



Law Enforcement of Pirated Film User Sites Due to the Implementation of Physical Distancing in Denpasar

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Abstract

The purpose of this study was to determine the effectiveness of the application of the Copyright Act to the number of pirated movie sites viewers as the impact of physical distancing in Denpasar City. This research was empirical legal research that examines the expectations and using a descriptive qualitative manner. This research population was Denpasar City residents, with a random sample of 172 respondents filled in an online questionnaire. The results indicated that decreased the percentage of pirated film provider sites before and during COVID-19 by 21,7%. That was influenced by the proportion of the time and costs spent watching movies on legal sites and also the blocking of pirated film sites by the government. After looking at the data and reviewing it with the theory of legal effectiveness and legal protection, it concludes that as long as physical distancing implemented, the Copyright Law enforcement has not been going well and must be corrected in one way. It was namely replacing the complaint offence contained in it with an ordinary offence.

1. Introduction

The film is a medium of entertainment that is currently in great demand by the wider community. According to data from the Indonesian Film Agency, there has been an almost gradual increase in moviegoers each year. The increased number of viewers increased from the 2018 - 2019 period, nearly doubled from the previous year. After being recapitulated by the Indonesian Film Agency, the final number of viewers was 51,901,745 moviegoers, and it is the highest achievement for Indonesian cinema.¹

According to Managing Director Ideosource Andi Boediman, in Indonesian

¹ Agus Mediarta,(2020), *Perkembangan Film Indonesia 2019 : Bukan Sekadar Jumlah Penonton*, accessed on 22 June 2020, available in: <http://filmindonesia.or.id/article/perkembangan-film-indonesia-2019-bukan-sekadar-jumlah-penonton#.X3mDOGzYdV> .

discussion Business Outlook 2019 movie, average growth in the number of moviegoers in cinemas grew 17% per year, while VoD streaming service provider (Video on Demand) grew 19% on average for the next five years.²

Sadly, that achievement seems to be anti-climax due to the outbreak of COVID-19 in the community. Before being known as COVID-19, this disease was known as the new coronavirus 2019. This virus is unknown, but it is similar to the virus family that causes SARS (Severe Acute Respiratory Syndrome) and many common colds.³

This virus has spread throughout the world, including Indonesia and has even claimed lives. The outbreak of this virus also causes people to be unable to carry out their everyday activities and only carry out their home activities. It is due to the government's implementation of Large-Scale Social Restrictions (referred to as PSBB). The enactment is based on the Regulation of the Minister of Health of the Republic of Indonesia Number 9 of 2020 concerning Guidelines for Large-Scale Social Restrictions in the Context of Accelerating Handling of Corona Virus Disease 2019 (COVID-19). As a derivative rule from Government Regulation of the Republic of Indonesia Number 21 of 2020 concerning Large-Scale Social Restrictions in The Framework for the Acceleration of Handling of Corona Virus Disease 2019 (COVID-19), which regulates the form of accelerated handling of COVID-19.

In supporting the government's steps to accelerate the handling of COVID-19 while maintaining public order, POLRI, as the institution in charge of state security, has issued a Declaration of the Chief of the National Police of the Republic of Indonesia Number: Mak / 2 / III / 2020. concerning Compliance with Government Policies in Handling the Spread of the Corona Virus (COVID-19) (referred to as the Police Declaration on Handling COVID-19). Where in it contains a prohibition not to hold social activities that cause mass gatherings in large numbers, both in public places and in their environment, namely:

- 1) Social, cultural, religious and religious gatherings in the form of seminars, workshops, workshop and other similar activities;
- 2) Activities of music concerts, fairs, festivals, bazaars, night markets, exhibitions and family receptions;
- 3) Sports activities, arts and entertainment services;
- 4) Demonstrations, parades and carnivals; and
- 5) Other activities that lead to the mass gathering.

It also applies in the city of Denpasar, but with different terms. Through the Mayor's Regulation Number 32 of 2020 concerning the Limitation of Community Activities (PKM) in Denpasar, the Mayor has responded to the government's response to reduce the number of positive victims of COVID-19 in Indonesia.

² Alwindini Devita Aulia, Fakhrunissa Raissa Aura, Luthfi Figur Muhamad, (2019), Motivasi Konsumen Dalam Menonton Film Di Bioskop (Bandung Raya), *Jurnal Politeknik Bandung*, Vol 10, No. 1, p. 918.

³ Satuan Tugas Penanganan COVID-19, 2020, *Tanya Jawab*, accessed on 05 October 2020, available in: <https://covid19.go.id/tanya-jawab?search=Apa%20itu%20virus%20corona%20baru%20dan%20COVID-19>.

Seeing the current conditions, especially in Denpasar City and observing the Police Declaration's contents on Handling COVID-19 above, the government close the cinema entertainment from speeding up COVID-19. As of March 2020, cinemas throughout Indonesia had to be closed until an undetermined time. Denpasar City itself has four cinemas which must also be closed to reduce the spread of COVID-19. The closure of cinemas as one of the places where people can watch films legally, practically only relies on Over-The-Top, known as OTT, a place to watch movies in a compliant manner where people can enjoy foreign or domestic films online platforms. Such as Netflix, VIU, IFLIX, Google Movies, Apple TV and so on. The platform is legal because, besides being under the law, the workers can also enjoy their work's economic rights with a percentage of royalty sharing.

