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Legal Protection Against the Commercial Use of Personal Photos of Street Runners without Permission by Street Photographers

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ABSTRACT

The development of digital technology and social media has increased the practice of documenting public activities, including running events, which are often commercially exploited by street photographers without the subject's consent. This phenomenon raises legal concerns regarding privacy rights, portrait rights, and personal data protection. This study aims to analyze the legal protection framework and available legal remedies against the unauthorized commercialization of personal photographs. The research applies a normative juridical method through literature study of relevant laws and legal doctrines. The findings indicate that legal protection is regulated under Article 28G paragraph (1) of the 1945 Constitution of Indonesia, the Personal Data Protection Law, the Copyright Law, the Electronic Information and Transactions Law, and Article 1365 of the Civil Code. Unauthorized commercialization may result in civil liability and administrative sanctions, enforceable through litigation or non-litigation mechanisms..

Keywords: legal protection; commercialization of photographs; privacy rights; personal data protection; street photography.

INTRODUCTION

People, by nature, often engage in a variety of activities, particularly those involving physical movement, such as sports. Physical activity not only promotes physical health but also serves as a social outlet for interacting with others, engaging in healthy competition, and expressing oneself within a community. Studies show that participation in sports is growing as part of an ever-evolving lifestyle.¹ It was that lifestyle that eventually turned the growing interest in sports among the public into a trend.

A trend is a new tendency or style that becomes fashionable within a social context.² Sports are currently trending, as

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¹ Adryani Sindaran, Arlin Adam, and Andi Alim. "Dari Sedenter Ke Aktif: Makna Sosial dan Budaya Perubahan Perilaku Olahraga Pegawai Dinas Kesehatan Provinsi Sulawesi Barat". *Jurnal Berita Kesehatan* 18 (1) (2025):168-84. <https://ojs.stikes.gunungsari.id/index.php/GBK/article/view/266>.

² KBBI, "Word Meanings - The Great Dictionary of the Indonesian Language (KBBI) Online," KBBI, 2025, <https://kbbi.web.id>. Accessed on March 1, 2026, at 1:21 PM WIB.

evidenced by the growing public interest in various athletic activities – both individual and group – particularly running, which is easily accessible and relatively inexpensive to participate in. This lifestyle trend has fueled the growth of sports and made them a vehicle for broader social interaction, especially in public spaces.

Exercising in public spaces such as city parks, pedestrian paths, and car-free zones provides open access to everyone.³ Public spaces as venues for sports foster new social dynamics, including opportunities for interaction, sharing motivation, and building a sports community. These dynamics in public spaces have in turn given rise to a related activity: photography as a hobby.

Photography has become a popular hobby enjoyed by people from all walks of life. As a hobby, photography serves to capture moments, express creativity, and share photos on social media. In the context of outdoor spaces and public activities such as sports, photography has gained widespread popularity because it allows for the documentation of physical activities.⁴ It appears that photography has seen a surge in activity following the COVID-19 pandemic, and this field has become particularly popular for photographing people while they run.

Photography has seen a significant increase in activity following the COVID-19 pandemic as people have begun to resume outdoor activities. Many photographers have seized this opportunity by capturing images of people jogging in public spaces. What began as a hobby has since evolved into a profession or commercial activity, including photography services, online photo sales, and other commercial ventures.⁵

This profession has since become widely active in public spaces. Public spaces allow anyone to take photographs, but when the subject of the photo is a recognizable individual – especially if the photo is to be used for personal commercial purposes – issues arise regarding privacy rights, consent, and the use of the image.⁶ These complex conditions laid the groundwork for the emergence of the street photography phenomenon.

A street photographer is an artist who captures moments on the spot, typically in public spaces during various activities, particularly sports. Over time, these captured moments have been sold online through various platforms, one of which is Fotoyu.

³ Apriliyani Karsela, "Final Project," (Thesis: University of Semarang, 2024).31.

⁴ D. Agung Krisprimandoyo and Arbain Rambey, *Potensi dan Tantangan Manajemen Industri Fotografi*. (Yogyakarta: Deepublish, 2025). 25.

