

ORIGINAL ARTICLE



# Safeguarding Creator's Moral Rights: Unauthorized Color Alterations to the 5-Junction Roundabout Monument Design in Banda Aceh, Indonesia

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## Abstract

Moral rights are inherent and non-transferable rights of creators, safeguarding the integrity of their work and their honour or reputation. In 2019, the color of 5-Junction Roundabout Monument in Banda Aceh was repainted without authorization, violating the creators' moral rights. This study investigates the legal implications of this violation, focusing on the unauthorized colour change of the 5-Junction Roundabout Monument. Using a sociological juridical method and qualitative analysis, it explores the challenges in protecting moral rights for architectural works in Indonesia. The findings show that, despite legal provisions under Article 112 of the Copyright Law, enforcement is hindered by low awareness, weak legal culture, and inefficient systems. The creators have not taken legal action due to limited understanding of their rights. The study recommends that stronger enforcement, increased education, and copyright registration are essential to safeguard creators' moral rights.

## 1. Introduction

Copyright is a subset of Intellectual Property that serves to protect creative works across various fields, including science, art, and literature. Within the context of Indonesian law, copyright is ruled by Law Number 28 of 2014 on Copyright [1]. One of the works protected under Article 40 paragraph (1) letter h of Copyright law of 2014 is architectural works [2]. These works are granted two main types of rights to the creator or rights holder: economic rights and moral rights.

Economic rights grant the creator or copyright holder exclusive rights to commercially exploit their work [3,4]. These rights include activities such as publication, reproduction, translation, adaptation, transformation, distribution, and rental, as stipulated in Article 9 paragraph (1) law number 28 of 2014 [5]. Economic rights enable architects to derive financial benefits from their creations.

Meanwhile, moral rights are perpetually attached to the creator and cannot be transferred [6,7]. Their purpose is to maintain the integrity of the work and the creator's identity [8,9]. Moral rights include the right of integrity, which protects works from distortion, mutilation, or modification without permission, and the right of attribution, which ensures that the creator's name is acknowledged, whether using their real name or a pseudonym [10]. Moral rights are not associated with financial compensation but aim to safeguard the creator's creative control and artistic integrity [11]. Violations of these rights can undermine motivation and the quality of creative works, highlighting the importance of ensuring their protection. According to Article 31 of Law Number 28 of 2014 on Copyright, the creator of an architectural work is recognized as the individual whose name is mentioned in the creation, declared as the creator of a particular

creation, included in the certificate of registration for the creation, and/or listed in the general register of creations as the creator.

Law Number 28 of 2014 on Copyright defines the types of creations protected under the law, specifically works in the fields of science, art, and literature, as stipulated in Article 40 [12,13]. The legal foundation for the moral rights granted to creators of architectural works is supported by multiple frameworks, including Law Number 28 of 2014 on Copyright, the Berne Convention, the Universal Declaration of Human Rights (UDHR), and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement. These legal instruments collectively ensure the protection of creators' rights and uphold the integrity of their works [14].

Riski Darmawan's 2016 study, *"Legal Protection for Creators Against Infringement of Architectural Works Based on Law Number 28 of 2014 on Copyright"* [15], examines legal mechanisms for protecting architectural works under Indonesian copyright law. While it highlights the legal framework provided by Law No. 28 of 2014, the study is primarily normative and focuses on economic rights. In contrast, the present research adopts a sociological juridical approach to explore the practical protection of moral rights, particularly for creators of monumental architectural works. Using the case of the 5-Junction Roundabout Monument in Banda Aceh, this study investigates the legal implications of unauthorized alterations and identifies enforcement barriers. It aims to expand on existing literature by emphasizing moral rights and offering empirical insights into their application in the Indonesian context.

A notable case of moral rights infringement occurred in India in the matter of *Amar Nath Sehgal vs. Union of India* in 1992, which was resolved in 2005. In 1959, Amar Nath Sehgal, a sculptor, was commissioned to design a sculpture for the Indian government's central building. The sculpture was highly regarded, with Prime Minister Nehru recognizing it in 1962 as a cultural landmark. However, the sculpture was later renovated and altered without Sehgal's consent. In response, Sehgal sued the government for moral rights infringement. The High Court of New Delhi ruled in Sehgal's favour, ordering the restoration of the sculpture to its original form and awarding damages of USD 12,000 [16]. This case underscores the critical role of government in safeguarding copyright, especially concerning cultural heritage.