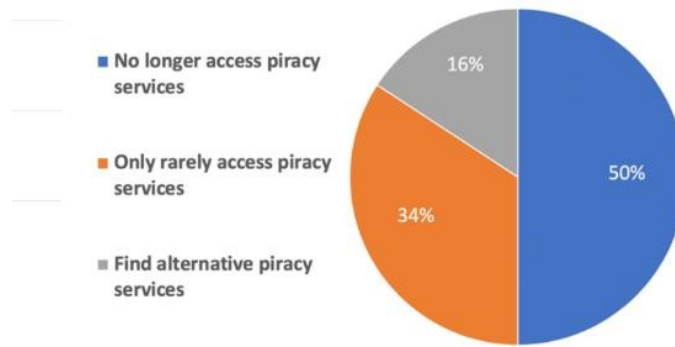
However, not all people watch movies on online legal sites. If you look at conditions in the field, many people watch films on pirated sites that provide free films. Sophar M. Hutagalung mentions that there are 4 influential factors that encourage someone to violate Cinematography Copyright piracy, namely technological advances, it is difficult to monitor production activities, there is a very significant price difference between legal and illegal products, and law enforcement is not yet effective.⁴

This phenomenon happened long before this pandemic broke out. Film piracy hurts the film industry with pirated film sites such as IndoXXI, Ganool and others. The pirated site violates exclusive rights and harms the economic rights of the creator or copyright holder. Therefore, to protect creators' exclusive rights and economic rights, copyright infringers should receive strict sanctions. The Copyright Law regulates the provision of criminal penalties for anyone who commits copyright infringement by being sentenced to a maximum imprisonment of 10 (ten years) and a maximum Rp fine. 4,000,000,000.00 - (four billion rupiah)⁵.

Not only doing the enforcement through criminal acts, Indonesia government has also blocked a quite number of pirated film sites. The data that the researcher obtained comes from a study conducted by YouGov, an Internet-based market research and data analysis firm that headquartered in the United Kingdom, with operations in Europe, North America, the Middle East and Asia-Pacific. In a new study that YouGov conducted on the online content viewing behavior of Indonesian consumers, it has found a massive 55% reduction in consumers accessing pirated movie sites. This data is supported by an analysis of Indonesian traffic data conducted by AVIA's Coalition Against Piracy (CAP), which saw the overall reach of piracy streaming websites drop by 68% between August 2019 and June 2020.

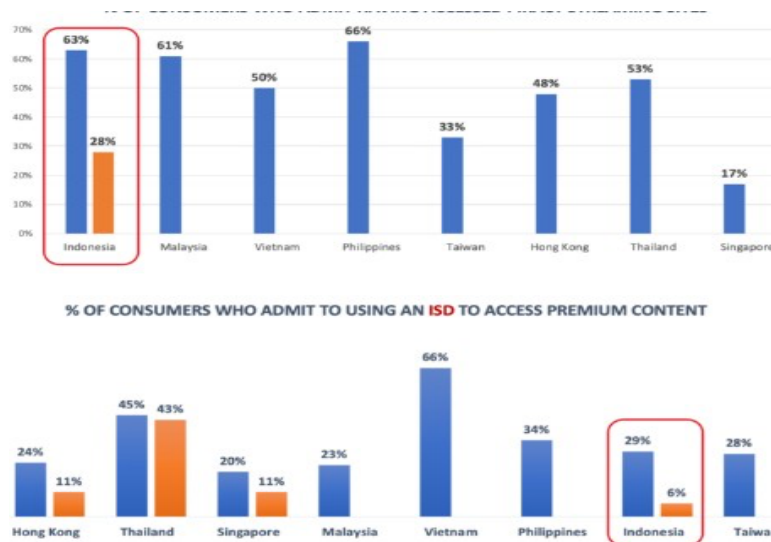
⁴ Nanan Isnaina, dkk,(2021), *Perlindungan Hukum Terhadap Pemegang Hak Cipta Terkait Pembajakan Sinematografi Di Aplikasi Telegram*, *Dinamika Jurnal Ilmu Hukum*, Vol. 27, No. 7, p. 997.

⁵ Andre Daniel, Hendro Saptono Stefano, Mahmudah Siti,(2016), *Perlindungan Hukum Pemegang Hak Cipta Film Terhadap Pelanggaran Hak Cipta Yang Dilakukan Situs Penyedia Layanan Film Streaming Gratis Di Internet (Menurut Undang - Undang Nomor 28 Tahun 2014 Tentang Hak Cipta)*, *Diponegoro Law Journal*, Vol. 5, No. 3, Hlm. 3.



