting.

Economic right in copyright actually is hardly interpreted in equal and similar terminology amongst the nations united in Berne Convention. This is due to the variety of creations within its different respective form of exploitation, the unintended similarities or relation between the creator and the other person in regard to the creation, and also the vague interpretation is due to the development of technology inflicts unexpected various exploitation of creation.¹³

Copyright as part of intellectual property right which is to be appreciated and protected by the law because it is one of the crucial parts of economic generator of a state. This role of copyright has its own reasons of being legally and certainly protected.

First, the reason is behind the principle of nature justice. The creator creates his work in expression of his individual and it makes him naturally capable in deciding to publish his creation and how, this is also to avoid him from suffer loss. The creator in regard to his creation is entitled for reward in form of royalty payment. Secondly, the reason is again about economic argument. In the activity of creating, the creator would inevitably contribute investment.

It could be investment of time, intellectual ability, creativity, and all cost for publishing the creation to the society, for instance, the investment for filmmaking and song recording. Both would require the cinematographer and singer to invest their time, ability, and cost to produce film or to record the song in

¹³ Otto Hasibuan, Op.cit., pg.72

a studio. All this investment would never be exist without the expectation of obtaining profit from the creation or works.¹⁴ Thirdly, the creation produced by the creator is part of national cultural asset. Thus, encouragement of activity is for the common good as also the part of the development of national culture. The last reason is, the creation under the copyright has contributed to the advancement of the society especially when the creation is published and promptly become renowned among the society in a short period of time.

Basically, all states have similar relevance in recognizing justification and characteristic of copyright also in establishing fundamental concept of copyright protection. Nonetheless, each state still have different emphasis in protecting copyright. One emphasizes about economic loss caused by the copyright violation and the other emphasizes regarding social issue upon protecting copyright.¹⁵ Due to the discrepancy on emphasis and priority in copyright protection system in every state, there are three main systems of copyright protection, namely civil law system, common law system, and socialist system.

Judicially, copyright registration is not mandatory for the authors or creators as the copyright do not derive from the registration but at the moment it was created by the creators. However, government provides legitimate registration to protect copyright of creators in the territory Indonesia. Thus, it rather would

¹⁴ Stewart, Stephen M., and Hamish R. Sandison, *International Copyright and Neighbouring Rights*. (California: Lexis Law Pub, 1989), pp. 3-4

¹⁵ Otto Hasibuan, Op.cit. pg.77

only as the preventive facility from misusage of the works by irresponsible parties.¹⁶

Copyright registration in Indonesia is administered by *Direktorat Jenderal Kekayaan Intelektual (Dirjen KI)*, Regional Office of Minister of Law and Human Rights Republik Indonesia, and any other legitimate intellectual property rights attorney office. *Dirjen KI* offers more convenient way of registration for authors and creators through the facilitation of “*E - Hak Cipta*” which would simplify the enrollment process with wider accessibility for everybody who wants to register their works. The registration is based on account system that the applicant would be able to log in into their accounts to obtain copyright letter after sending application letter and registration proposal to the *Dirjen KI* office.¹⁷

The government modulates intellectual property right registration to be as simple as possible and it shows how the government is aware that this right protection is crucial to the improvement of national economic growth. This is due to the undeniable fact that the most prospective countries are which have the most proposals of intellectual properties to be registered and which appreciate and protect intellectual property at their most ability.¹⁸

Intellectual property has contributed to the progress of national economic growth as it enables the creative-minded people to contently obtain advantage

¹⁶Yayasan Klinik HAKI (IP CLINIC), *Kompilasi Undang-Undang Hak Cipta, Paten, Merek Dan Terjemahan Konvensi-Konvensi Di Bidang Hak Kekayaan Intelektual*, (Bandung: PT. Citra Aditya Bakti, 2002) pg. 12

¹⁷ Cara Mendaftarkan Hak Kekayaan Intelektual, HUKUMONLINE.COM/KLINIK, <http://www.hukumonline.com/klinik/detail/lt55fe6e132fa14/cara-mendaftarkan-hak-kekayaan-intelektual> (Accessed: May 17, 2017).