In Indonesia, moral rights infringement in architectural works is prevalent, particularly in residential buildings and cultural heritage sites. A notable example is the alteration of the 5-Junction Roundabout Monument in Banda Aceh (hereafter referred to as 'the monument' throughout this study). Constructed in 2016 and designed by two architects from Syiah Kuala University, the monument was originally gold-colored, symbolizing the city's grandeur. However, in September 2019, its color was changed to blue without notifying the architects. This modification violated the architects' moral rights, as it altered the original design and philosophical meaning of the monument. Under Article 5 of Law Number 28 of 2014 on Copyright, a creator's moral rights protect their works from distortion, mutilation, or unauthorized modification.

Despite its importance, there is currently no clear procedure for protecting the moral rights of architectural creators in Indonesia. Infringements such as unauthorized design changes highlight weaknesses in the existing legal protection system. This situation creates an urgent need for in-depth academic studies on the protection of moral rights for architectural creators, particularly concerning unauthorized modifications.

Hence, this study aims to examine the protection of the moral rights of creators against unauthorized modifications to architectural works, focusing on the case study of the unauthorized alteration. This research is expected to contribute to clarifying the procedures for protecting the moral rights of creators of architectural designs in Indonesia.

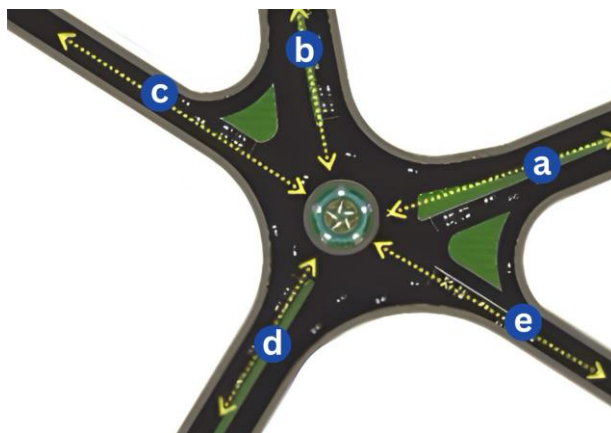
## 2. Methods

The research employs a sociological juridical approach, which combines the analysis of legal norms with an examination of how these norms are experienced and applied in practice by society [17]. This study adopts a qualitative approach, generating analytical descriptions based on verbal and written statements from respondents to obtain facts relevant to the research topic [18,19]. Primary data is collected through field research. This study employs a purposive sampling technique, a non-probability sampling method commonly used in qualitative research, where participants are selected based on their relevance to the research topic and their expertise in the area of study. The aim of purposive sampling is to focus on specific individuals who can provide rich, in-depth insights relevant to the research questions. Primary data was collected through semi-structured interviews with creator and Designer of the Monument, the Head of the Spatial Planning Division of Banda Aceh, the Chairman of the Indonesian Institute of Architects, Aceh Chapter, and a Legal Scholar, allowing open-ended responses on key topics such as design intent, governmental actions, and legal implications. The study also incorporates secondary data from relevant legislation, literature reviews, and scholarly works to provide a broader legal context. This combined approach ensures a comprehensive understanding of the challenges in protecting moral rights for architectural works in Indonesia.

## 3. Results and Discussion

### *3.1. Legal Consequences Of Moral Rights Of The Architectural Work's Creators For The 5-Junction Roundabout Monument In Banda Aceh*

Constructed in 2017, The design process for this monument required a significant amount of time and was grounded in research, consultations, and discourse rooted in the expertise of relevant disciplines. The seemingly "simple" core design emerged through a lengthy and intricate process. While the design context is important, the legal focus of this study centers on the unauthorized color alteration in 2019, which directly violated the moral rights of the creators as outlined in Article 5 and 112 of the Copyright Law. Even without registration, these rights are automatically protected under Article 64.



**Figure 1.** The Context of the Location of the 5-Junction Roundabout Monument in Banda Aceh. Modified from [20].

In the context of location planning, four conceptual explorations were applied to the monument's design: axis-oriented, urban oasis, multi-purpose building, and landmark for the city of Banda Aceh. As its name suggests, the monument's location is at the intersection of five major arterial roads in Banda Aceh, which are consistently busy. These roads include Tgk HM Daud Beureuh street (a), T. Panglima Polem street (b), Sri Ratu Safiatuddin street (c), Diponegoro street (d), and T. Angkasa Bendahara street (e), as shown in **Figure 1**. This axis configuration was addressed by designing the monument to face all five road axes surrounding

the area. This landmark, situated at the heart of the city, holds historical significance and serves as a site of collective memory, often used for public demonstrations and the expression of civic aspirations.



**Figure 2.** The 5-Junction Roundabout Monument in Banda Aceh prior to its color alteration. (source: author's own documentation).