1.1. Pie Chart of Illegal Online Film Site Users in Indonesia

According to data from AVIA's Coalition Against Piracy KOMINFO's site blocking has a direct impact on consumers' viewing habits, with 50% of consumers noticing that piracy websites are continuously blocked and stating that they no longer access the piracy website, and another 34% stating that they are now only rarely access piracy websites and another 16% still use pirated movie sites.⁶



1.2. Bar Chart Comparison of Percentage of Pirated and Legal Film Site Users Between Countries in Asia.

However, unfortunately, these regulations still cannot be adequately implemented to eradicate copyright infringement. In this case, digital piracy, especially with a pandemic situation like this, where the cinema is closed, and everyone carries out physical distancing. So from this background, this phenomenon is interesting to determine the impact of physical distancing on the number of users of pirated film sites and the role of the Copyright Law in protecting cinematographic establishments during this pandemic in Denpasar City. So that they can examine the effectiveness of

⁶ AVIA's Coalition Against Piracy, (2021), *Indonesia Piracy Report*, accessed on 14 February 2021, available in <https://avia.org/cap-indonesia-piracy-report/>

the Copyright Law on pirated film provider sites in Indonesia are reviewed using theory law enforcement and legal protection theory.

2. Method Research

This research is empirical legal research that examines expectations (*Das Sollen/Laws book*) and realities on the ground (*Das Sein/Laws in Action*) by examining the effectiveness of Law number 28 of 2014 concerning copyright related to film piracy during the pandemic. by using the theory of legal protection and the theory of legal effectiveness. The data collection technique used was by distributing questionnaires and interviews and the results of the data obtained were analyzed using qualitative descriptive analysis techniques.

3. Results and Discussions

3.1. Respondent Data

After obtaining data through Google Form, the data is analyzed carefully by comparing data between watching movies before and during the physical distancing that was carried out during the COVID-19 pandemic. The number of respondents who have filled in data via google form is 172 respondents. The determinations of respondent are using purposive random sampling where the researcher takes a sample of data by determining certain criteria. The specific criteria are the people of Denpasar City with the millennial generation age group born in 1982 - 2004 or around the age of 20 - 33 years. From 172 respondents. we can see that 59.9% or 103 respondents are 21-25 years old; 37.2% or 64 respondents are 15-20 years old, 1.2% or 2 respondents are under 15 years old, 1.2% or 2 respondents aged 26-30 years, and 0.6% or 1 respondent aged over 30 years. When viewed from the level of education, there are 74.4% or 128 respondents at the Diploma / Bachelor level, followed by SMA / SMK level by 25% or 43 respondents, and 0.6% or 1 respondent at the SD and SMP levels. Viewing from residence, 57.6% or 99 respondents resided in Denpasar, and 42.4% or 73 respondents came from outside Denpasar. It shows that 61.7% or 106 respondents in this study were millennial generations, namely birth range in 1982 - 2004 or around the age of 20 - 33 years, with an education level of 74.4% or 128 respondents at the Diploma / Bachelor level, as well as 57.6% or 99 respondents live in Denpasar.

The data above can also explain that of the 172 respondents who filled out the questionnaire, almost the majority of Denpasar City people had watched films in theatres before the implementation of physical distancing. From 172 respondents, it can seem that the interest of the people of Denpasar City to watch films in theatres is high. Of the 172 respondents who filled out the questionnaire, there were 47.1% or about 81 respondents who often watched movies in theatres before implementing physical distancing. Then there were about 46.5% or the equivalent of 80 respondents who rarely watched cinema and 6.4% or 11 respondents who never watched a movie in the cinema. From the data, we can see that the people of Denpasar City's actual enthusiasm to watch films in now theatres is actually at an average rate. However, this does not guarantee that this can reduce the number of users of pirated film sites.

Because in practice, the percentage of pirated film site users in Denpasar is high. It must realize that the relationship between pirated film sites and the showing of films in theatres may go two ways. Piracy may directly impact movies in theatres, and at

the same time, many other things affect the audience's reach to the profits that films in theatres.

To see it, here is the data we obtained from 172 respondents regarding their habit of watching movies before the COVID-19 pandemic as follows. There are 47.1% or 81 respondents watched films through pirated sites such as IndoXXI, LK21, DuniaFilm21 and so on. But interestingly, there are findings in the field around 4.8%, or 8 respondents watched on new pirated movie site if that added up to 51.9% or same as 89 people.

Interestingly, in the circle diagram above, there are also quite interesting field findings, namely the emergence of a messenger application called Telegram as one of the places where people watch pirated films. Telegram is a chat application that allows sending messages, sharing photos, videos and audios and exchanging encrypted files. Also, Telegram be used on various platforms or operating systems such as Android, iOS, MacOS, Windows OS and Linux OS (desktop version) simultaneously.⁷

However, the Ministry of Communication and Information Technology (Kemenkominfo) is ready to apply for the blocking of the accounts of free film and serial spreaders that are rife in the instant messaging application, Telegram. The Ministry of Communication and Information will follow up if there are reports from the public. The follow-up is submitting to block or suspend a Telegram account or channel by the Ministry of Communication and Information because the Telegram instant messaging application is private.⁸

Also the people of Denpasar who watch legal sites like Netflix are only 22.1% or 38 respondents, followed by the VIU streaming service of 14% or the equivalent of 24 respondents. IFLIX is a legal streaming service that only gets a percentage of 11% or 19 respondents, Google Movie got 0.6% or 1 respondent, and WeTV got 0.6% or 1 respondent. So that after calculating, there are 48.3% or 83 people who watch movies through the official website.

