
The Fulfillment of Moral Rights and Economic Rights in the Commercial Use of Personal Portraits on Instagram

Alessandra de Rionny^{a*}, Rika Lestari^b, Setia Putra^c

^{a*} Fakultas Hukum, Universitas Riau, Indonesia, Email: alessandra.de1878@student.unri.ac.id

^b Fakultas Hukum, Universitas Riau, Indonesia, Email: rika.lestari@lecturer.unri.ac.id

^c Fakultas Hukum, Universitas Riau, Indonesia, Email: setia.putra@lecturer.unri.ac.id

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Abstract

This article examines the fulfillment of moral and economic rights in the commercial use of personal portraits on Instagram, where the rapid growth of digital business has intensified the unauthorized exploitation of visual content. This study aims to analyze the extent to which these rights are fulfilled and to identify commonly used dispute resolution mechanisms. The research employs a sociological legal method with a case approach, utilizing primary data obtained from 50 portrait owners and 15 business actors. The findings reveal that the fulfillment of these rights remains inadequate, as 48% of individuals receive neither moral nor economic rights, and 46% receive only attribution without economic compensation. Dispute resolution is predominantly conducted through informal and non-litigation mechanisms, such as direct messaging and platform-based reporting, rather than formal legal processes. The empirical novelty of this study reveals the systemic emergence of 'partial settlements' within the digital ecosystem, where moral rights are reduced to mere digital etiquette by business actors, while economic rights are entirely neglected due to the low bargaining power of non-commercial individuals and the absence of legal standards as objective criteria in informal negotiations. These insights underscore the urgency of strengthening legal awareness, enhancing platform accountability, and establishing practical semi-formal dispute resolution mechanisms to secure comprehensive protection for creators.

INTRODUCTION

The rapid development of digital technology has significantly transformed the way individuals create, distribute, and make use of creative content.¹ Social media platforms, particularly Instagram, have become a dominant medium for sharing visual works, including personal photographs.² However, this development also raises legal concerns, especially

¹ Nufian S Febriani and Wayan Weda Asmara Dewi, *Perilaku Konsumen di Era Digital (Beserta Studi Kasus)*, (Malang: Tim UB Press, 2019), 51.

² Ioanna Mesimeri, "Copyright Infringement of Instagram Pictures and the Legal Gaps in Their Copyright Protection", *Vand. L. Rev.* (2018): 1.

regarding the protection of copyright over personal portraits used for commercial purposes without proper authorization.

Normatively, Indonesian Copyright Law, particularly Law Number 28 of 2014, guarantees the protection of both moral rights and economic rights of copyright holders. Moral rights include the right to be acknowledged as the creator and to maintain the integrity of the work, while economic rights provide the creator with the right to obtain financial benefits from the use of their work.³ In practice, however, there is often a discrepancy between these legal provisions (*das sollen*) and the reality (*das sein*), where personal portraits are frequently used on Instagram for commercial purposes without consent, attribution, or compensation.

Previous studies have addressed digital copyright issues from various perspectives, yet they leave a distinct scholarly gap regarding non-business individuals within social media ecosystems. For instance, Saputra (2024) examined the legal protection of photographic works within online shops on Instagram; however, his analysis was strictly confined to product photography and the commercial interests of e-commerce sellers, neglecting the specific vulnerabilities of ordinary, non-commercial users whose personal everyday portraits are exploited.⁴ Meanwhile, Saputri (2022) focused on the commercial re-uploading of TikTok video contents across different platforms; this differs fundamentally from the current study, which strictly investigates static photographic portraits and addresses the operational legal challenges unique to a single platform's organic environment.⁵ Furthermore, Rasheesa (2020) analyzed copyright disputes over promotional content under civil and criminal frameworks, but her scope was limited to conflicts occurring strictly between competing business accounts.⁶

Consequently, the distinct positioning and novelty (state of the art) of this article lie in its comprehensive empirical exploration of the moral and economic rights of non-business individual users whose personal portraits are commercially exploited within the organic ecosystem of Instagram (e.g., for affiliate marketing). This study explicitly bridges the gap between normative expectations (*das sollen*) and empirical realities (*das sein*) by integrating

³ Luh Febby Liamitha, *et. al.*, "Tinjauan Yuridis Pelanggaran Hak Moral pada Konten Media Kreator Era Digital Perspektif Undang-Undang Hak Cipta", *Al-Zayn: Jurnal Ilmu Sosial & Hukum* 3, no. 5 (2025): 5920, <https://doi.org/10.61104/alz.v3i5.2205>.