⁵ Higher Education Service Agency Region V Yogyakarta, "Street Sports Photography: Between Business Potential and Privacy Violations," Muhammadiyah University of Surakarta, 2025, <https://www.umy.ac.id/foto-olahraga-jalanan-antara-potensi-bisnis-dan-pelanggaran-privasi/>. Accessed on March 1, 2026, at 1:00 PM WIB.

⁶ Muhammadiyah University of Yogyakarta, "Maintaining Photography Ethics in Public Spaces: Between Freedom and Privacy," 2025, <https://www.umy.ac.id/menjaga-etika-fotografi-di-ruang-publik-antara-kebebasan-dan-privasi/>. Accessed on March 1, 2026, at 1:10 PM WIB.

Fotoyu is an artificial intelligence-based platform that provides a space for photographers to market their work to the public online, such as photos of runners in public spaces.⁷ Platforms like this open up new economic opportunities for street photographers to sell their services.

The process of monetizing photos through Fotoyu involves users scanning their faces during the initial registration phase; this data is then processed using artificial intelligence to generate photos that resemble the user's face.⁸ The issue arises because street photographers have begun to monetize their work through platforms that offer no guarantees regarding the security of personal data or individual privacy. This monetization has shifted the platform's original purpose—as a venue for the commercialization of art—into a commercial activity that benefits street photographers alone, thereby causing public concern.

Figure 1. Tips for Avoiding Unauthorized Photography



Source : Satubsd. 2025 "Gak mau difoto saat lari ? simak tipsnya"⁹. .

⁷ Fotoyu, "How It Works," 2025, <https://www.fotoyu.com/How-It-Works>. Accessed on March 1, 2026, at 1:05 PM WIB.

⁸ Anugerah Ayu Sendari, "What is FotoYu? The Trending AI-Based Photo Marketplace Among Runners," *Liputan6*, 2025, <https://www.liputan6.com/hot/read/5920198/apa-itu-fotoyu-marketplace-foto-berbasis-ai-yang-ngetren-di-kalangan-pelari>. Accessed on March 1, 2026, at 1:15 PM WIB.

⁹ Satubsd. 2025 "Gak mau difoto saat lari ? simak tipsnya", <https://vt.tiktok.com/ZSmvQ5HLv/> Accessed on March 02, 2026, 10.00 WIB.

Figure 2. A variety of reactions from netizens regarding unauthorized photography



Source : Kompas. 2025 “Fenomena “pelari kalcer” kini menimbulkan perdebatan baru soal privasi di ruang publik”¹⁰.

Public unease regarding unauthorized photography is becoming increasingly evident, as seen in the use of “no photo” wristbands, crossing one’s arms to signal a refusal to be photographed, and even wearing masks or hats to cover one’s face while runners exercise in public spaces.

These symbolic reactions indicate that individuals feel uncomfortable or even threatened when their athletic activities are part of commercial events that have not received their consent, thereby necessitating legislation to regulate the protection of personal data.

Figure 3. Content discussing unauthorized photography



Source : tiktok.com¹¹

¹⁰ Kompas. 2025 “Fenomena “pelari kalcer” kini menimbulkan perdebatan baru soal privasi di ruang publik.” <https://x.com/kompascom/status/1983026672875229227?s=46> Accessed on March 02, 2026, 18.05 WIB.

¹¹ Content discussing unauthorized photography, https://www.tiktok.com/@digitalsociety_id Accessed on March 02, 2026, 18.35 WIB.

Figure 4. Content discussing unauthorized photography



Source : vt.tiktok.com¹²

Article 10 of Law No. 27 of 2022 on Personal Data Protection states that (1) “A Data Subject has the right to object to decision-making actions based solely on automated processing, including profiling, that produce legal effects or have a significant impact on the Data Subject.” Automated processing includes a series of actions such as collection, processing, storage, analysis, deletion, and so on. Furthermore, Article 65 of Law No. 27 of 2022 on Personal Data Protection also states that “No person shall unlawfully obtain or collect Personal Data that does not belong to them with the intent to benefit themselves or others, which may result in harm to the Data Subject.”¹³