Meanwhile, according to the Human Rights Industrial Design Application Analyst located at the Office of the Ministry of Law and Human Rights in the Bali Region, I Made Delon Mahayana explained that there were 3 factors that caused the rise of Cinematography Copyright piracy, namely:

- a. The economic factor, which the pirates say is very profitable for him as well as for viewers who get cheaper prices to watch movies.
- b. Social and cultural factors, where people are still happy to buy pirated CDs that have become a culture, and
- c. The education factor, where there is a lack of socialization and public knowledge of the legal rules governing Copyright.⁹

⁷ Muhammad Sholeh, 2020, *Aplikasi Telegram dan 5 Kelebihannya*, accessed on 20 November 2020, available in: <https://kirim.email/aplikasi-telegram-dan-5-kelebihannya/>.

⁸ Francisca Christy Rosana, (2020), *Akun Pembagi Film Gratis di Telegram Terancam di Blokir*, accessed on 7 Januari 2021, available in <https://bisnis.tempo.co/read/1419299/akun-pembagi-film-gratis-di-telegram-terancam-diblokir>

⁹ Gusti Agung Putri Krisya Dewi, (2018), *Pelaksanaan Hukum Terhadap Pelanggaran Hak Cipta Di Bidang Pembajakan Sinematografi (Film/Video)*, p.12.

The form that has spread the free and effortless factor becomes the most dominant reason and is in the first rank why people watch movies on these pirated sites. It means that the economy factor is the reason why the pirated still happening these days as I Made Delon Mahayana said above. People prefer to watch movies on pirated film provider sites because they don't want the hassle of subscribing to legal movie sites, which at that time, the price for a one-month subscription can reach around Rp. 186,000.00 - per month, but they cannot use it optimally because they have very little time to watch. Before the pandemic, they were preoccupied with various kinds of time-consuming routines: work, lessons, or other activities. So, they feel the money to be spent is not worth it compared with the amount of time they enjoy it. That is a significant factor for those using pirated film provider sites because it is beneficial for those who only watch movies only in their spare time. Moreover, the films provided by the sites that provide pirated films can be said to be complete. Starting from the oldest to the newest with the quality classified as quite good, it violates the law. That ultimately led to the number of pirated movie provider sites before the pandemic broke out. But interestingly, after the implementation of Physical Distancing as a form of handling by the Indonesian Government to reduce the spread of COVID-19, there was a significant change in data.

The following is data on movie-watching habits during the COVID-19 pandemic. There was something exciting happened. We can see that there has been a decrease in the percentage of users of pirated film provider sites, which previously reached 51.9% or equal to 89 people, now has decreased significantly to only 30.2% or the equivalent of 52 people who watched films through pirated film sites. An increase followed that in the percentage of Netflix, Iflix users. Previously, the Netflix users' rate was only 22.1% or 38 respondents, which rose to 39.5%.

From the form that has spread the main factor that can decrease 21,7 % pirated film sited user is because of the government blocked the pirated film site massively and that is the reason why the people in Denpasar City started to watch legal film site. If we viewing the data from YouGove about conducted on the online content viewing behavior of Indonesian consumers and compare it with the data of Legal Film Site User and Pirated Film Site Provider During the Implementation of Physical Distancing we can see that the data is match. There has been a decrease in the percentage of users of pirated film provider sites and it can be worked because of the Goverment blocked the pirated film provider during the implementation of physical distancing.

Based on the respondent's data collected from the field, from 172 respondents, we can see that 88.4% or 152 respondents already know the Copyright Law and 11.6% or 20 respondents do not know the Copyright Law. However, the number of respondents who see the Copyright Law's existence is not in line with the percentage of understanding of the rules contained in the law.

If you pay close attention there are about 64.5% or 111 respondents know the sanctions for watching pirated films, and 35.5% or 61 respondents do not know the sanctions from watching movies legally on pirated sites. What is more interesting to note is the perception of Denpasar City's people regarding whether watching films on pirated sites is against the applicable law. Some 75%, or 129 respondents, stated that

watching movies on pirated sites is an act against the rules. However, 25% or 43 respondents considered it an ordinary action and did not violate the laws. However, even though knowing this is against the rules and has sanctioned, few people prefer to watch films through pirated sites. As previously mentioned regarding user data on legal and pirated film sites before the COVID-19 pandemic.

There is the dominant reason why people use pirated sites more than legal ones. These reasons include using pirated sites, no need to pay or subscribe, easy to access and complete, good quality, and can be download so that they can be watched over and over without rereleasing internet data. Based on this, we can say that even though they know that it is against the rules, people still use it for various reasons. That is, of course, has to do with how legal awareness is in society. Seeing the above phenomena, the community does not have a high legal understanding of the importance of obeying regulations and respecting film artists' works. Compared to users of legal and pirated film sites before and during the COVID-19 / Physical pandemic, they just hijacked a work.¹⁰

With the application of physical distancing, which has now reached the fourth month, and the community only works and studies at home, it makes people have a lot of free time. That is a crucial factor for people to allocate money to subscribe to legal film sites because, of course, apart from entertaining themselves and eliminating boredom, the quality of the obtained films is also obvious and varied. So that for them it is very feasible to do. There was a shift in the allocation of funds from previously Rp. 50,000.00 - to watch just 1 film in the cinema, then now it is collected, and then they pay to handle legal film sites and watch a lot of movies in 1 month without any limit.