⁴ Reza Eko Saputra, *et. al.*, "Perlindungan Hukum Atas Karya Fotografi pada Online Shop di Instagram", *Locus Journal of Academic Literature Review* 3, no. 1 (2024): 65, <https://doi.org/10.56128/ljoalr.v3i1.277>.

⁵ Nurrezki Andriani Saputri, "Perlindungan Hukum Kreator Konten Tiktok yang Diunggah Ulang oleh Akun Lain dalam Aplikasi Berbeda untuk Tujuan Komersil" (Thesis, Hasanuddin University, 2022), 1.

⁶ Karina Isha Rasheesa, "Pelanggaran Hak Cipta Konten Instagram Akun @dapurfit oleh Instagram Akun @greenspoonid" (Thesis, Jember University, 2020), 15.

direct field data from 50 portrait owners and 15 business actors. Moreover, unlike previous works that rely solely on conventional statutory interpretations, this research establishes its original theoretical positioning by introducing a novel dual-framework: utilizing Robert M. Sherwood's Reward Theory to evaluate the structural imbalance of moral-economic rewards, and Fisher and Ury's Principled Negotiation Theory to critically examine the limitations of informal digital dispute resolution mechanisms.

This article addresses two primary research questions: (1) how are moral and economic rights fulfilled in the use of personal portraits for commercial purposes on Instagram, and (2) what dispute resolution mechanisms are available and commonly employed by copyright holders? This article argues that the fulfillment of these rights remains ineffective due to low legal awareness and the dominance of informal dispute resolution mechanisms.

To answer these research questions comprehensively, this study adopts an empirical (sociological) legal research method, which systematically examines the law in action by evaluating the operational effectiveness of copyright norms within digital social realities.⁷ This methodology is fundamentally anchored in legal scholarship as it serves to identify and analyze the structural discrepancy between normative legal prescriptions (*das Sollen*) and their empirical application (*das Sein*) on digital platforms.⁸ Within this empirical framework, a qualitative case approach is utilized to dissect specific, real-world instances of unauthorized portrait commercialization on Instagram.⁹

The research integrates two core data streams: primary data collected directly via purposive sampling through structured interviews and questionnaires involving 50 non-business Instagram portrait owners and 15 digital business actors across Indonesia; and secondary data structured strictly around legal classification, consisting of primary legal materials (statutory regulations), secondary legal materials (authoritative legal treatises and journals), and tertiary legal materials.¹⁰ The gathered data are processed through a descriptive-qualitative legal analysis, applying a deductive reasoning model to critically evaluate real-world

⁷ Soerjono Soekanto, *Pengantar Penelitian Hukum* (Jakarta: Universitas Indonesia, 2008), hlm. 15.

⁸ Jonaedi Efendi and Johnny Ibrahim, *Metode Penelitian Hukum Normatif dan Empiris* (Depok: Prenadamedia Group, 2018), hlm. 148.

⁹ Bambang Sunggono, *Metode Penelitian Hukum* (Jakarta: Raja Grafindo Persada, 2011), hlm. 92.

¹⁰ Zainudin Ali, *Metode Penelitian Hukum* (Jakarta: Sinar Grafika, 2009), hlm. 54.

digital behaviors against theoretical copyright benchmarks namely Robert M. Sherwood's Reward Theory and Fisher and Ury's Principled Negotiation Theory.¹¹

DISCUSSION

Fulfillment Of Moral And Economic Rights In The Commercial Use Of Personal Portraits On Instagram

Copyright constitutes a form of legal protection granted to creators over their intellectual works in the fields of science, art, and literature, providing exclusive rights to control the use and distribution of such works.¹² In the context of personal portraits, copyright protection arises automatically upon the creation of a photograph without requiring formal registration.¹³ This protection has become increasingly significant in the digital era, particularly with the widespread use of social media platforms such as Instagram, where visual content can be easily reproduced and disseminated, thereby increasing the risk of unauthorized use.