It has been discovered that personal photos are being freely shared and sold, and even the buyers of these photos are not first verified to confirm whether they are the actual owners of the photos when they are freely commercialized outside the Fotoyu app. In Indonesia, personal data protection laws may be violated if content involves the sale of personal photos of individuals without the owner’s consent. According to the Personal Data Protection Act (PDP Act), photos that can identify a person are considered personal data; therefore, the collection, use, dissemination, and commercialization of such data must be based on the data subject’s consent. If images are sold or distributed without permission—especially without verifying whether the seller or buyer is the rightful owner—this may be considered unlawful processing and use of personal data and could potentially lead to identity theft. In addition, if the distribution or use of such photos causes harm to the individuals concerned, such practices may also violate the

¹² Content discussing unauthorized photography, <https://vt.tiktok.com/ZSmvXeMNG/>. Accessed on March 02, 2026, 18.35 WIB.

¹³ JDIH, “Law No. 27 of 2022 on Personal Data Protection,” 2022, <https://peraturan.bpk.go.id/Details/229798/uu-no-27-tahun-2022>. Accessed on March 1, 2026, at 1:25 p.m. WIB.

Electronic Information and Transactions Law. As a result, individuals involved in the unauthorized distribution or commercialization of photos may face administrative, civil, or criminal penalties.

Previous research on street photography has generally focused on the protection of photographers' copyrights under Law No. 28 of 2014 on Copyright, as well as aspects of freedom of expression in public spaces; however, studies that specifically treat street runners as legal subjects possessing the right to their own image in the context of the unauthorized commercialization of photographs remain limited. Furthermore, the integration of copyright and personal data protection as regulated under Law No. 27 of 2022 on Personal Data Protection has not yet been comprehensively analyzed in the practice of monetizing photographic content on digital media. The research gap lies in the absence of a normative framework that harmonizes the rights of photographers and the privacy rights of the subjects of photographs in the context of commercialization, as well as an approach that affirms the status of runners as holders of moral rights over their images and emphasizes the urgency of consent as the basis for the legitimate use of portraits for commercial purposes. Therefore, this study is important for examining the legal protection regarding the commercialization of unauthorized personal photographs of street runners by street photographers.

RESEARCH METHODS

Research is a scientific process that plays a vital role in the advancement of science and technology. Its purpose is to uncover the truth in a systematic and methodological manner through structured and consistent analysis of various research problems.¹⁴ which is underpinned by an approach—as a perspective, philosophy, or theoretical framework—that underlies the entire process, whether in learning or research.¹⁵

The method used is qualitative, meaning research that focuses on a descriptive-analytical analysis of phenomena in order to obtain an objective and detailed picture of a situation.¹⁶ The approach used in this study is the normative legal approach, which is a legal methodology that examines the effectiveness and application of legal norms through library research.¹⁷

¹⁴ Jonaedi Efendi and Johnny Ibrahim, *Metode Penelitian Hukum Normatif Empiris*. (Depok: Prenada Media, 2023), 25.

¹⁵ I Made Pasek Diantha. *Metodologi Penelitian Hukum Normatif*. (Jakarta: Prenada Media, 2022), 102.

¹⁶ Gibran Fatahillah Syukur, Muhamad Amirulloh, and Mustofa Haffas. "Usage of Copyrighted Songs and/or Music from YouTube by Discord Music Bot According to Indonesian Copyright and Cyber Law." *Jurnal Poros Hukum Padjadjaran* 5 (1) (2023), 125–142. <https://doi.org/10.23920/jphp.v5i1.1316>.

¹⁷ Sulistyowati Irianto. *Metode Penelitian Sosio-Legal*. (Jakarta: Pustaka Obor, 2021), 98.