3.2. Effectiveness of Copyright Law on Pirated Film Sites, Especially During COVID 19 in Denpasar City

When we study using M. Friedman's legal validity theory, Copyright Law enforcement can be categorized as not yet effective. That is because in terms of several aspects, among them are as follows:

3.2.1. Legal Substance

Substance includes rules, norms and actual human behaviour within the system. Also included in the meaning of this substance are all products, such as decisions, new regulations compiled and produced by people in the system. In this case, if you look at data regarding the habits of the people of Denpasar City who watched films via online sites before the pandemic and patterns of the people of Denpasar City who watch movies via online sites during this pandemic have decreased by 19.9%. That is a good sign, but around 30% of Denpasar City people watch films through pirated film sites. From the data above, the researcher will study this phenomenon from the legal substance aspect first based on an online interview with M. Aris Marasabessy, S.H., M.H. as a professional in the field of Intellectual Property Rights for Film.

Based on the results of an online interview on May 12, 2020, with M. Aris Marasabessy, S.H., M.H., said that the Copyright Law's ineffectiveness lies in the

¹⁰ Kukla-Gryz Anna, Tyrowic Joanna, Krawczyk Michał,(2021), Digital Piracy And The Perception Of Price Fairness: Evidence From A Feld Experiment, *Journal of Cultural Economics* 45:105-131, p. 107.

complaint offence in it. He mentioned that the primary key to protecting filmmakers' rights from sites that provide pirated films is by removing the complaint offence in the Copyright Law and turning it into an ordinary offence¹¹

In the previous Copyright Law, it has been regulated that copyright infringement is a complaint offence (Law Number 6 of 1982 concerning Copyright). An amendment was made to state that copyright infringement is an ordinary offence (Law Number 7 of 1987 concerning Copyright, Law Number 12 of 1997 regarding Copyright, Law Number 19 of 2002 concerning Copyright). Still, with the birth of the new Copyright Law, namely Law Number 28 of 2014 concerning copyright, it is stated that copyright infringement is a pure complaint offence meaning that everyone cannot report that there has been a violation. against people's copyrights because they are deemed to have no interest in copyright as confirmed in Article 120, which states that the crime referred to in the Copyright Law is a complaint offence¹²

The same opinion was also expressed by the Head of the IPR Division of the Ministry of Law and Human Rights for the Bali region, Mr Ida Bagus Danu, on December 3, 2020. Mr Ida Bagus Made Danu Krisnawan as Head of Subdiv HKI for the Regional Office of the Ministry of Law and Human Rights Bali said that public reports regarding copyright infringement are still very few no cinematographic copyright infringement reports in Bali. That is because following Article 120 of the Copyright Law related to complaining offences, the participation of the community is needed in reporting every violation of creation even though, in practice, there are still a lot of IPR violations in the cinematography sector.¹³

In criminal law, there are two types of offences, namely ordinary offences and complaint offences. The ordinary offence is a criminal act that can commit without prior complaint to the related party without the aggrieved party's consent. Meanwhile, a complaint offence is the opposite of an ordinary offence which a prosecution can only report if there is a complaint from an interested party.¹⁴ Based on this, it is necessary to have active participation from the public who are harmed by copyright infringement. Handling related to copyright protection can be carried out effectively.

There were several opinions from several parties, which later became the consideration of the government and the DPR at that time who agreed more if the complaint offence was applied due to several reasons/reasons as follows:

- a. Law enforcement officials are less able to determine whether a criminal act of copyright has occurred without comparing copyright infringement results with the original work.

¹¹ Interviews with Professionals in *Intellectual Property Rights For Film*, M. Aris Marasabessy, S.H., M.H. on 12 Mey 2020 via online.

¹² Padrisan Jamba,(2015), Analisis Penerapan Delik Aduan Dalam Uu Hak Cipta Untuk Menanggulangi Tindak Pidana Hak Cipta Di Indonesia, *Jurnal Cahaya Keadilan*, Vol. 3, No. 1, p.43.

¹³ Interview with Section Head Intellectual Property Rights Ministry of Law and Human Rights Region Bali, Ida Bagus Danu on 03 December 2020.

¹⁴ Yasser Arafat, (2017), Penyelesaian Perkara Delik Aduan Dengan Perspektif Restorative Justice, *Borneo Law Review*, Vol. 1, No. 2, p. 128.

- b. In carrying out legal proceedings, it is impossible for law enforcement officials to immediately know whether a party has received permission to publish or reproduce a work.¹⁵

However, this opinion is not correct. Some things that must be criticized, among others, are as follows:

- a. Law enforcers related to copyright law enforcement will know about things that violate copyright. In Article 1 of the Copyright Law, it can be concluded that copyright is the exclusive right of an author based on the principle that arises modifying after work is manifested in a tangible form without reducing restrictions.¹⁶ Based on this Article, the relevant authorities will have no difficulty knowing who owns the copyright because it has previously been declared to the public according to the declarative principles and constitutive principles in IPR. On the other hand, the application of common offences is the related apparatus's actual action and the government as the policymaker based on the Article in the Law. Ensuring that the contents of the Article are realized in the field so that the state can achieve a level of law supremacy that is just and balanced, which will later become an indicator of running a good and ideal government system.
- b. If the officers are deemed incapable of carrying out their duties, then making the complaint offence as a solution in overcoming it is equivalent to eliminating the task, which is the apparatus's duty. With the complaint offence in the Copyright Law, it will be challenging to handle copyright infringement. That is because those who are deemed to have no interest in people's copyrights cannot report that there has been a violation, as stated in Article 120 of the Copyright Law.
- c. Seeing the above explanation, the Copyright Law, which hopes to take firm action against film pirates to reduce the percentage of Denpasar City people who watch pirated films, is hampered by the existence of complaint offences in the Copyright Law. Creators or copyright holders prefer to stay active and ignore piracy, as it tends to waste time. Changing it to an ordinary offence can make Copyright Law enforcement more effective in protecting film workers' rights.¹⁷