Fundamentally, copyright consists of two primary components, namely moral rights and economic rights.¹⁴ Moral rights are inherently attached to the creator, encompassing the right to be acknowledged as the author (right of attribution) and the right to maintain the integrity of the work. These rights are permanent and non-transferable.¹⁵ Meanwhile, economic rights grant the creator exclusive authority to obtain financial benefits from the use, reproduction, distribution, and commercial exploitation of their work.¹⁶ Indonesian Copyright Law, particularly Law Number 28 of 2014, explicitly recognizes and protects both forms of rights, while also establishing legal consequences for unauthorized use.

However, despite the existence of comprehensive legal provisions, the enforcement of copyright protection in digital spaces remains a significant challenge. The rapid dissemination

¹¹ Suteki and Galang Taufani, *Metode Penelitian Hukum: Filsafat, Teori, dan Praktik*, (Depok: Raja Grafindo, 2018), hlm. 180.

¹² World Intellectual Property Organization (WIPO), *Understanding Copyright and Related Rights*, (Geneva: WIPO, 2016), 9.

¹³ Law Number 28 of 2014 concerning Copyright, Article 1 paragraph 1.

¹⁴ Muhamad Rizky Pratama, Rika Ratna Permata, and Laina Rafianti, "Perlindungan Hak Ekonomi Atas Lagu "Nuansa Bening" Berdasarkan Undang-Undang Nomor 28 Tahun 2014 tentang Hak Cipta", *Justicia Sains: Jurnal Ilm Hukum* 10, no. 2 (2025): 734, <https://doi.org/10.24967/jcs.v10i2.4170>.

¹⁵ Haryono, *Pengakuan dan Perlindungan Hak Cipta dalam Konteks Filosofi dan Teori*, (Yogyakarta: Magnum Pustaka Utama, 2024), 19.

¹⁶ Nanda Dwi Rizkia and Hardi Fardiansyah, *Hak Kekayaan Intelektual Suatu Pengantar*, (Bandung: Penerbit Widina Bhakti Persada Bandung, 2022), 48.

of content on social media often makes it difficult to control and monitor the use of personal portraits, leading to frequent violations in practice.

From a theoretical perspective, this issue can be analyzed through the Reward Theory proposed by Robert M. Sherwood, which posits that intellectual creations represent an investment of time, cost, and creative energy that deserves proportional reward.¹⁷ In this framework, moral rights represent recognition, while economic rights function as financial reward. Thus, the protection of copyright serves as a mechanism to ensure that creators receive both acknowledgment and economic benefits from their works.

In the context of digital platforms such as Instagram, the rapid dissemination of visual content has significantly increased the vulnerability of personal portraits to unauthorized commercial use.¹⁸ The empirical findings of this study reveal a substantial discrepancy between legal norms and actual practices. All respondents (100%) reported that their personal portraits had been used by third parties for commercial purposes, yet a significant proportion lacked awareness of their legal rights.

Table 1. Fulfillment of Moral and Economic Rights

No.	Respondents Answer	Total	Percentage
1.	Received both moral rights and economic rights	3	6%
2.	Received only moral rights without economic rights	23	46%
3.	Received only economic rights without moral rights	0	0%
4.	Received neither moral rights nor economic rights	24	48%
Total		50	100%

Source: Processed Data (2026)

The findings demonstrate that the fulfillment of moral and economic rights remains highly inadequate. As shown in Table 1, only 6% of respondents received both moral and economic rights. Meanwhile, 46% received only moral rights without any economic compensation, and 48% did not receive either form of protection.

These findings indicate that the majority of respondents did not experience the proper fulfillment of their rights. The fact that 48% of respondents received neither moral recognition

¹⁷ Robert M. Sherwood, *Intellectual Property and Economic Development: Westview Special Studies in Science Technology and Public Policy*, (San Francisco: Westview Press Inc, 1990), 11-13.

¹⁸ Anna Pokrovskaya, "Copyright Infringement of Photographs on E-commerce Platforms", *Journal of Comprehensive Business Administration Research* 2, no. 1 (2024): 53, <https://doi.org/10.47852/bonviewJCBAR42022794>.

nor economic compensation highlights a systemic failure in copyright protection. Even in cases where moral rights are partially fulfilled through attribution, such as tagging the creator's account, economic rights are often entirely neglected.