The urban oasis concept was implemented by incorporating a small landscaped garden and a fountain as supporting elements to enhance the monument's value. These features are intended to contribute to the microclimate regulation, helping to lower the temperature around the monument.

The concept of a multi-purpose sculpture is translated into the monument's design by emphasizing not only aesthetics but also functional aspects. Given the monument's location as a frequent site for public expression and demonstrations, the new design prioritizes comfort for the city's residents in voicing their aspirations. As the city continues to evolve dynamically, its identity can be preserved, but it is also possible that the area's development will give rise to new urban identities. It is hoped that the presence of this new monument will serve as a landmark, replacing the old monument while maintaining its role as a city symbol.

The design issues addressed in this project are contemporary concerns related to the locality, identity, and character of Banda Aceh today. The initial design concept was inspired by the shape of the Pintoe Aceh, following the request of the Mayor of Banda Aceh, Illiza Sa'aduddin Djamel (2014–2017). The form was transformed into a semi-Pintoe Aceh shape, which was further explored and refined by incorporating the values of a madani city concept.

The monument consists of five main pillars, symbolizing the Five Pillars of Islam. These pillars, shaped like half of a Pintoe Aceh, rise vertically and can appear abstract from certain viewpoints. Some observers perceive the monument as asymmetrical. This asymmetry was intentionally incorporated into the design to create a sense of dynamism, offering a rich and varied visual experience when viewed from different angles around the 5-Junction Roundabout area as shown in [Figure 2](#).

There have been claims by some parties linking the monument's design to the emblem of a particular political party. However, these interpretations are speculative and detract from the architectural and philosophical intent of the design. Similarities in form do not necessarily imply political symbolism. The monument was conceived to reflect the values of a *madani* city, with deeper meaning embedded in its form. The vertical structure symbolizes *hablum-minallah* (relationship with God), while the base, forming a continuous circle when viewed from above, represents *hablum-minannas* (relationship with fellow humans), highlighting themes of unity, harmony, and interconnectedness.

The design of this monument incorporates elements reflecting the identity of Banda Aceh. This connection is symbolized by the city's founding date, April 22, which holds memorable significance for its residents. There are 22 garden lamps surrounding the monument, representing the city's founding date, while the four tiers of the monument signify the month of April. The monument's design is iconic and aesthetically pleasing, with a modern and dynamic form that serves as a prominent marker for the 5-Junction Roundabout area in Banda Aceh. As previously explained, the monument was not designed merely as a sculpture or city landmark but also as a functional urban public space. The monument's design aspires to embody artistic value, philosophy, character, and ideals that reflect the existence, dynamics, and futuristic orientation of both the city and its residents, while harmonizing with the context of its surroundings.

This monument was revitalized by Bank Bukopin in collaboration with the Banda Aceh City Government. Accordingly, one of the concepts integrated into the design is derived from three of Bank Bukopin's five core values: respect for others, excellence, and dedication to customers. These corporate values were translated into a design that respects the needs of the city's residents, adds value to the surrounding environment, and contributes to the development of Banda Aceh.



**Figure 3.** The 5-Junction Roundabout Monument in Banda Aceh following its color alteration. (source: author's own documentation).

In 2019, as shown in **Figure 3**, the yellow color of the monument was changed to blue by the city government without prior consultation with the creators. The color change for this

monument was carried out under the directive of Banda Aceh Mayor Aminullah Usman (2017–2022). The city government was unaware that altering the color of an architectural work constitutes a violation of the moral rights of its creators.

There are legal consequences for the violation of the moral rights of the creators of the monument, even if the creators did not formally register their work. Nonetheless, the creators retain copyright protection because copyright arises automatically under the declarative principle, granting creators exclusive rights to their work. This is clarified in Article 64, paragraph (2) on Copyright Law, which states that the registration of a creation and related products is not a prerequisite for obtaining copyright or related rights.

Changing the color of the monument constitutes a violation of the creators' moral rights, and they are entitled to protect their work from alteration or modification. Furthermore, the creators are entitled to compensation for the violation of their moral rights. Protection of moral rights is regulated under Article 112 on Copyright Law, which stipulates that anyone who, without proper authorization, removes, alters, or damages a creation can be subject to a maximum penalty of two (2) years imprisonment and/or a maximum fine of IDR 300,000,000 (three hundred million rupiah).

### *3.2. Factors Inhibiting Legal Protection For Architectural Monument Works In Indonesia*

Lawrence M. Friedman posits that the effectiveness and success of law enforcement depend on three components of the legal system: the structure of law, the substance of the law, and legal culture. Based on Friedman's theory, it can be concluded that these three elements must function synergistically for the law created to uphold justice to operate effectively, enabling society to experience the justice governed by the law itself.