3.2.2. Legal Structure

In this aspect, what is meant by legal structure is law enforcers and regulatory agencies. Law enforcers are the parties who form or implement the law. With the complaint offence in the Copyright Law, it is necessary to wait for a party who feels aggrieved to report to the competent authority, namely the police, to further follow up on the report and then enter the trial process. M. Aris Marasabessy, S.H., M.H. also said that the process made the Copyright Law ineffective, primarily to protect the workers. That is because it would require a lot of money to be spent on the disadvantaged Film Production House to go to court to prove that the opposing party was found guilty of seizing their rights. It will take a while. The production houses

¹⁵ *Ibid*, p. 45.

¹⁶ Directorate Intellectual Property Rights Ministry of Law and Human Rights RI, *Peraturan Perundang-Undangan Terkait Hak Cipta*, accessed on 01 Agustus 2020, available in: <https://www.dgip.go.id/peraturan-perundang-undangan-terkait-hak-cipta>.

¹⁷ Pujiyono, (2019), Legal Protection For Creators Of Cinematographic Works Against Copyright Infringement Through Streaming And Free Download Sites, *Journal of Legal, Ethical and Regulatory Issues*, Vol. 22, Issue 3, p. 6.

that feel disadvantaged are forced to give up their rights that have been taken away just like that.¹⁸

It will be a different story if law enforcement officials are given the authority to take action against pirated film sites owners. However, it is true that in this second element, the law enforcement apparatus determines the effectiveness of the performance of the written law. In this connection, a reliable apparatus is desired to carry out their duties properly. Reliability in relation here is to include professional skills and have a good mind. According to Soerjono Soekanto, problems that affect the effectiveness of written law in terms of the apparatus will depend on the following:

- a. The extent to which existing regulations bind officers.
- b. To what extent are officers allowed to provide discretion.
- c. What kind of role model should the officer give to the community.
- d. The degree to which the degree of synchronization of assignments given to officers provides strict limits on their authority.¹⁹

Currently, the Indonesian Police and Civil Servant Investigators (PPNS), especially at the Bali Regional Office of the Ministry of Law and Human Rights, have tried their best in protecting and enforcing the law in the IPR sector, especially Copyright, through the complaint call centre program of violations available to the Indonesian Police and the Bali Regional Office of the Ministry of Law and Human Rights.

Besides, the Ministry of Law and Human Rights has also chosen to cooperate with the Ministry of Communication and Information to block sites that provide pirated films. The Copyright Law provides a foundation for the Minister of Communication and Information Technology to prevent and eradicate copyright infringement through the internet media. Article 54 of the Copyright Law regulates the prevention of copyright infringement and related rights committed through information technology facilities, namely the Government has the authority to:

- a. Supervision of the creation and dissemination of content violations of Copyright and Related Rights,
- b. Collaboration and coordination with various parties, both domestic and foreign, in preventing the creation and dissemination of contents of Copyright and Related Rights infringements, and
- c. Supervision of recording actions using any media of Works and Related Rights products at the venue.²⁰

Looking at subject number 3 in the UK, there is an organization called Bay TSP. Organizations work closely with the entertainment industry to monitor and protect intellectual property. They do this by monitoring and tracking the digital addresses of people who download illegal files, such as movies that can be pirated online and sold for profit. Then the information is given to Internet service providers, who can ask customers to stop their illegal actions.²¹ Besides, according to a study conducted by Dr

¹⁸ Interviews with Professionals in *Intellectual Property Rights For Film*, M. Aris Marasabessy, S.H., M.H. on 12 Mey 2020 via online.

¹⁹ Soerjono Soekanto, 1983, *Penegakan Hukum*, Bandung: Bina Cipta, p. 80.

²⁰ Ayup Suran Ningsih, Balqis Hedyati Maharani, (2019), *Penegakan Hukum Hak Cipta Terhadap Pembajakan Film Secara Daring*, *Jurnal Meta-Yuridis* Vol. 2, No. p. 26.

²¹ Ravi Ashvini, R.S Lekshmi, K Rajamani, (2018), *A Study On Movie Piracy*, *International Journal of Recent Scientific Research* Vol. 9, p. 24697.

Brett Danaher, an Assistant Professor at The George L. Argyros School of Business and Economics, he stated that the British Government also blocked pirated film sites as an effort to fight piracy. The UK government blocked 53 major film piracy websites in the UK by 2020. The impact of the blocking led to a 7-12 per cent increase in visits to paid subscription streaming sites. That was also followed by an increase of around 1.1% - 1.5% of people who moved from being users of blocked sites to registering for paid subscriptions to legal film sites. These findings imply that piracy closes visits to paid subscription sites (such as Netflix) and payment of subscription fees to those sites.²² Because those sites are the parties who had a duty to protect the films and their right including the economic right as written in article 2 in the Copyright Law²³.