DISCUSSION

Legal Protection Against the Unauthorized Commercial Use of Personal Photos of Street Runners by Street Photographers

Advances in digital technology and social media have led to an increase in the documentation of activities in public spaces, including running. These activities are often captured by street photographers, who then publish and even use the photos for promotional purposes or financial gain. This phenomenon raises legal issues when images of individuals are used for commercial purposes without the consent of the subjects involved.¹⁸ Under Indonesian law, the use of a person's photograph without permission for commercial purposes may constitute a violation of the right to privacy and the right to personal data, which are guaranteed by applicable laws and regulations as a form of legal protection for individuals.¹⁹

Legal protection for individuals against the misuse of their personal image is rooted in the recognition of human rights as set forth in Article 28G(1) of the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as the 1945 Constitution, which states that "Every person has the right to protection of their person, family, honor, dignity, and property under their control, as well as the right to a sense of security and protection from the threat of fear to act or refrain from acting in a manner that constitutes a fundamental right." This constitutional norm establishes that a person's body image and visual representation are part of the private sphere that cannot be exploited arbitrarily. Photography in public spaces that is processed and used for commercial purposes without consent constitutes a violation of the right to privacy.²⁰

The right to privacy is further reinforced by Law No. 27 of 2022 on Personal Data Protection, hereinafter referred to as the PDP Law. Article 10 states that "Data Subjects have the right to object to decision-making actions based solely on automated processing, including profiling, that produce legal effects or have a significant impact on the Data Subject."²¹ Automated processing involves a series of actions, including the collection, processing, storage, analysis, deletion, and so on; and Article 65 states that "No person shall unlawfully obtain or collect Personal Data that does not belong to them with the intent to benefit themselves or others, which may result in harm to the Data Subject." In this context, runners act not only as individual victims but also as data subjects protected by the principles of lawful processing, consent, purpose limitation,

¹⁸ Vita Dwi Anggraeni Abidin, Ronny Winarno, and Dwi Budiarti. "Perlindungan Hukum terhadap Foto Pribadi yang Digunakan Orang Lain di Media Sosial Instagram". *Yurijaya : Jurnal Ilmiah Hukum* 6 (2) (2024): 127-41. <https://doi.org/10.51213/yurijaya.v6i2.156>

¹⁹ Peter Mahmud Marzuki. *Penelitian Hukum*. (Jakarta: Kencana, 2021), 35.

²⁰ Fuady Munir. *Perbuatan Melawan Hukum*. (Bandung: Citra Aditya Bakti, 2022), 90.

²¹ Sekaring Ayumeida Kusnadi. "Perlindungan Hukum Data Pribadi Sebagai Hak Privasi". *AL WASATH Jurnal Ilmu Hukum* 2 (1) (2021): 9-16. <https://doi.org/10.47776/alwasath.v2i1.127>.

and data minimization.²² Thus, administrative mechanisms serve as both preventive and enforcement tools to ensure compliance with personal data protection standards.

Law No. 28 of 2014 on Copyright addresses the ethical implications of portrait rights and the ethics of photographing subjects. Article 12(1) states: “No person shall use, reproduce, publish, distribute, and/or communicate a portrait they have created for commercial advertising or promotional purposes without the written consent of the person portrayed or their heirs.” When a street photographer uses such images for the promotion of products, services, or other economic interests without consent, this constitutes the processing of personal data without a legitimate legal basis. Violations of this provision result in sanctions that affirm the legal liability of parties engaging in commercialization without permission.²³

The harm suffered by the subject as a result of unauthorized commercialization is not only economic in nature, but also touches upon aspects of dignity and honor. In the context of national law, protection of honor and reputation is also reflected in Law No. 19 of 2016 on Electronic Information and Transactions, hereinafter referred to as the ITE Law. The actions of photographers who take pictures of individuals without consent are regulated by Article 26(1), which states: “The use of any information via electronic media concerning a person’s personal data must be done with the consent of the person concerned.” This provision affirms that the use of personal data, including a person’s portrait in an electronic system, must obtain valid consent from the data subject as a form of protection provided by the state.²⁴

Runners who are victims of privacy violations can rely on applicable laws to seek justice. A person on a public road or in an open sports venue – in this case, a runner – does not automatically lose the right to control the use of their likeness for commercial purposes.²⁵ This principle is consistent with the concept of a tort as defined in Article 1365 of the Civil Code, hereinafter referred to as the Civil Code, which states that “Any act that violates the law and causes harm to another person obligates the person whose fault caused such harm to compensate for the resulting damages.”²⁶ If the unauthorized use of a photograph results in material or immaterial damages, such as reputational harm, psychological distress, or economic exploitation without compensation, then the elements of a tort may be satisfied. In a civil lawsuit, the runner may seek material damages in the form of economic gains obtained by the photographer, as well as immaterial damages in the form of violations of dignity and sense of security.