This condition reflects a broader structural issue in the digital environment, where attribution is frequently perceived as sufficient, while the obligation to provide financial compensation is ignored. This phenomenon indicates a fundamental misunderstanding of copyright norms, where attribution is treated as a substitute for authorization.¹⁹ As a result, moral rights are reduced to mere digital etiquette rather than being recognized as legally protected rights.

This systemic failure can be critically analyzed through Robert M. Sherwood's Reward Theory, which dictates that intellectual creations representing an investment of time, creative labor, and capital deserve a proportional economic and moral return. Platforms like Instagram inherently lower the technical and financial barriers to digital reproduction, which structurally amplifies the "market failure" and "free-rider loss" highlighted in Sherwood's framework. Business actors capitalize on this digital accessibility to exploit the static portraits of non-business individuals without establishing formal licensing frameworks.

When applied to the empirical findings in Table 1, the data reveals a direct contradiction to Sherwood's core principles of Proportionality and Economic Incentives. The fact that 48% of respondents received neither moral nor economic recognition, and 46% received only nominal attribution without financial compensation, demonstrates that the current digital ecosystem operates on an uncompensated exploitation of individual creative assets. This imbalance is vividly illustrated in the case of Fira (@shaarafira), where her organic personal portrait was repurposed by @otdhijab.id into commercial affiliate marketing content to generate commissions via e-commerce links. Under Reward Theory, this constitutes an unchecked "free-rider benefit," where the commercial actor reaps economic rewards while the original creator bears the initial cost of intellectual and aesthetic investment. Consequently, copyright protection ceases to function as a creative incentive, reducing individual users to passive, exploited content sources rather than legally protected rights holders.

The inadequacy in fulfilling these rights is further reinforced by legal precedent, particularly in the case of *dr. Arnold Bobby Soehartono v. PT. Siloam International Hospitals*,

¹⁹ Lionel Bently, *et. al.*, *Intellectual Property Law*, 5th ed, (Oxford: Oxford University Press, 2018), 307.

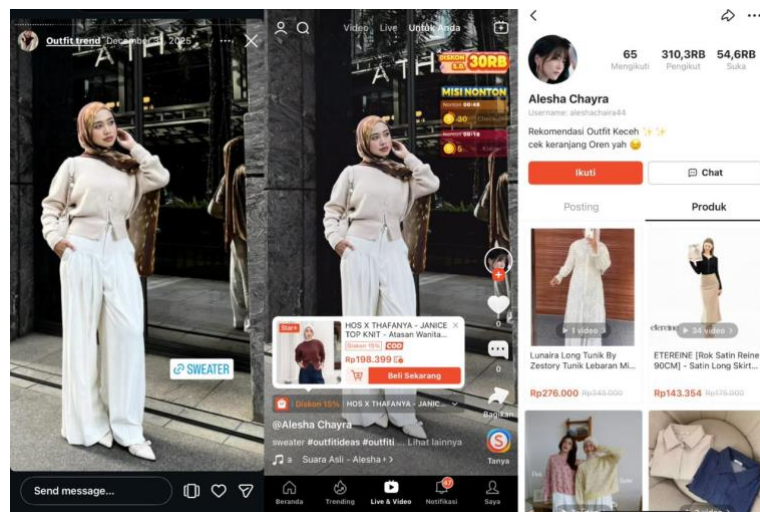
Tbk. The court through decision number 10/HKI/HAK.CIPTA/2014/PN.Niaga.Sby decided that the use of a person's portrait for promotional purposes without consent constitutes a violation of Article 12 of Law Number 28 of 2014 concerning Copyright. The decision clarified that commercial use does not require direct monetary transactions but includes any use intended to obtain economic benefit. This interpretation is highly relevant to Instagram practices, where promotional content, such as reposts, story advertisements, and business promotions, generates indirect economic gain.

