

THE ENIGMA PERFORMING RIGHTS IN MUSIC DISPUTES IN INDONESIA: A WAY OF JUSTICE FROM THE PARADIGM OF FAIRNESS PRINCIPLE

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Abstract

This study aims to answer two legal issues, namely, the enigma and nature of the concept of performing rights in music disputes in Indonesia and the orientation of the principle of fairness in realizing justice related to music disputes in Indonesia related to performing rights. This research is a normative legal research with a concept and statutory approach. The research results confirm that performing rights in music disputes in Indonesia must be seen in the important role of LMKNs as regulators, administrators, as well as mediators. Therefore, increasing the professionalism and capacity of LMKNs is needed so that the distribution of royalties can reflect aspects of justice for those involved in the world of music. The fairness principle in realizing justice related to music disputes in Indonesia related to performing rights is when the original position and veil of ignorance of the parties are strengthened through the role of LMKN in the mediation process, namely that disputes related to performing rights can be carried out effectively, efficiently and refers to the substantive aspects which are proportionally able to accommodate the rights of the parties.

Keywords: *Copyright; Performing Rights; Royalties; Fairness Principle.*

A. INTRODUCTION

Music or songs are intellectual works that evoke creativity and innovation from their creators.¹ As part of an intellectual work, music or songs are guaranteed legal protection through copyright arrangements. Even more so when music is used as the primary means of commercialization aspects aimed at gaining economic benefits. The commercialization aspect of music or songs makes copyright protection a condition sine qua non so that it can provide guarantees for music or song creators through copyright.²

1 Ruth Towse., Dealing with Digital: The Economic Organisation of Streamed Music, *Media, Culture and Society*, Vol. 42, No. 7–8, 2020, page. 1461–78

2 Eric Priest., The Future of Music Copyrights Collectives in the Digital Streaming Age, *The Columbia Journal of Law & the Arts*, Vol. 45, No. 1, 2021, page. 8

Copyright protection for music or songs intended for commercialization is an attempt to provide proper rights for the creator of a tune or song.³ The requests that must be received as a consequence of creating music or song refer to Law No. 28 of 2014 concerning Copyright (UU HC) which states that rights related to copyright consist of two rights, namely economic and moral rights.⁴ Economic rights are in the form of ownership that emphasize economic consequences for the existence of creation. That means if someone has created a song or certain music used for commercial purposes, then someone who has made that particular song or music is entitled to economic rights that must be owned by the party who uses the song or music commercially.⁵ Moral rights do not have direct economic consequences but rather emphasize efforts to respect the creator of a work in copyright to confirm, write down, and simultaneously announce that a copyrighted work is the creation of a person under a particular name.

Economic and moral rights in copyright related to music or songs must be fulfilled and implemented as stipulated in the HC Law. Especially concerning the fulfillment of economic rights because economic rights are a form of economic consequence for the existence of a copyrighted work. Related to copyrights on music or songs, one fulfillment of economic rights is the payment of royalties. One of the royalty payments is made because it fulfills the existence of copyrights as part of copyrights.⁶ Performance rights, which lexically mean the right to perform, are rights obtained by every music or song creator if the music or songs created are used commercially in a performance.⁷ Arrangements regarding exercise rights are specifically emphasized in PP No. 56 of 2021 concerning the Management of Song and/or Music Copyright Royalties (PP Royalty) and followed up in Permenkumham No. 9 of 2022 concerning the Implementation of PP on the Management of Song and/or Music Copyright Royalties (Permenkumham Royalty).