²² Law No. 27 of 2022 on Personal Data Protection.

²³ Law No. 28 of 2014 on Copyright.

²⁴ Law No. 19 of 2016 Amending Law No. 11 of 2008 on Electronic Information and Transactions.

²⁵ Joko. *Hukum Informasi dan Transaksi Elektronik di Indonesia*. (Jakarta: RajaGrafindo Persada, 2023), 88.

²⁶ J. Satrio. *Hukum Perikatan*. (Bandung: Alumni, 2021), 140.

Additionally, the runner may file a motion to cease the use of the photograph (injunction) as a form of preventive protection against further dissemination, thereby allowing the civil mechanism to function as a restorative means to remedy the damages.²⁷

The principle of balancing freedom of expression and the protection of privacy rights serves as the foundation for evaluating the actions of street photographers.²⁸ The principles of proportionality and reasonableness require that the use of photographs depicting specific individuals for commercial purposes be done with explicit permission. Without such authorization, the use of the photographs may be deemed to exceed the reasonable bounds of freedom of expression and constitute a legal violation, in which case the runners require protection.²⁹ Alexander Sabar, Director General of Digital Space Oversight at the Ministry of Communication and Digital Affairs, emphasized the importance of photographers complying with the provisions of the Personal Data Protection Act (PDP Act). “A photograph of a person—especially one showing the face or distinctive features of an individual—falls under the category of personal data because it can be used to specifically identify a person. Therefore, all photography activities and the publication of photographs must take into account the ethical and legal aspects of personal data protection.”

Legal protection for runners demonstrates that the national legal system has provided relatively comprehensive tools to protect individuals’ rights from unlawful commercial exploitation. The legality of using a photograph for commercial purposes depends on the existence of a clear legal basis, particularly the consent of the data subject as the owner of the rights to their own image. Without such consent, any processing or use of the photograph has the potential to violate the law and result in penalties.³⁰ Therefore, responsible street photography should not only focus on artistic considerations but also adhere to applicable legal norms so as not to cause harm to others.³¹ Thus, legal protection for individuals against the unauthorized commercial use of personal photographs of street runners is an integral part of respect for human rights and the rule of law in the digital society.

²⁷ Johnny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*. (Malang: Bayumedia, 2021), 67.

²⁸ Mochtar Kusumaatmadja, *Konsep Hukum dalam Pembangunan*. (Bandung: Alumni, 2022), 73.

²⁹ Eka Martiana Wulansari. “Kosep Perlindungan Data Pribadi Sebagai Aspek Fundamental Normdalam Perlindungan Terhadap Hak Atas Privasi Seseorang di Indonesia”. *Jurnal Surya Kencana Dua : Dinamika Masalah Hukum dan Keadilan* 7 (2) (2021):265-89. <https://doi.org/10.32493/SKD.v7i2.y2020.9214>.

³⁰ Az. Nasution, “*Consumer Protection Law*” (Jakarta: Diadit Media, 2021), 65.

³¹ Deviana Yuanitasari, Hazar Kusmayanti, and Agus Suwandono. “Consumer Protection Against False Ecolabel Claims: A Legal Analysis in Indonesia.” *Jurnal Poros Hukum Padjadjaran* 6 no.1 (2024.). <https://doi.org/10.23920/jphp.v6i1.1901>.

The digitization of social life requires greater legal awareness on the part of both photographers and the general public to ensure that public documentation does not evolve into a form of exploitation that violates rights.³² Through the application of constitutional provisions, personal data protection laws, civil law, and regulations on information and electronic transactions, the state has established an adequate legal framework to address issues concerning legal protection for individuals harmed by the unauthorized commercialization of personal photographs of street runners. Consistent implementation and improved legal literacy are key to the effectiveness of such protection in practice.

Effective law enforcement will ultimately strengthen the guarantee that everyone has control over their own image, while ensuring that freedom of expression is balanced with respect for the right to privacy. With this framework in place, legal protection for individuals in cases of unauthorized commercial use of photographs is not merely theoretical but can be effectively realized through available legal mechanisms that are fairly enforced.