Despite this clear legal framework, violations of moral rights remain prevalent. The right of integrity, in particular, is frequently infringed through unauthorized modifications. A clear example of this is the case of Annisa (@*ansfbrn22*), where a fraudulent account (@*ansfbrnn22*) duplicated her portrait and altered its aspect ratio from a portrait format to a square format to fit a promotional template. Such distortions, which often such as adding promotional text (e.g., 'Cek Link di Bio'), constitute a violation of Article 5 paragraph (1) point e of Law Number 28 of 2014 concerning Copyright, as they modify the work in a way that may harm the creator's reputation or original intent. This issue is exacerbated by the finding that 64% (32) of respondents were unaware of their moral rights, allowing such violations to occur without resistance.

Similarly, the fulfillment of economic rights remains significantly inadequate. A total of 72% (36) of respondents were unaware of their entitlement to compensation, including royalties or other forms of financial benefit. This lack of awareness creates opportunities for exploitation, particularly in digital marketing systems such as affiliate programs. The violation of economic rights in digital environments can be clearly illustrated through the case of Fira (@*shaarafira*). As shown in Figure 1, the original portrait was uploaded on her personal Instagram account as part of a legitimate content post. However, the same portrait was subsequently used by a third-party account for commercial purposes without obtaining prior consent.



Source: Author's documentation (Instagram, 2026)
Figure 1. Original Personal Portrait Uploaded by @shaarafia



Source: Author's documentation (Instagram, 2026)
Figure 2. Use of Personal Portrait in Affiliate Marketing Content by @otdhijab.id

As shown in Figure 2, the portrait was reused by the account @otdhijab.id and integrated into affiliate marketing content that directs users to e-commerce links. This use generates economic benefits for the third party through commissions, while the original creator receives no form of compensation.

This practice constitutes a violation of economic rights, particularly the rights of reproduction, distribution, and communication to the public.²⁰ Moreover, it also reflects the failure to implement the principles of Reward Theory, as the creator does not receive any form of reward despite the commercial exploitation of their work.

²⁰ Law Number 28 of 2014 concerning Copyright, Article 9 paragraph (1) point b, e, g, and h.

In addition to the lack of awareness among creators, this study also finds that the perspective of business actors plays a significant role in the failure to fulfill these rights. Many business actors perceive the use of personal portraits on Instagram as a common digital practice rather than a legal issue. Attribution, such as tagging the creator's account, is often considered sufficient, even though it does not fulfill the legal requirement of obtaining consent or providing compensation.

Moreover, some business actors provide non-monetary compensation, such as products, as a form of appreciation. However, this practice does not meet the standards of economic rights as regulated under copyright law. In other cases, business actors neglect both attribution and compensation altogether, reflecting a broader normalization of unauthorized use. This perspective indicates that copyright compliance is often subordinated to marketing efficiency and digital visibility.

From a normative standpoint, any commercial use of copyrighted material requires prior authorization from the rights holder. However, in practice, such authorization is rarely obtained, illustrating a clear gap between *das sollen* and *das sein*. The digital environment, which prioritizes speed and accessibility, often neglects legal compliance, thereby reinforcing patterns of unauthorized use.

This condition ultimately reflects a failure in the implementation of Reward Theory. Creators are not treated as rights holders entitled to recognition and economic benefit, but rather as passive sources of content for commercial exploitation. The absence of proper recognition and compensation not only undermines the economic value of creative works but also diminishes the moral acknowledgment of the creator's contribution.

Based on these findings, it can be concluded that the failure to fulfill moral and economic rights in the commercial use of personal portraits on Instagram is closely linked to low legal awareness, weak enforcement mechanisms, and the normalization of unauthorized use by business actors. Therefore, strengthening legal awareness, reinforcing enforcement mechanisms, and promoting the principles of Reward Theory are essential to ensure that creators receive proper recognition and economic benefits in the digital era. This inadequate fulfillment of rights ultimately influences how disputes are resolved in practice.