The two rules above, namely PP Royalty and Permenkumham Royalty, explain that royalties related to performing rights must be paid by parties who use copyrights on music or songs commercially. Royalty payments related to performing rights are channeled through the National Collective Management Institute (*Lembaga Manajemen Kolektif Nasional* or LMKN), authorized to distribute royalties to music copyright holders or songs

3 Wahyu Sasongko., Theoretical Review: The Protection of Music Copyrights in the Radio, *Fiat Justisia: Jurnal Ilmu Hukum*, Vol. 13, No. 4, 2019, page. 307

4 Bryan Lesser., Record Labels Shot the Artists, But They Did Not Share the Equity, *Georgetown Journal of Law and Public Policy*, Vol. 16, No. 1, 2018, page. 289–314

5 Shane Murphy., Music Marketing in the Digital Music Industries – An Autoethnographic Exploration of Opportunities and Challenges for Independent Musicians, *International Journal of Music Business Research*, Vol. 9, No. 1, 2020;

6 Federico Ferri., The Dark Side(s) of the EU Directive on Copyrights and Related Rights in the Digital Single Market, *China-EU Law Journal*, Vol. 7, No. 1–4, 2021;

7 Moh Fathur Rizki, Zulkifli Makkawaru, and Baso Madiong., Tinjauan Hukum Pelaksanaan Hak Pertunjukkan (Performing Rights) Perusahaan Karaoke Dalam Pembayaran Royalti Musik Melalui Kuasa Lembaga Manajemen Kolektif, *Jurnal Of Law*, Vol. 19, No. 2, 2021, page. 101–8.

so that their economic rights can be fulfilled.⁸ Even though there is an LMKN institution as a royalty distributor related to performing copyright rights on music or songs used for commercial purposes, disputes related to performing rights that are part of copyright cannot be avoided, especially in fulfilling economic rights in the form of payments Royalty. Article 16 PP Royalty provides a classification that disputes related to royalty payments related to performing rights generally occur in the aspect of discrepancies in royalty payments between creators, related rights holders, and creators of music or songs used for commercial purposes.⁹

One of the disputes related to royalty payments related to performing rights in 2023 is related to the case between Ahmad Dhani, the songwriter of the Dewa 19 Band, and Once, who was once the vocalist of the Dewa 19 Band. Ahmad Dhani forbade Once to sing Dewa's song 19, which he created for two reasons: Once and its management had not paid royalties for the performing rights of Dewa 19's song.¹⁰ There was an orientation for the Dewa 19 band to hold a concert in 2023—the concept of performing rights as part of copyright.

This research has a novelty in the form of a juridical analysis of the conception of performing rights which later becomes a dispute in the world of music by using an analytical knife in the form of the fairness principle in realizing justice. The fairness principle is a principle that emphasizes the proper distribution of benefits for an economic benefit in which the distribution of profits is the essence of justice itself (justice as fairness).¹¹ This study aims to answer two legal issues: the enigma and nature of the concept of performing rights in music disputes in Indonesia and the orientation of the principle of fairness in realizing justice related to music disputes in Indonesia related to performing rights.

Three previous studies have carried out research on copyright disputes in music: 1) research conducted by Afriana et al. with a focus on resolving copyright disputes through mediation from an economic analysis of law perspective.¹² H The study results confirm that the settlement of copyright disputes through mediation is the right step because mediation emphasizes the effectiveness and efficiency of dispute resolution to provide benefits to the disputing parties. The difference between the study

8 Mohamad Alen., Tinjauan Normatif Kedudukan Lembaga Manajemen Kolektif Nasional (LMKN) Sebagai State Auxiliary Organ Berdasarkan Peraturan Pemerintah No. 56 Tahun 2021 Tentang Pengelolaan Royalti Hak Cipta Lagu Dan/Atau Musik, *Dialogia Iuridica: Jurnal Hukum*, Vol. 13, No. 2, 2022, page. 11.

9 Rika Ratna Permata et al., Penerapan Doktrin Fair Use Terhadap Pemanfaatan Hak Cipta Pada Platform Digital Semasa Covid 19 Di Indonesia, *Dialogia Iuridica: Jurnal Hukum Bisnis Dan Investasi*, Vol. 13, No. 1, 2021, page. 130–48

10 Mariska., HAKI Jadi Alasan Ahmad Dhani Larang Once Nyanyikan Lagu Dewa 19, (kontrakhukum.com, 2023), <https://kontrakhukum.com/article/ahmad-dhani-larang-once/>, Diakses Pada Tanggal 10 April 2023.