¹⁸ David M. Gould, and William C. Gruben. “The Role of Intellectual Property Rights in Economic Growth”. *Journal of Development Economics* Vol. 48, Issue 2, March 1996, pp. 323-350

from their works which being protected.¹⁹ Besides the contribution to the national economic growth, according to Munaf²⁰, intellectual property right has the function of: trade competition tool for developed countries to retain their position in international market, it could be one of the economic strategies to commercialize what has been invented by the inventors or creators. The other function is also as the triggering tool for science and technology development which could possibly be industrialized, and also the tool to improve the society economic welfare as the inventors could be bestowed royalty appreciation for their significant inventions.²¹ This function then is well applied to how copyright play its role.

Furthermore, in regard to the protection upon copyright specifically on photographic works, pursuant to Article 40(1) of Law 28/2014 on Copyright, photographic works and images are considered as protected creation in the fields of science, art, and literature which is preserved under the Copyright law.

Photographic work is basically artwork derived from the act of objective representation of reality, completely untouched by the photographer's perspective.²² The works embodied in an image produced by the action of light on

¹⁹ Krisnani Setyowati, Op.cit., pg. 4

²⁰Dicky Rezady Munaf, "*HaKI di Lingkungan Perguruan Tinggi*", Seminar HaKI, Pusat Pengembangan Politeknik dan Pendidikan Program Diploma, Bandung, 9 Februari 2000 :*(a) Sebagai alat persaingan dagang, terutama bagi negara maju agar tetap dapat menjaga posisinya menguasai pasar internasional dengan produk barangnya, (b) Alat pendorong kemajuan iptek dan inovasi-inovasi baru yang dapat diindustrikan, dan (c) alat peningkatan kesejahteraan perekonomian masyarakat, khususnya para peneliti yang mempunyai penemuan yang diindustrikan yaitu dengan mendapatkan imbalan berupa royalti.*

²¹ Dicky Rezady Munaf, Loc. cit.

²² Leslie Mullen, *Truth In Photography: Perception, Myth And Reality In The Postmodern World*, (Florida: State University of Florida, 1998), pg. vi

a light-sensitive material. Photography develops in human cognition that they have more power to reconstruct their surrounding environment. Through photography, human has the ability to discover things in the world and express them in conceptual and theoretical way. The existence of photographic work developed denotatively as a medium to perpetuate tangible objects and moments in a highly qualified and credible grade.²³

According to its characteristic as one of artworks derived from human creative ability, photographic work is considered as copyright works. Thus, photographic work is under the protection of copyright law. The author of photographic works shall be photographer as the person who produces the photographs through camera as the media tool.

As photographic works are one of protected creations in every of its natural aspect, Otto Hasibuan in one of his books, elaborate the importance of concerning the protection of copyright depicting the essence of photographic works protection in several reasons. First, copyright conceives the cultural thinking which has to be rational, creative, industrious, and respectful upon other people's works and this cultural thinking is utterly needed in order to form intelligent society. Secondly, the copyright patched on the works or creations are nowadays the commodities which have high economic value.

²³ Soeprapto Soedjono, *Pot-Pourri Fotografi*, (Jakarta: Universitas Trisakti,2007), pg. 8

In other words, copyright generates national income for the state and that is why it has to be appreciated and protected.

At particular point, Indonesia could not only rely on the income from natural resource as it would be exhausted anytime soon. The other reason is that the cultural thinking “to create” protected under copyright regulations would be effective weapon for the state to compete in international trading which turns more competitive and liberal since the establishment of World Trade Organization (WTO) and Ratification of TRIPs Agreement (Trade-Related Aspects of Intellectual Property Rights).

Copyright would avoid the state for being mere buyers of the product made by the other countries who appreciate their inventors properly.²⁴ Based on what Hasibuan has stated, photographic works are then to be protected and appreciated in order to maintain significant development of intellectual and creative minds in producing highly qualified works or creations which eventually leads to improvement of nationwide economic growth.