Dispute Resolution Mechanisms For Unauthorized Commercial Use Of Personal Portraits On Instagram

In principle, disputes arising from copyright infringement can be resolved through both litigation and non-litigation mechanisms. Litigation involves formal legal proceedings before the court, while non-litigation mechanisms include negotiation, mediation, and other informal approaches.²¹ In practice, non-litigation mechanisms are often preferred due to their efficiency, flexibility, and lower cost, particularly in cases involving social media where disputes tend to be resolved through direct communication between parties.²² Under Indonesian Copyright Law Number 28 of 2014, specifically Articles 95–101, copyright holders are granted the right to pursue both civil and criminal remedies. However, the resolution of disputes arising from the unauthorized commercial use of personal portraits on Instagram demonstrates a strong tendency toward informal approaches.²³

These findings also reflect the practical efforts undertaken by copyright holders in resolving disputes. Empirical findings reveal that most copyright holders prefer resolving disputes through direct communication, such as sending warnings via private messages, requesting content removal, or choosing not to take any action. Notably, none of the respondents pursued litigation through the Commercial Court at all, indicating a significant gap between the availability of legal remedies and their practical utilization. The distribution of dispute resolution efforts undertaken by respondents is presented in Table 2.

Table 2. Forms of Dispute Resolution Efforts by Respondents

No.	Respondents' Answers	Total	Percentage
1.	Negotiating attribution (moral rights) and compensation (economic rights)	11	22%
2.	Reprimanding through comments or direct messages (DM)	18	36%
3.	Reporting via Instagram copyright infringement feature	2	4%
4.	Filing a claim to the Commercial Court	0	0%
5.	Taking no action	19	38%

²¹ Fatrullah Puspita Sari, Puguh Aji Hari Setiawan, and Bernadete Nurmawati, *Alternatif Penyelesaian Sengketa*, (Sumedang: CV. Mega Press Nusantara, 2024), 107.

²² Pahrudin Azis, Muhamad Kholid, and Nasrudin, “Perbandingan Lembaga Penyelesaian Sengketa: Litigasi dan Non-Litigasi”, *Qanuniya: Jurnal Ilmu Hukum* 1, no. 2 (2024): 12, <https://doi.org/10.15575/qanuniya.v1i2.896>.

²³ Revallinda Salsa Bella and Reni Budi Setianingrum, “Perlindungan Video Influencer Review untuk Kepentingan Komersial: Studi dari Undang-Undang Hak Cipta”, *Bhirawa Law Journal* 5, no. 2 (2024): 13-14, <https://doi.org/10.26905/blj.v5i2.13417>.

Total	50	100%
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Source: Processed Data (2026)

As shown in Table 2, the most common response is informal reprimand through comments or direct messages (36%), followed by inaction (38%). In contrast, formal legal action through the Commercial Court is entirely absent (0%). This pattern highlights a clear preference for practical and easily accessible solutions, despite their limited effectiveness in restoring legal rights.

The high percentage of respondents choosing to take no action (38%) unveils a socio-legal phenomenon known as rational apathy. In the digital ecosystem, copyright holders perform an unconscious cost-benefit analysis; when the perceived expenditure of energy, time, and emotional cost of confronting an infringer outweighs the immediate damage, victims consciously choose detachment. This pragmatism, however, inadvertently fosters a breeding ground for systemic copyright normalization on social media.

The dominance of informal approaches can be evaluated through Roger Fisher and William Ury's Principled Negotiation Theory, which emphasizes resolving conflicts based on objective standards, mutual interests, and balanced outcomes rather than positional pressure.²⁴ Empirically, dispute resolution on Instagram exhibits a severely deformed application of this model. While 36% of infringed users engage in direct communication via comments or Direct Messages (DMs), and 22% attempt direct negotiations, these efforts consistently fail to achieve a balanced win-win solution.

The structural breakdown lies in the absolute absence of "Objective Criteria" during these informal digital interactions. A negotiation can only yield a just outcome if both parties operate under a shared, authoritative standard—such as statutory provisions. However, the empirical reality reveals a profound legal literacy vacuum: 72% of portrait owners and 66.7% of online business actors do not know the legal sanctions associated with unauthorized commercial portrait use.

Without statutory provisions serving as an objective baseline, negotiations collapse into position-based standoffs dominated by the commercial actors' positional power. This structural weakness forces copyright holders into accepting "partial settlements" as seen in the cases of Putri (@vindakputri) and Dinda (@dindamr_). In these instances, business actors reduce moral

²⁴ Roger Fisher and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In*, (New York: Penguin Books, 1981), 18.

rights into mere "digital etiquette" (tagging the creator's account) as a superficial substitute for formal legal consent, while completely suppressing the creator's economic rights. This practice violates Fisher and Ury's principle of objective fairness, demonstrating that informal digital negotiations conducted in a legal vacuum merely institutionalize copyright violations rather than resolving them.