11 Sajia Sultana Begum., Aristotelian and Rawlsian Concept of Distributive Justice, *Jeitr*, Vol. 6, No. 6, 2019, page. 849–54

12 Hendri Sita Ambar Kumalawati, Muhamad Amirulloh, and Anita Afriana., Mediasi Sebagai Penyelesaian Sengketa Untuk Pembajakan Hak Cipta Di Indonesia, *Jurnal Ilmiah Galuh Justisi*, Vol. 9, No. 2, 2021, page. 186

conducted by Afriana et al. and this research is if the research conducted by Afriana et al. focuses on resolving copyright disputes through mediation from the perspective of economic analysis of law. In contrast, this research focuses on the juridical analysis of the concept of performing rights which then becomes a copyright dispute.

Subsequent research was carried out by 2) Widiyanti et al. which focuses on the orientation of copyright dispute resolution and liability based on PP 56/2021.¹³ The research results show that dispute resolution through mediation in copyright cases must be supported by the quality and competence of the mediator so that it can support fair and proper dispute resolution and guarantee benefits for the parties. The difference between the research conducted by Widiyanti et al. and this research is that if the research conducted by Widiyanti et al. focuses on the orientation of copyright dispute resolution and accountability based on PP 56/2021, while this research focuses on the juridical analysis of the conception of performing rights which later becomes a copyright dispute.

Further research was conducted by 3) Yuliawan et al. which discusses the resolution of copyright disputes related to royalties within the Ministry of Law and Human Rights.¹⁴ The research results show that the Ministry of Law and Human Rights, together with LMKN, as emphasized in PP 56/2021 have a function to facilitate if there is a dispute related to royalty payments. The difference between the research conducted by Yuliawan et al. and this research is if the research conducted by Yuliawan et al. focuses on resolving copyright disputes related to royalties carried out within the Ministry of Law and Human Rights. In contrast, this research focuses on the juridical analysis of the conception of performing rights which later becomes a copyright dispute.

Of the three previous studies above, research on the juridical analysis of the conception of performing rights which later became a dispute in the world of music with an analytical knife in the form of the fairness principle has never been comprehensively analyzed by the three previous studies, so this research is original.

B. RESEARCH METHODE

This research that focuses on the juridical analysis of the concept of performing rights which later becomes a dispute in the world of music with an analytical knife in the form of the fairness principle, is normative legal research. Normative legal research is legal research with doctrinal characteristics, referring to concepts, theories, and legal principles studied

13 Jeremy Martin Nugroho, Mardi Handono, and Ikarini Dani Widiyanti., *Perlindungan Hak Cipta Lagu Pada Platform Musik Digital: Studi Kasus Tina Toon Menurut Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta*, *Wacana Paramarta Jurnal Ilmu Hukum*, Vol. 21, No. 3, 2022, page. 63–76

14 Indra Yuliawan Taopik, M., *Tinjauan Yuridis Pemberian Dan Perlindungan Hak Royalti Atas Karya Cipta Lagu Atau Musik Berdasarkan PP No 56 Tahun 2021 Tentang Pengelolaan Royalti Hak Cipta Lagu Dan/Musik Di Kemenkumham*, *Adil*, Vol. 4, No. 56, 2022, page. 43–54.

based on statutory regulations.¹⁵ The primary legal materials in this study are the 1945 Constitution of the Republic of Indonesia, the HC Law, PP Royalty, and the Permenkumham Royalty. Secondary legal materials are research results, journal articles, and books discussing copyright, the conception of performing rights, and the fairness principle. Non-legal materials are language dictionaries. The approach used is the concept and statutory approach..