Indonesia specifically regulates about protection for copyright on portrait produced in photography process. As one of photographic works, portrait of a subject is protected under the law pursuant to Article 115 of Law 28/2014 on Copyright. Any publishing of portrait without permission from the object or person related to the object for commercial purpose would be a violation causing fine to be paid in amount of Rp. 500.000.000,00. Indonesian copyright law also rules on the economic right of a portrait in Article 12 the law as well as the

²⁴ Otto Hasibuan. Op.cit., pg.10

economic right on copyright. In line with the comprehension of all the attempts, precautionary acts, and importance of protecting photographic works and copyright in Indonesia, the developing issue of copyright protection on photographic works also have to be understood.

The issues on photographic works are developing in linear with the development of technology in photography. In the beginning of its discovery, photography was limitedly produced and distributed through film technology. Not everybody could easily produce or moreover unlawfully multiply photographic works as it was utterly limited in film only. It would take too much attempts to misuse the photograph as it was hardly accessible for everybody.²⁵

Over time, scientific study synergized photography with digital technology. Everything in photography turned instantly convenient, widening the accessibility of photography process for all people. It was no longer the privilege only for particular photographers or film developers but photography belonged also to common people. However, this development also opens wider access and possibility for unlawful act of misusing the photographic works.

As the digital technology has made it easily possible for the works to be multiplied and improperly exploited, violation of misusing the photographic works are prone to be conducted by irresponsible parties. This issue then leads to the violation of copyright law as photographic works are creations protected under copyright law.

²⁵ Latrah, "Perlindungan Hukum atas Karya Cipta Fotografi". *Skripsi*, Makassar: Fakultas Hukum Universitas Hasanuddin, 2012, pg. 7

To enable one to multiply or utilize photographic works, one must obtain permission from the holder of the copyright of the creation. Therefore, this issue is to be concernedly handled and diminished not only by the sovereign authority, but also every individual who experience and enjoy the existing works. Every individual and institution is to appreciate authors and creators for their creations and works. It is all for improving the development of law establishment, quality of produced works or creations which would affect the national economic growth condition eventually.

Tracing back to the history of copyright protection, it was established firstly in Indonesia on the basis of colonial regulation. Netherland established *Auteurswet 1912* with *Staatsblad 1912 No.600* as copyright regulation and also attached itself to Berne Convention 1888. As one of the colonized nations under Netherland Indonesia referred to this regulation in regard to copyright protection.

However, for decades even until Indonesia proclaimed its independency, the copyright law actually was not functioning at all as in it completely was not implemented.²⁶ This was due to the numerous shortcoming of the law regarding its scope and sanction. The other factors also came from the Indonesian government itself. The government discharged the state from Berne Convention in order to freely transferring study and science from foreign countries through imitating, translating, or copying works overseas without consideration to copyright laws. Government also intentionally let local libraries and authors or creators to openly duplicating or adapting the works protected by copyright

²⁶ Hendra Tanu Atmadja, *Perlindungan Hak Cipta Musik atau Lagu*, (Jakarta: Penerbit Perpustakaan Nasional: Katalog Dalam Terbitan,2004), pg. 41

abroad. The dysfunctional *Auteurswet 1912* also did not give any signifying impetus to the government to enact another new copyright system.²⁷

Fortunately, nowadays Indonesian government has raised more sufficient awareness to copyright appreciation and protection but still copyright violations have not been handled properly before the law. For instance, it is still easy to find many stores selling phony movie CD. Instant copyright infringement on photographic works also could easily be found on social media such as posting other people's photo without permission or giving credit on *instagram*.