Legal Action Against the Unauthorized Commercial Use of Personal Photos of Street Runners by a Street Photographer

The unauthorized commercial use of personal photographs of street runners by street photographers in public spaces raises complex legal issues because it involves freedom of expression, rights to photographic works, and the right to personal data protection and individual privacy. Runners, as the subjects captured in the photographs, have legal interests protected by statutory instruments, particularly personal data protection laws.³³ This phenomenon continues to grow and cause conflict as the use of social media increases.

The widespread use of social media encourages individuals to document various activities, no longer merely to preserve personal memories, but to produce content that can be shared with the general public. It is in this context that photography during car-free days has become a very common practice; indeed, without people realizing it, this has shifted individuals' roles from mere participants in the event to visual subjects that can be recorded by anyone without explicit consent. Consequently, the act of taking

³³ Putu Eka Trisna Dewi. "The Development of Business Law in the Digital Age: The Urgency of Data Privacy Protection Regulations in Indonesia." Proceedings of the 2020 National Seminar of the Faculty of Law, Mahasaraswati University, Denpasar 1 no.1 (2021): 45-54. <http://e-journal.unmas.ac.id/index.php/psnfh/article/view/2386>.

photographs is no longer a simple matter, as every photo taken has the potential to enter the digital realm, undergo processing, and become widely consumed by the public.³⁴

This situation has significant implications for the protection of dignity, a sense of security, and personal integrity.³⁵ Freedom of expression, as guaranteed by the national legal framework—including the freedom to take photographs and share them on social media—has, alongside the development of digital technology, shifted the definition of public space and expanded the social consequences of photography. Individuals captured in an activity during a car-free day may face social or psychological harm if the photo is circulated without consent, edited for specific purposes, or used in a context that alters their self-image. The potential for misuse of images, including through digital manipulation and artificial intelligence, further increases the risk to an individual's identity integrity.³⁶ In this context, runners may pursue various legal remedies to protect their personal rights that have been violated due to the use of their photos without valid consent, particularly when such photos are commercialized for economic purposes that could potentially cause the runners material or non-material harm.

The first legal recourse available through digital platforms (Platform-Based Dispute Resolution) provided by social media service providers or platforms for buying and selling photographs, to proactively address violations of privacy and intellectual property rights. Under Indonesian intellectual property law, selling a photograph without a person's permission may constitute a violation of copyright and the right of publicity. Under the Copyright Law, photographers hold the copyright to their photographs because they are the creators. However, to use a photograph of a person for commercial purposes, you must obtain the consent of the person depicted or their heirs. Therefore, selling a photograph of a person without permission may be considered a violation of portrait rights and may result in a claim for damages, even if a specific party may hold rights to the photographic work itself. Additionally, selling photographs without consent may violate the Personal Data Protection Act, as facial photographs constitute personal data that must be used with the data subject's consent.

This stage relies on the use of the report or takedown feature as an administrative tool to immediately resolve disputes by removing content deemed to violate the terms of service. This procedure represents a form of legal efficiency in cyberspace, where the

³⁴ Dyah Ayu Suci Ilhami. "Data Privasi dan Keamanan Siber Pada Smart-City: Tinjauan Literatur". *Jurnal Sains, Nalar, dan Aplikasi Teknologi Informasi* 2 no.1 (2022):51-60. <https://doi.org/10.20885/snati.v2i1.19>.

³⁵ Lego Karjoko, Josephine Santosa, and I Gusti Ayu Ketut Rachmi Handayani. "Disfungsi Peraturan Perundang-Undangan Tanggung Jawab Sosial dan Lingkungan di Indonesia". *Jurnal Hukum IUS QUIA IUSTUM* 26 no. 2 (2019.): 305-25. <https://doi.org/10.20885/iustum.vol26.iss2.art5>.