C. RESULTS AND DISCUSSION

1. Performing Rights in Music Disputes in Indonesia: What and How?

Performing rights, often referred to as performance rights, are rights oriented in the form of performing or announcing copyright for a song or music with a commercial purpose. As part of copyright, performing rights must also refer to substantial provisions regarding copyright, namely the fulfillment of economic rights and moral rights for songwriters or music for performing rights.¹⁶ Referring to the requirements of Article 1 Number 1 of the HC Law, one of the characteristics of copyright is its intuitive nature, meaning that a creator or copyright holder automatically gets legal protection and guarantees for the fulfillment of moral and economic rights. The provisions of Article 1 Point 1 of the HC Law above are relevant to performing rights in which performing rights are automatically guaranteed moral and economic rights. Regarding the guarantee of economic rights that must be fulfilled concerning performing rights, these rights are fulfilled through a royalty payment mechanism.¹⁷

As part of copyright, of course, performing rights have general characteristics that are substantially relevant to copyright. First, copyright has an orientation as property rights. Copyright as a property right means that copyright can be owned by individuals personally and can even be transferred to other parties.¹⁸ Because that can transfer it to other parties, copyright has characteristics in the form of economic value attached to the copyright. Second, copyright has a limited time. This is because, as an implication of the existence of a monetary value in copyright, the time limitation is intended. So, there is an administrative process in the form of a structured and orderly copyright registration regulated by the state.¹⁹

15 Irwansyah, *Penelitian Hukum: Pilihan Metode Dan Praktik Penulisan Artikel*, 3rd ed. Yogyakarta, Mira Buana Media, 2020

16 Yamuna V.J., Music Industry and Copyrights Law in India, *International Journal of Legal Science and Innovation*, Vol. 4, No. 1, 2021, page. 83–95.

17 Onu Kingsley Osinachi Kolawole Olatoun A., Legal Framework For Copyrights Protection In Nigeria, *Biu Law Journal*, Vol. 2, No. 5, 2018, page. 22–34.

18 Ujang Badru Jaman, Galuh Ratna Putri, and Tiara Azzahra Anzani., Urgensi Perlindungan Hukum Terhadap Hak Cipta Karya Digital, *Jurnal Rechten: Riset Hukum Dan Hak Asasi Manusia*, Vol. 3, No. 1, 2021, page. 9–17.

19 Henrique Meissner and Renee Timmers., Teaching Young Musicians Expressive Performance: An Experimental Study, *Music Education Research*, Vol. 21, No. 1, 2019, page. 20–39,

Third, another characteristic of copyright is that it is exclusive and directly attached to the creator of a work. This means that legal protection related to copyright is automatic, meaning that if a job has been submitted declaratively, legal protection for copyright is automatic. *Fourth*, copyright is a multiple right, namely a set of rights attached to a copyright.²⁰ That is relevant to performing rights that are part of a set of rights in copyright..

Based on the four characteristics related to copyright above, ST Stewart formulates an argument that contains the reasons why copyright protection and respect need to be given²¹. *First*, the aspect from dimension of justice, respect for a work, one of which is through royalties is intended as an effort to provide a "reward" for an intellectual work for the creator of the work. In this case, efforts to create intellectual work must be appreciated by giving a certain amount of royalties. *Second*, from an economic perspective, the appreciation of copyright through the provision of royalties is one of the efforts to provide the right to welfare that the creator of the work should receive. The creator of the work, with various efforts and intellectual power, actually tries to formulate and make a particular work; even in the process of making it, it often requires money and time. Therefore, the payment of royalties for copyrighted works is intended as an effort to "replace" the struggle economically and timely by the work's creator.

Third, from the cultural aspect, the award of copyright through payment of royalties is meant to motivate creators of works so that in the future, there will be other works that are better and created in the future. It also aims to foster a culture of creativity and innovation in doing work. *Fourth*, from a social perspective, the awarding of royalties to creators of intellectual works is intended to influence and simultaneously show certain prestige to those who own creations. This prestige is ultimately intended as an effort to influence society so that there will be more excellent and quality intellectual works in the future.²²

Of the four aspects of participation and the importance of appreciation and respect for a copyrighted work, exercising rights as part of copyright fulfills the four characteristics above. In positive law, arrangements regarding the right to exercise rights have been emphasized in several articles in the HC Law, as stated in Article 9, Article 35, Article 87, Article 88, and Article 89 of the HC Law. Several formulations regarding performing rights show that at least three essential substances regarding the regulation of performing rights in the HC Law, namely: (i) performing rights as copyrights must be given to the

20 M. F. Makeen., The Evolution And Scope Of The Public Performance Rights Of Musical Works Under International, U.S. And Egyptian Copyrights Laws, *Journal, Copyrights Society of the U.S.A.*, Vol. 1, No. 1, 2018, page. 178.