The absolute absence of litigation (0%) can be deeply explained by intersecting structural and psychological barriers, as mapped out in Table 3.

Table 3. Reasons for Not Pursuing Dispute Resolution

No.	Respondents' Answers	Total	Percentage
1.	Lack of knowledge of procedures	3	15.8%
2.	Avoiding complicated processes	4	21.1%
3.	Lack of knowledge of legal basis or rights	4	21.1%
4.	Perception that the impact is insignificant	8	42.1%
Total		19	100%

Source: Processed Data (2026)

Table 3 demonstrates that the primary reason for inaction is the perception that the violation has an insignificant impact (42.1%), closely followed by procedural complexity (21.1%) and a lack of legal knowledge (21.1%). These findings indicate that the decision to bypass formal enforcement is not merely a benign matter of personal preference, but rather a direct reflection of structural barriers within the judicial architecture.

Structurally, the Commercial Court holds the exclusive statutory authority to adjudicate intellectual property disputes. However, its severe geographic centralization acts as an immediate access barrier. For individual content creators and non-business victims based outside of major metropolitan hubs, such as those in Riau, pursuing formal litigation introduces a grueling jurisdictional hurdle. Because the province of Riau falls under the jurisdiction of the Commercial Court at the Medan District Court, filing a lawsuit demands exorbitant financial expenditure, inter-provincial travel, and prolonged procedural commitments.

This geographical disconnect creates a profound "litigation gap," where robust intellectual property remedies exist normatively (*das Sollen*) but are completely unreachable in practice (*das Sein*) due to prohibitive transaction costs. When the cost of legal mobilization drastically exceeds the economic value of the single infringed portrait, the law ceases to be an accessible shield for ordinary citizens.

Consequently, the dominance of non-litigation dispute resolution on Instagram is a forced symptom of structural exclusion. Without a credible threat of formal legal enforcement or an accessible alternative dispute resolution (ADR) body, informal negotiations will continue to lean heavily in favor of the infringing party. Settlements remain dictated by digital convenience and corporate leverage rather than objective legal standards. To rectify this systemic distortion, there is an urgent need to introduce digitalized semi-formal arbitration, simplify multi-platform reporting systems, and localize legal aid frameworks. Without these structural adjustments, the digital environment will continue to reward the free-rider while leaving the fundamental economic and moral rights of individual creators systematically unprotected.

CONCLUSION

The findings of this study demonstrate that the fulfillment of moral and economic rights in the commercial use of personal portraits on Instagram remains significantly inadequate due to severe systemic gaps. Empirically, while 100% of respondents experienced unauthorized commercial exploitation of their visual content, a staggering 48% received neither moral recognition nor economic compensation, and 46% only obtained partial moral rights through loose digital attribution, leaving a mere 6% who achieved comprehensive protection. This structural imbalance reveals that online business actors systematically reduce moral rights into mere "digital etiquette" (such as tagging usernames) to bypass formal legal consent, while entirely suppressing the creators' economic rights.

Furthermore, dispute resolution mechanisms are critically dominated by informal, non-litigation approaches—specifically direct messaging (36%) and informal reprimands—while formal litigation before the Commercial Court remains entirely unutilized (0%). This absolute absence of formal legal mobilization is a symptom of structural exclusion, driven by widespread legal literacy gaps—where 72% of creators and 66.7% of business actors are unaware of copyright sanctions—and compounded by severe jurisdictional hurdles, as creators outside major metropolitan hubs must bear prohibitive transaction costs to access centralized courts. Consequently, these informal interactions inevitably culminate in flawed "partial settlements" where outcomes are dictated by digital convenience and leverage rather than objective statutory standards. Therefore, the protection of creators in the digital era demands a proactive overhaul through localized legal frameworks, digitalized semi-formal arbitration bodies, and automated

platform-based enforcement mechanisms that seamlessly integrate both moral and economic safeguards.

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