³⁶ Muhammad Na'im. Al Jum'ah. "Analisa Keamanan dan Hukum untuk Pelindungan Data Privasi". *Cyber Security dan Forensik Digital* 1 no. 2 (2019): 39-44. <https://doi.org/10.14421/csecurity.2018.1.2.1370..>

platform acts as a content facilitator based on preliminary evidence submitted by users regarding the unauthorized use of photos or illegal commercialization.³⁷

The effectiveness of this mechanism is based on a private legal framework set forth in the user agreement or terms of service, which bind the parties contractually. Platforms generally have integrated comprehensive internal dispute resolution systems, including dedicated complaint services to address claims of unilateral commercialization of personal photos. Through this scheme, the platform conducts electronic mediation by validating ownership data and compliance with community standards before imposing administrative sanctions or account suspensions. The existence of this internal complaint system not only provides preventive legal protection for data subjects but also serves as crucial supporting evidence should the dispute proceed to litigation involving damages such as loss of control over one's self-image, damage to reputation, and the exploitation of visual identity for another party's economic interests without a valid basis of consent, thereby opening the door for runners, as legal subjects, to pursue protective mechanisms through both litigation and non-litigation channels as a form of legal recourse.³⁸

The legal remedies available to runners as subjects of photographs have a normative basis in the 1945 Constitution of the Republic of Indonesia, specifically Article 28G(1), which guarantees the right to personal protection and dignity. This constitutional guarantee is further elaborated in the Copyright Law, particularly Article 12(1), which prohibits the commercial use of a person's portrait without the written consent of the person depicted. Furthermore, photographs revealing a runner's identity also constitute personal data as defined in the Personal Data Protection Act (PDP Act), specifically Articles 10 and 65, which require consent for any processing of personal data. Article 26(1) of the ITE Law stipulates that the use of personal data, including a person's portrait in an electronic system, must obtain valid consent from the data subject as a form of protection provided by the state. This provision confirms that the commercialization of photos without permission constitutes a violation of the data subject's rights and opens the door to legal liability through civil litigation or administrative sanctions based on personal data protection regulations as a form of law enforcement.

Civil law provides a means of litigation through a tort claim as stipulated in Article 1365 of the Civil Code, which requires the existence of a tortious act, fault, damage, and a causal relationship between the act and the damage. The tortious act committed by the

³⁷ Sekaring Ayumeida Kusnadi. "Legal Protection of Personal Data as a Right to Privacy." *Al Wasath Journal of Legal Science* 2 no.1 (2021). 9-16. doi:10.47776/alwasath.v2i1.127.

³⁸ Nabila Zahara and Muhammad Irwan Padli Nasution. "Pentingnya Data Privasi di Era Digital Industri 4." *Journal of Sharia Economics Scholar (JoSES)* 2.2 (2024). <https://doi.org/10.5281/zenodo.12335096>.

street photographer is the commercialization of personal photographs of street runners without permission for the purpose of personal gain. In this context, the aggrieved runner may file a lawsuit in district court by first drafting a complaint that includes the parties' identities, a statement of facts detailing the chronology of the unauthorized photography and commercialization, and a prayer for relief seeking damages and/or an injunction against the use of the photos. The litigation procedure begins with the filing of the complaint, payment of the case filing fee, the appointment of a panel of judges, and the summons of the parties to undergo the trial process, which includes mediation, the reading of the complaint, the answer, the reply, the rejoinder, the presentation of evidence, and the judgment. If it is proven that there was commercial use without written consent, the judge may grant claims for material and immaterial damages and order the cessation of distribution or the withdrawal of promotional materials containing the runner's photo as a form of redress for the legal violation.³⁹

Runners may file a complaint with the authority responsible for overseeing personal data protection regarding alleged processing without consent. The complaint procedure involves submitting a written report accompanied by evidence of the unauthorized collection, dissemination, or commercialization of photos. If a violation is proven, the data controller may be subject to administrative sanctions in the form of a written warning, temporary suspension of data processing activities, data deletion, or administrative fines in accordance with the provisions of the Personal Data Protection Act (PDP Act). Additionally, if the dissemination occurs via electronic media, the runner may base their objection on Article 26(1) of the ITE Law, which requires consent for the use of personal data through electronic systems, thereby opening the possibility of seeking content removal or access blocking through the mechanisms available within such electronic systems as part of law enforcement.⁴⁰

The law not only provides a litigation pathway but also offers avenues for dispute resolution through non-litigation mechanisms that place greater emphasis on peaceful and proportionate resolutions. Non-litigation efforts can be pursued through direct negotiations between the runner and the photographer, by issuing a formal notice or written warning containing a request to cease the use of the photograph and a demand for compensation, either through legal counsel or independently. A formal notice serves as an important initial step to notify the photographer of the infringement and provide

³⁹ Fanny Priscyllia. "Perlindungan Privasi Data Pribadi Perspektif Perbandingan Hukum". *JATISWARA* 34 no.3 (2019): 239-49. <https://doi.org/10.29303/jtsw.v34i3.218>.