21 Ni Komang Irma Adi Sukmaningsih, Ratna Artha Windari, and Dewa Gede Sudika Mangku., Hak Terkait (Neighboring Rights) Pelaku Pertunjukan Berdasarkan Undang-Undang No. 28 Tahun 2014 Tentang Hak Cipta, *Jurnal Komunitas Yustisia*, Vol. 1, No. 1, 2020, page. 77

22 Nina Yolanda., Upaya-Upaya Peningkatan Pemahaman Dan Kesadaran Pencipta Karya Seni Tradisional Terhadap Hak Ciptanya, *Solusi*, Vol. 17, No. 1, 2019, page. 32–41

creator of a piece of music or song. This means that if the performance rights are not fulfilled, a legal violation is committed against the creator of a piece of music or song. Furthermore, namely (ii) implementation rights managed and distributed by certain institutions, namely LMKN. LMKN, in this case, has two roles, namely as a regulator and distributor for the implementation of exercise rights; copyright has an orientation in realizing the state's goals, namely efforts to promote the public welfare by distributing royalties to copyright holders for songs or music. LMKN also acts as a "representative" of the copyright holders of songs or music, especially regarding licensing for commercial use of songs or music through performance rights.

(iii) Even though performing rights have been regulated in the HC Law, it still creates problems in society, one of which is the case between Ahmad Dhani, the songwriter of Band Dewa 19, and Once, who was once the vocalist of the band Dewa 19.²³

(iii) In this case, the problems are generally that, even though there has been an arrangement regarding performance rights, who is the party that is obliged to pay royalties from the performance rights, namely, is it the party performing a music or song? Or is it the management of a performance so that the music or song is used as part of the performance?, or does the LMKN perform it as parties that meet in the distribution of royalty payments? These problems have led to lawsuits which, on the one hand, create an enigma (obscurity) towards the concept of performing rights itself.

The enigma, which according to KBBI (Kamus Besar Bahasa Indonesia), is unclear/obscure, or not sure, is relevant in describing the concept of performing rights.²⁴ On the one hand, performing rights as part of copyright are essential, especially in guaranteeing economic rights for creators of musical works or songs. However, the problem is what if one of the parties (particularly the creator of a musical work or song) has not correctly received a fair and proper distribution of royalties. This raises the problem of which party should be responsible when there is injustice in distributing royalties for music or song creators. Referring to Article 16 PP Royalty, it is emphasized that if there is a dispute related to the distribution of royalties for creators of musical works or songs, efforts can be made to settle the mediation dispute with the directorate general of IPR at the Ministry of Law and Human Rights. This is as stated in further regulation in Article 21 paragraph (4) of the Minister of Law and Human Rights Royalty that the LMKN has substantive authority over the initiation of the mediation, which seeks to position the problem of music disputes proportionally.

23 Melvina Tionardus., Ahmad Dhani Lupakan Soal Royalti, Tetapi Tetap Larang Once Nyanyikan Lagu Dewa 19, (www.kompas.com, 2023), <https://www.kompas.com/hype/read/2023/04/07/102303366/ahmad-dhani-lupakan-soal-royalti-tetapi-tetap-larang-once-nyanyikan-lagu?page=all>, Diakses Pada Tanggal 10 April 2023

24 Pusat Bahasa Departemen Pendidikan Nasional, *Kamus Bahasa Indonesia*, Jakarta, Departemen Pendidikan Nasional, 2008

In practice, performing rights emphasize the importance of the role of LMKNs as regulators, administrators, as well as mediators. As a regulator, LMKNs have the authority to set rules and standards regarding registration and the amount of royalty distribution properly and fairly. As an administrator, the registration carried out by the LMKN is essential as an effort to recognize performing rights and provide and distribute royalties to parties with performing rights. As a mediator, LMKNs are oriented towards carrying out and holding mediation related to disputes in the presence of dissatisfaction with one of the parties over the provision of royalties related to performing rights.