The same applies to the Indonesian government. The government has taken preventive measures by blocking sites that provide pirated films, which at least impact reducing the number of users of these pirated film sites. Although it must be admitted that blocking efforts cannot eliminate pirated film sites because, in reality, on the ground, other new pirated film sites will appear and change their website domain after one site is blocked.²⁴

The government cannot rely solely on blocking pirated film sites. It needs regular improvements that immediately to fight piracy which is still rife. However, if it doesn't work, then the efforts to resolve copyright infringement must be carried out firmly, and it namely through alternative dispute resolution (APS), arbitration or courts. This is because copyright law places APS in first place, arbitration in second and court in third. The competent court in this case is the Commercial Court.²⁵

Even so, people have to appreciate the government's steps. Besides the government striving for the above, the government is currently providing facilities related to providing information services and reports of intellectual property violations. The government is building public facilities related to community services available to the Indonesian police, the Ministry of Law and Human Rights, including government stakeholders. Regions in providing services, primarily Intellectual Property Rights.

3.2.3. Legal Culture

Legal culture includes people's beliefs, values, thoughts and expectations of the law. The structure can be likened to a machine. The substance is what the engine produces or does, whereas legal culture is whatever or whoever decides to turn the machine on and off and how it should be used.

²² Danaher, Brett, Jonathan Hersh, Michael D. Smith, Rahul Telang. (2020). The effect of piracy website blocking on consumer behavior. *Management information systems quarterly*, forthcoming. p. 4.

²³ Sawitri Dewa Ayu Dian, Dharmawan Ni Ketut Supasti, (2021), Perlindungan keberadaan Konten Karya Intelektual Dalam Transaksi E-Commerce berbasis Perjanjian Lisensi, *Jurnal Kertha Patrika*, Vol. 43, No. 1. p. 52.

²⁴ Wibowo Tangguh Okta, (2018), Fenomena Website Streaming Film Di Era Media Baru: Godaan, Perselisihan, Dan Kritik, *Jurnal Kajian Komunikasi*, Universitas Gadjah Mada, Vol. 6, No. 2, p. 196.

²⁵ Sebastian A. Lendeng, dkk, (2021), Tinjauan Hukum Hak Cipta Dalam Bidang Karya Sinematografi Menurut Undang-Undang Nomor 28 Tahun 2014 Tentang Hak Cipta, *Lex Privatum*, Vol. IX, No. 2, p. 176.

As is well known, the community factor, namely the environment in which the law applies or is applied, is the key to law enforcement's effectiveness. Improvements in law enforcement through legal structure and legal substance are being implemented. However, these fixes will be partial and will not be sufficient to solve the various problems that arise in copyright if it just stops there. These 2 points are not the only way to reform copyright. Social norms and customs in society are fundamental and should receive special attention to foster a culture of respecting one's creations in society.²⁶

Understanding the Indonesian people, especially in Denpasar City, regarding the Copyright Law is still not 100% good. Even though most Denpasar people already know the Copyright Law which shows that 88.4% or 152 respondents already know the Copyright Law and 11.6% or 20 respondents did not know the Copyright Law. However, the number of people who know the Copyright Law's existence is not in line with the percentage of understanding of the rules contained in the law.

If you look closely there are around 64.5% or 111 respondents know the sanctions for watching pirated films, and 35.5% or 61 respondents do not know the sanctions from watching movies legally on pirated sites. What is more interesting to note is the perception of Denpasar City's people regarding whether watching films on pirated sites is against the applicable law.

And then there are 75% or 129 respondents who stated that watching movies on pirated sites is an act that violates the regulations. However, 25% or 43 respondents considered it an ordinary action and did not break the rules. From the 3 data shown, it is clear that the number of knowledge and understanding of the Copyright Law is quite good. At least, it has exceeded half of the respondents' data. However, from these data, it can also be observed that knowledge of the Copyright Law is still not followed by an understanding of the articles in it. There are still many people in Denpasar who only know the existence of the Copyright Law but still think that watching movies on the site pirated is normal and does not violate the rules. A lot of people still think that the production house who is the creator of the film is already had alot income from the legal access. And also they think that is a normal thing to download the film illegally and assuming the pirated can't be avoided because of that is part of this days life.²⁷

That fact is also supported by a research that related to the "Theory of Planned Behavior and Ethics Theory in Digital Piracy" from Cheolho Yoon, a professor from Mokpo National University, South Korea, who said that there is still often justification and belief from piracy actors that their behavior is not a crime because of many people in their environment also did that piracy. The environment plays an active role in spreading pirated products to consumers by offering the same benefits as the original product²⁸

²⁶ Frankel Susy, (2015), *The International Copyright Problem And Durable Solutions* Fall, *Vanderbilt Journal of Entertainment and Technology Law*, p. 10.

²⁷ Anshar Irham Nur, (2018), *Sirkulasi Film Dan Program Televisi Di Era Digital Studi Kasus Praktik Download Dan Streaming Melalui Situs Bajakan*, *Komuniti*, Vol. 10, No. 2, p. 99.