Specifically, cases of unlawful publishing of photographic works in Indonesia are still uncertain to be in the extent of court proceeding. Most of them are simply passed off only giving sanction to the perpetrator sanction in immoral sense. In Indonesia it is totally unlike the cases of photographic works copyright violation overseas, whereby by merely publishing a portrait without the permission of the person in the portrait would cause the publisher a lot of money for paying the damage and cost.²⁸

Even in Indonesian journalism realm, appreciation of copyright on photographic works is still very much underrated. In journalism, we could find such professions of journalist, writer, reporter or photographer, and they are the people who definitely has the basic understanding upon the importance of intellectual property. Specifically in this matter, photographer is definitely aware of how important is the exclusive right of a photo to be retained from all unlawful

²⁷ Otto Hasibuan, Op.cit., pg. 84-85

²⁸ 7 Kasus Pencurian Foto yang Sampai ke Meja Hijau, DETIKINET, <https://inet.detik.com/fotostop-news/d-2732821/7-kasus-pencurian-foto-yang-sampai-ke-meja-hijau> (Accessed: May 17, 2017).

acts. It could be proved by one of the civil case regarding copyright dispute upon photographic works publishing between Michael FE Sjukri and Media Indonesia on October 24 2005 with the case number 50/Hak Cipta/2005/ PN. The problem rooted from the unlawful credit labeling of photos published by Media Indonesia in magazines. Sjukrie was a scuba diving instructor also underwater life photographer. He was to assist the journalist group Media Indonesia in reporting the beauty of Papua Land.

The group assigned Adam as their photographer. Sjukri and Adam worked together and did exchange each other's photos within the consent for free usage but with credit giving on the photos. Not long after the trip, Sjukri found that Media Indonesia published his photos within credit given to Adam. He then filed lawsuit against Media Indonesia for using his photos without proper credit. Actually, the mistake was on the documentary team who carelessly putting photos without first confirming the information of the photographer and then the photos were published nationwide with the mistaken credit. This case with the problem rooted from such negligence shows that in Indonesia, the awareness of copyright importance on photographic works is still insufficient even among the journalism professions whereby the people there are supposed to be well-aware of the importance of copyright system.

Those violations are often passed off without any proper settlement, depicting that in Indonesia, copyright violation is still recognized as immoral action without any legal consequence thereof as it was realized in the past. Thus, government and society still have the duty to be done in appreciating and

developing the general viewpoint towards copyright. The duty is also about to assert frail implementation of Law 28/2014 on Copyright.

Problem in implementing copyright protection also came from the cultural value in Indonesia. Most of Indonesians still embrace the communal cultural attitude. It is basically the culture which promotes the act of prioritizing communal interest rather than individual interest to nurture harmony in life with each other. So when other people create identical works with the creator has made, the creator would be pleased that his creation or works have been benefit for other people even the creator does not receive any royalty payment.²⁹ The creator within communal culture belief would set aside his economic right to nurture harmonizing relation with other people. That creator views his works not as an exclusive cultural heritage but freely open heritage for everyone to imitate. Being imitated is perhaps the honor as the creator also as trendsetter.

For instance, Balinese craftsmen would be delighted upon the imitating act of their work by other people as they think it is part of their act to help other people based on their religious belief.³⁰ This culture clearly is against the individual value emphasized by copyright system whereby moral and economic rights conceived in copyright are to be appreciated and legally protected. This then would be another

²⁹ Insan Budi Maulana, *Sukses Bisnis Melalui Merek, Paten, dan Hak Cipta*, (Bandung: Citra Aditya Bakti, 1997), pg. 162-163

³⁰ Agus Sardjono, *Membumikan HKI di Indonesia*, (Bandung: Nuansa Aulia, 2009), pg. 105

struggle to implement copyright protection in Indonesia due to the colliding cultural value and deficient awareness of the society of copyright protection.³¹

However, as the time goes by, the communal culture is actually fading among society. The traditional people become more open-minded and begin to embrace the copyright system and view it as important to retain their rights upon their creations. They are now aware of preserving their inherent rights as creators to gain benefit for their intellectual and creative ability. Therefore, communal culture is basically not the current problem. It takes part only as one of cultures which affect Indonesian copyright mechanism in the past time.

Another problem in regard to culture, Indonesia still struggles with the legal culture in a way how the people react before the law. Looking again into Sjukri's case, in fact Sjukri after filing a lawsuit regarding the unlawful act upon his credibility as a photographer, instead did the exact unlawful thing to the defendant by publishing the photos which are not belong to his credit through the magazine company where he is working (It can be seen at the counter lawsuit filed by Media Indonesia to Sjukri through Supreme Court Verdict Number 037/K/N/HaKi/2006). This event shows that the legal culture in Indonesia is still very much feeble. The parties who recognize the power of law still underestimate the legal consequence and attitude when dealing with the dispute.