Based on the analysis above, performing rights in music disputes in Indonesia must be seen in the critical role of LMKNs as regulators, administrators, and mediators. This means that if there is a dispute related to music or songs related to performing rights, LMKN has a vital role in resolving it. Therefore, increasing the professionalism and capacity of LMKNs is needed so that the distribution of royalties can reflect justice for those involved in music.

2. The Fairness Principle Paradigm: A Way of Justice For Music Disputes In Indonesia

The music disputes, especially those related to performing rights, have caused problems. This is based on the concept of performing rights which cannot be disputed directly between copyright holders and users of music or songs for commercial purposes. Referring to the HC Law, PP Royalty, and Permenkumham Royalty, LMKNs have an essential position and authority related to the distribution of royalties and efforts to resolve disputes by conducting mediation by the parties. The importance of the position and authority of the LMKN in realizing justice for the parties related to music disputes related to performing rights, so in initiating the implementation of a mediation, the LMKN has an essential role in implementing aspects of justice for the disputing parties.²⁵

The construction of PP Royalty and Permenkumham Royalty, which emphasizes the importance of mediating settlement, is at least based on three arguments, namely: first, mediation is an out-of-court (non-litigation) dispute settlement whose orientation is to bring together the disputing parties so that communication and friendship are established. so that the agreement of the parties can resolve disputes.²⁶ The application of mediation in the context of performing rights in music is an appropriate practice because a lack of communication and misunderstandings between the parties generally causes violations related to performing rights. Therefore, the existence of mediation that

25 Nafisah Muthmainnah, Praxedis Ajeng Pradita, and Cika Alfiah Putri Abu Bakar., *Perlindungan Hukum Terhadap Hak Cipta Bidang Lagu Dan/Atau Musik Berdasarkan PP Nomor 56 Tahun 2021 Tentang Pengelolaan Royalti Hak Cipta Lagu Dan/Atau Musik*, *Padjajaran Law Review*, Vol. 10, No. 1, 2022, page. 1–14.

26 Hilman Syahril Haq et al., *Community Mediation-Based Legal Culture in Resolving Social Conflicts of Communities Affected by the COVID-19 Pandemic in West Nusa Tenggara, Indonesia*, *Studia Iuridica Lublinensia*, Vol. 31, No. 2, 2022, page. 11–32

can bring together the parties is an essential orientation so that communication and friendship are established to resolve disputes related to performing rights.

Second, mediation related to performing rights disputes involves the role of the LMKN as an institution that understands the procedure and mechanism for registering and distributing royalty payments. The role of the LMKN in the mediation process is essential because, at the same time, the LMKN conducts outreach and understands the parties on what is currently happening. In this mediation process, the LMKN also offers efforts to resolve the dispute to be agreed upon and accepted by the parties. *Third*, mediation, in general has the characteristics of being effective and efficient, especially in terms of time.²⁷ That is relevant to the performing rights dispute in which the parties involved are musicians and songwriters/music creators. Musicians and songwriters/musicians prioritize the effectiveness and efficiency of dispute resolution because musicians and songwriters/musicians also have various activities in the music world and sometimes have busy schedules.

From the three arguments related to the choice of dispute resolution through mediation as stipulated in PP Royalty and Permenkumham Royalty, we can conclude that dispute resolution through royalties is the right thing. Because it guarantees the effectiveness and resolution of disputes in terms of time and, at the same time, can establish communication between the parties intensively so that the resolution is appropriately resolved. Regarding the settlement of conflicts exercising the above rights, applying the principle of fairness is needed, especially for LMKNs facilitating the mediation process. The focus of fairness is constructing the theory of justice from John Rawls. John Rawls argues that a judge that manifests to the parties is determined by two aspects, namely: the original position and the veil of ignorance.²⁸ The original position is a "starting position" and "economic bargaining power" related to an individual's work in society. In the context of disputes between songwriters or music creators and those who use songs/music for performing rights, then in natural conditions, the songwriters or music composers are in a weak condition because they do not have the capacity when the third party uses a song or music creation. Therefore, to strengthen the initial position" and "economic bargaining power" of the songwriters or music, LMKN is here to explain as well as formulate a mediation process that balances the function between songwriters or music and those who use songs/music for the benefit of performances (performing right).