²⁸ Wicaksono Aditya Pandu, *Urumsah Dekar*,(2017), *Perilaku Pembajakan Produk Digital: Cerita Dari Mahasiswa Di Yogyakarta*, *Jurnal Aplikasi Bisnis*, Vol.17 No. 1, p.27

As stated by the Ministry of Law and Human Rights for the Bali region, the community still considers copyright infringement to be underestimated. There is a growing indifference to whether something is the result of a violation or not. That is because the community's legal awareness is still low, so legal protection efforts are not maximal.

The Ministry of Law and Human Rights also highlighted the negative impact of copyright infringement, namely where the existence of pirated film streaming sites can disrupt the Indonesian economy. The existence of this site has harmed the film industry, which is very, very disadvantaged. For example, it turns off the creativity of the creator. Many film pirates can cause the film industry not to want to continue doing its work simply because there is no input for it because they can watch the films they have made free of charge.

In contrast, films' relatively different nature and low cost of copying require strong copyright protection to prevent excessive attempts at free piracy. Large-scale piracy effectively prevents film companies from producing older, more expensive films.²⁹

When viewed from the state revenue and revenue sector through copyright income tax, watching pirated films makes the state unable to provide sufficient income for development funds, so the need to block pirated sites is to maintain the investment climate with companies abroad in Indonesia.

If you open an online movie streaming site, many links or advertisements direct viewers to open the content. Things like this can cause the devices we use (computers, cellphones, and the like) to become infected with viruses or malware, which results in our devices working very slowly. Also, access to online film sites usually faces obscene advertisements. Such as pornographic content, gambling, and others.³⁰ Also, the availability of isotopes which are still rare, can influence this phenomenon. In Indonesia alone, there are approximately 1,100 cinemas, and Bali alone has around seven cinemas. Still below average when compared to the area of Indonesia. When compared to other Asian countries, this is not a good achievement.³¹ The problem must be resolved because piracy occurs triggered by society's condition, which makes people take advantage of this opportunity to act maliciously in piracy. It would be good now that it is hoped that the community will participate in protecting every creation following the provisions of the Copyright Law to obtain clear legal protection from the government. The public must also become aware of registering their work, starting with knowing the institution authorized to register copyright and knowing the procedure or mechanism for registering the copyright. Includes information regarding the fees that must be paid when registering the copyright.

Because as we all know, there are still many cultures today that are developing in the middle of society who want everything fast but accessible, and that is a big problem

²⁹ Wallace, Harold Scott, (1998), *Competition And The Legal Environment: Intellectual Property Rights In The Early American Film Industry*, Economics Working Papers, 199803.

³⁰ Interview with Section Head Intellectual Property Rights Ministry of Law and Human Rights Region Bali, Ida Bagus Danu on 03 December 2020.

³¹ Rima Suliastini, (2016), *BKPM Siap Genjot Pembangunan Bioskop Indonesia* accessed on 15 July 2020, available in: <https://tirto.id/bkpm-siap-genjot-pembangunan-bioskop-indonesia-bukx>.

for this nation. However, this culture can be changed, one of a character's ways, be it a government official, law enforcer or anyone with a high profile, starting to exemplify obeying the Copyright Law by socializing to watch movies on legal sites. The hope is that these figures can become role models and then positively impact other communities to jointly leave the culture of watching films on pirated sites and switch to watching movies on legal sites. That is in line with the opinion expressed by Soerjono Soekanto. That law can be effective if law enforcement officials' role is closer to what is expected by the law. Conversely, it becomes ineffective if the part of law enforcers is far from what is expected.³²

Another culture that grows in society is the people who are still happy when their creations are imitated. The community should have to improve the culture. Because every creation that is produced has an economic value that can provide economic progress for its person in particular.³³

4. Conclusion

There is the impact of physical distancing during COVID-19 on the number of users of pirated film sites in Denpasar City. Based on the research results, it was found that there was a decrease in the percentage of users of pirated film sites in Denpasar City. Before the pandemic, the percentage of pirated film site users reached 51, 9% or equal to 89 peoples, has now experienced a significant decrease to only 30.2% or 52 people. The analysis above shows that the public has begun to switch from watching illegal film sites to legal ones because of the the government blocked the pirated film site during the application of physical distancing. It affects the level of public interest in subscribing to paid legal film sites because of the comparison of time and costs incurred to watch movies on legal site. The effectiveness of the Copyright Law enforcement on the protection of films found on pirated film sites, especially during COVID-19 in Denpasar City, can be concluded that it has been going well and effectively but with some improvements needed. The improvement needed is to change the complaint offence in to the ordinary offense. In terms of society and culture, there are still cultures that tend to be happy if their work is widely copied, and there is still a lack of public understanding of copyright. However, in terms of law enforcement facilities, it is pretty good. The government has currently provided supporting facilities in providing information services and reports of intellectual property violations by building public facilities related to community services available to the Indonesian police, the Ministry of Law and Human Rights, including local government stakeholders in providing services Intellectual Property Rights.

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³² Soerjono Soekanto, (2005), *Faktor-Faktor yang Memengaruhi Penegakan Hukum*, Jakarta :PT Raja Grafindo Persada,, p. 9.

³³ Interview with Section Head Intellectual Property Rights Ministry of Law and Human Rights Region Bali, Ida Bagus Danu on 03 December 2020.

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