

ABSTRAK

Praktik fotografi jalanan (*street photography*) di ruang publik Kota Surabaya, di mana fotografer kerap mengambil gambar pengunjung tanpa izin lalu memperjualbelikannya melalui platform digital. Praktik tersebut sering dilakukan dengan alasan seni, dokumentasi publik, dan kebutuhan ekonomi kreatif, namun di sisi lain menimbulkan keberatan dari masyarakat karena dianggap melanggar privasi dan menggunakan potret seseorang untuk kepentingan komersial tanpa persetujuan. Kondisi ini menimbulkan persoalan hukum terkait batasan hak cipta fotografi dan perlindungan data pribadi subjek foto. Penelitian ini bertujuan untuk menganalisis batasan pengaturan hukum atas hak cipta fotografi di Indonesia serta penerapan Pasal 1 ayat 1 UU HC dalam praktik penjualan foto jalanan di Surabaya.

Metode dalam penelitian ini menggunakan metode hukum normatif dengan pendekatan (*statute approach*) bahan non hukum dengan melalui wawancara dengan 10 responden yang terdiri atas fotografer, subjek pemotretan, staf Hak Kekayaan Intelektual, dan instansi terkait, serta observasi lapangan di Jalan Tunjungan, Jalan Basrah, dan Jalan Basuki Rahmat. Data sekunder diperoleh melalui studi kepustakaan terhadap peraturan perundang-undangan, buku, dan jurnal hukum.

Hasil penelitian menunjukkan bahwa hak cipta fotografer tidak bersifat mutlak karena penggunaan potret secara komersial wajib memperoleh persetujuan subjek foto berdasarkan Pasal 12 UU Hak Cipta. di lapangan belum optimal akibat rendahnya pemahaman hukum fotografer, minimnya sosialisasi pemerintah, dan belum adanya mekanisme persetujuan yang jelas dalam praktik fotografi jalanan.

Kata Kunci: Perlindungan Hukum, Hak Cipta Fotografi, Perlindungan Data Pribadi.

ABSTRACT

Street photography in the public spaces of Surabaya often involves photographers capturing images of visitors without permission and subsequently selling them via digital platforms. While these practices are frequently justified on grounds of art, public documentation, and the creative economy, they also provoke public objection due to perceived privacy violations and the unauthorized commercial use of individuals' likenesses. This situation raises legal issues regarding the limits of photographic copyright and the protection of the subjects' personal data. This study aims to analyze the legal framework governing photographic copyright in Indonesia and the application of Article 1, Paragraph 1 of the Copyright Law to the practice of selling street photographs in Surabaya.

The study employs a normative legal research method utilizing a statutory approach and incorporating non-legal materials gathered through interviews with ten respondents—including photographers, subjects, Intellectual Property staff, and relevant agency officials—as well as field observations at Jalan Tunjungan, Jalan Basrah, and Jalan Basuki Rahmat. Secondary data were obtained through a literature review of legislation, books, and legal journals.

The findings indicate that a photographer's copyright is not absolute; the commercial use of a person's likeness requires the subject's consent pursuant to Article 12 of the Copyright Law. suboptimal due to photographers' limited legal understanding, insufficient government outreach, and the absence of clear consent mechanisms within street photography practices.

Keywords: Legal Protection, Photographic Copyright, Personal Data Protection.