Vail of ignorance is a condition based on ignorance of one of the parties that can potentially cause losses, especially from an economic

27 Anom Wahyu Asmorojati Ilham Yuli Isdiyanto., The Urgency of Village Mediation Institution as a Mechanism for Dispute Resolution: The Case of Wukirsari Village in the Special Region of Yogyakarta, *Sodality*, Vol. 9, No. 2, 2021, page. 5–6.

28 Sunaryo Sunaryo., Konsep Fairness John Rawls, Kritik Dan Relevansinya, *Jurnal Konstitusi*, Vol. 19, No. 1, 2022, page. 001

perspective.²⁹ Losses due to ignorance can occur to songwriters or music because, with their ignorance, songwriters or music often do not get royalties from performing rights. Losses due to ignorance can also happen for singers who use songs/music for performances because singers are usually only tasked with singing without understanding the legal aspects and problems related to the songs/music they perform. The show manager or event organizer should own an understanding of performing rights. So, songwriters or music get their rights through royalties, and singers who use songs/music for performances don't seem to be blamed. Because the singer's job is to sing without understanding the aspects and problems law related to the song/music performed.

In connection with the two aspects of the original position and the veil of ignorance above, we can realize the fairness principle in John Rawls' view if these two aspects can be strengthened, especially for the parties to the dispute. Efforts to enhance the original position and the veil of ignorance from each party is the task of the LMKN in the mediation process. In addition to explaining the legal aspects of a dispute, LMKN is expected to be able to provide solutions and be able to educate the disputing parties as well as be able to understand performing rights from the point of view of creators, singers, and the organizers of a show or event.

Based on the analysis above, the principle of fairness in realizing justice related to music disputes in Indonesia related to performing rights is when the parties' original position and veil of ignorance are strengthened through the role of LMKN in the mediation process. LMKN, in this case, acts as an executor of the fairness principle so that disputes that occur related to performing rights can be carried out effectively and efficiently and refer to substantive aspects that are proportionally able to accommodate the rights of creators, singers, as well as those managing a performance or event.

The main novelty of this research is that in carrying out its authority, LMKN must also refer to the fairness principle aspect. This is especially true in the application of the principle of proportionality which is part of the fairness principle. The application of the principle of proportionality is important for LMKN to maintain the optimization of economic rights that should be obtained by songwriters through royalties.

D. CONCLUSION

Performing rights in music disputes in Indonesia must be seen in the critical role of LMKNs as regulators, administrators, and mediators. That means that if there is a dispute related to music or songs related to performing rights, LMKN has a vital role in resolving it. Therefore, increasing

29 Arvind Shambhavi Goswami, Sharma., Analysing Rawls Theory Of Justice Through Amartya Sen's Perspective, *Indian Journal of Integrated Research in Law*, Vol. 2, No. 1, 2020, page. 1-12.

the professionalism and capacity of LMKNs is needed so that the distribution of royalties can reflect justice for those involved in music.

The fairness principle in realizing justice related to music disputes in Indonesia related to performing rights is when the parties' original position and veil of ignorance are strengthened through the role of LMKN in the mediation process. LMKN, in this case, acts as an executor of the fairness principle so that disputes related to performing rights can be carried out effectively and efficiently and refers to substantive aspects that are proportionally able to accommodate the rights of creators, singers, and managers of a performance or event. The application of the principle of proportionality, which is part of the fairness principle, is important for LMKN to maintain the optimization of economic rights that should be obtained by songwriters through royalties.

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