⁴⁰ Law No. 19 of 2016 Amending Law No. 11 of 2008 on Electronic Information and Transactions.

them with an opportunity to voluntarily comply with the demands. If an agreement cannot be reached, the parties may pursue out-of-court mediation through a mediator.⁴¹

Mediation in this matter can be conducted through an independent mediator, where the parties sit together to formulate a mutually beneficial solution—such as the payment of compensation, the inclusion of specific attribution, or the removal of commercial materials containing unauthorized photos—as a form of dispute resolution outside the formal judicial system, while still grounded in legal principles. In addition to an independent mediator, dispute resolution can be conducted through an ad hoc body.⁴²

The law, as an instrument for the protection of rights, ultimately provides runners with strategic options to determine the most effective and proportionate course of action in accordance with the extent of the damages suffered. If the commercialization of a photograph causes significant harm and there is no good faith on the part of the photographer, the litigation route through a civil lawsuit becomes a means that provides certainty and enforceability. Conversely, if the dispute can still be resolved through communication and agreement, the non-litigation route better reflects the principles of simplicity, speed, and low cost.

CONCLUSIONS

Based on the research findings, the author concludes that the commercialization of personal photographs of street runners without permission by street photographers constitutes an act that potentially violates the right to privacy, the right to one's image, and the right to personal data protection as guaranteed under the national legal system. Self-image captured in the form of photographs is part of personal identity that cannot be exploited for commercial purposes without the valid consent of the subject concerned. Indonesia's legal framework, through the Constitution, the Personal Data Protection Act (PDP Act), the Copyright Act, the Information and Electronic Transactions Act (ITE Act), and the provisions on unlawful acts in the Civil Code (KUHPer), has provided protective mechanisms of both a preventive and repressive nature. Runners, as data subjects, have the right to object, demand the cessation of photo use, and seek compensation for both material and immaterial damages arising from unauthorized commercialization. The legal remedies available to runners regarding the unauthorized commercialization of

⁴¹ Riyan Ramdani and Dewi Mayaningsih. "Urgensi Persidangan Secara Elektronik (E-Litigasi) dalam Perspektif Hukum Acara Peradilan Agama di Era Digitalisasi". *Al-Ahwal Al-Syakhsyiyah: Jurnal Hukum Keluarga dan Peradilan Islam* 2 no.2 (2022): 219-36. <https://doi.org/10.15575/as.v2i2.14339>

⁴² Eneng Nuraeni and Dewi Mayaningsih. "Implikasi Sidang Keliling Pengadilan Agama Ciamis Terhadap Peningkatan Kesadaran Penyelesaian Perkara". *VARIA HUKUM* 1 no.1 (2019): 21-44. <https://doi.org/10.15575/vh.v1i1.5136>.

their personal photos by street photographers include preventive measures through digital platforms (Platform-Based Dispute Resolution), litigation, and non-litigation, all of which are rooted in the principles of respect for the right to privacy, the right to one's image, and the protection of personal data within the legal system.

In light of this, there is a need to improve legal literacy among the public and photographers so that they understand the boundaries between freedom of expression and the obligation to respect privacy rights. Digital platforms that facilitate the sale of photographs also need to strengthen mechanisms for verifying subject consent and establish responsive complaint systems to prevent violations. Additionally, law enforcement officials and data protection authorities must optimize the implementation of legal regulations to ensure deterrent effects and legal certainty. Further research could examine the effectiveness of the Personal Data Protection Act (PDP Act) in practice and analyze regulatory comparisons with other countries to enrich the framework for protecting the right to one's own image in the context of digital technology advancements.

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