1.2 Formulation of Issues

³¹ Mahadewi, Kadek Julia, Budaya Hukum dalam Keberlakuan Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta pada Pengrajin Perak di Bali, *Jurnal Magister Hukum Udayana*, Denpasar: Udayana Master Law Journal 4, No. 2, (2015), pp. 127-128

Apart from the poor recognition of copyright in Indonesian legal history, Indonesia government today has made significant progress in appreciating the importance of intellectual property rights including copyright. However, due to the enormous territory of Indonesia, the law is still struggling for more comprehensive and assertive implementation of the enacted regulations. Still a lot of intellectual property rights violations are silently passed off without any further legal process, specifically violations toward copyright law which are done through unlawful usage of photographic works. Therefore, as it has been explained from the previous sections, this thesis is to structure the ongoing issues related to intellectual property rights in Indonesia mainly in copyright on photographic works. Those issues are as follows:

1. How effective is the implementation of Copyright Law in the field of photography in Indonesia?
2. How is the current condition of legal culture in Indonesia In Responding the Value of Moral Rights in Copyright?

1.3 Research Objectives

In accordance with the elaboration on the previous sections regarding copyright protection, this research thesis has the objectives as follows:

1. To apprehend the rooting issue of the underrated appreciation towards photographic works which are protected under copyright law.
2. To understand the cause of feeble legal culture in Indonesia in regard to copyright dispute and develop it to a better legal culture.

1.4 Research Purpose

1.4.1 Scientific Purpose

This research thesis which is purposed for legal analysis would be valuable contribution to legal studies in Indonesia in regard to the realm of intellectual property rights and copyright law also in developing the improvement of the established law. In specific, the research would be concerned on the studies regarding copyright protection on photographic works. It is expected to be meaningful contribution to legal knowledge of the importance of copyright law system.

1.4.2 Practical Purpose

This research thesis is purposed to raise the awareness of the society about the importance of copyright protection. Also it is purposed to vocalize the duty for all parties including government and all legal entities in the society involved in intellectual property realms in Indonesia to put more concern upon the implementation of copyright law in photographic works in order to improve the quality of all creators in Indonesia in producing their works. It is expected that the thesis would be impactful legal research for the still uncertain implementation of copyright law towards photographic works in Indonesia.

1.5 Structure of Writing

To give general guidance on material elaborated in this research thesis, a brief explanation of each chapter has been provided to systemize and direct the concept of each section:

CHAPTER I: INTRODUCTION

In the first chapter, there will be research background, formulation of issue, research objectives, research purposes, and systematics of writing.

CHAPTER II: LITERATURE REVIEW

In this chapter, there will be elaboration upon theoretical basis which is related to the formulated issue and also the conceptual basis pertaining answer to the issue of the research. The elaboration is basically theoretical explanation constituted in definition or elucidation of expert's theories. Not only the describing the theoretical aspects but also this chapter provides mindset framework to produce hypothesis as the temporary answer to the issues.

CHAPTER III: RESEARCH METHOD

In this chapter, there will be elucidation upon the approach used for the research method, types of research, and the procedure of the research conduct. Here, this research thesis is using normative approach in qualitative research through studying the legal formulation derived from expert's opinion, legal theories, and the enacted regulations.

CHAPTER IV: ANALYSIS

In this chapter, there will be the issue of the research along with its analysis based on theoretical basis, tenets, or statutes related to the issue. In this thesis research, analysis would be conducted on:

- the substantial aspect of Copyright law in Indonesia
- the unassertive implementation of copyright law in Indonesia
- Interrelation between copyright protection and development of national economic growth of Indonesia.
- The awareness of society towards the importance of copyright protection
- Legal implementation upon violation of copyright law especially on photographic works in Indonesia.

CHAPTER V: CONCLUSION AND SUGGESTION

In this section, there will be conclusion and suggestion regarding the formulated issue and the analysis upon the issue.