Barriers to protecting moral rights in architecture stem from systemic issues, including insufficient public understanding of copyright, ineffective law enforcement, and a declarative registration system that complicates proof of ownership. These findings align with but expand upon prior legal scholarship by integrating empirical stakeholder perspectives.

The first inhibiting factor is legal culture. Indonesian society has limited familiarity with the concept of copyright, as it originates from Western, individualistic legal traditions. Many Indonesians still allow their works to be reproduced or copied, believing that sharing knowledge brings spiritual rewards. This mindset contrasts with the copyright system, which expects recognition or monetary compensation for creative works. As a result, the legal culture in Indonesia does not strongly support copyright enforcement, particularly in architecture.

Another crucial factor is legal awareness. An individual's understanding of legal values significantly influences whether they will infringe on the copyright of an architectural work. Low legal awareness increases the likelihood of copyright violations, especially in the field of architecture. Additionally, prolonged inaction against copyright violations has led to a societal perception that such infringements are normal and no longer constitute legal offenses. This has contributed to the widespread disregard for architectural copyright. Education also plays a pivotal role in shaping legal awareness. Due to Indonesia's relatively low education levels, many individuals lack an understanding of copyright laws, making them more prone to infringing on architectural copyrights.

Law enforcement also presents a significant challenge. The limited number of Civil Servant Investigators has hindered efforts to address copyright infringements on architectural works in Indonesia. As a result, violations often go unpunished, leading to continued disregard for architectural copyright laws. The lack of enforcement has created an environment in which copyright violations persist without consequence.

The registration system is another obstacle. In Indonesia, copyright protection is granted automatically upon the creation of a work, based on a declarative system that does not require formal registration. While this system simplifies copyright ownership, it makes it more challenging to protect unregistered architectural works. The absence of a mandatory registration process complicates efforts to prove ownership and enforce copyright claims.

Finally, efficiency is a major barrier to legal protection. The limited number and distant locations of commercial courts make it difficult for creators to file lawsuits and pursue legal action. The lengthy and costly litigation process discourages many individuals from seeking legal redress. Additionally, delays in handling cases in commercial courts further contribute to inefficiencies, making legal enforcement of architectural copyright appear burdensome and impractical.

These five factors collectively create significant challenges in protecting architectural works under Indonesia's copyright system. Addressing these issues requires improvements in legal culture, awareness, enforcement, registration procedures, and judicial efficiency to ensure better protection for architectural creators.

These five factors can serve as fundamental reasons for the barriers to legal protection in Indonesia today. They also provide an explanation as to why the protection of the 5-Junction Roundabout Monument in Banda Aceh has not been pursued by its architects or creators.

### *3.3. Efforts Of The Architectural Work Creators Of The 5-Junction Roundabout Monument In The Event Of Moral Rights Violations*

Although Indonesian Copyright Law allows creators to seek justice through litigation or alternative dispute resolution, creators often refrain due to limited awareness, perceived complexity of legal processes, and weak institutional support. This disconnects between legal rights and actual enforcement highlights the need for targeted education and legal advocacy.

Legal efforts to address copyright violations can take a repressive approach through dispute resolution, aiming to defend the rights of the creator. The 2014 Copyright Law also provides for non-litigation dispute resolution methods, including alternative dispute resolution and arbitration. These non-litigation mechanisms offer several advantages, such as ensuring confidentiality between the parties, avoiding delays caused by procedural and administrative issues, and allowing the parties to determine the applicable law for resolution. By utilizing these approaches, creators can address violations of their moral rights in an efficient and flexible manner while effectively safeguarding their interests.

According to the Chair of the Indonesian Architects Association (IAI) Aceh, architects in Banda Aceh are aware of the concept of copyright for architectural works but have limited understanding of their rights as creators/architects. This is due to a lack of legal knowledge, particularly regarding employment agreements and copyright registration, resulting in very few architects registering the copyrights for their architectural works.

IAI Aceh provides protection to its members in cases of violations committed by architects or between architects. Such violations are brought to trial, and sanctions, including the revocation of the Architect Registration Certificate, may be imposed. IAI Aceh also has an advocacy and legal division to address issues faced by architects; however, this division functions effectively only at the national level.

The Chair of IAI Aceh emphasized that color in an architectural work carries significant meaning in illustrating the work, making any alteration to the color of the monument a substantial change. This color change has diminished and altered the original intent and meaning behind the monument's construction. Unfortunately, many other violations of architectural works in Aceh persist. These violations often occur in structures that are not public buildings or are less visible, leading IAI to give less attention to such cases.

The protection of a creator's moral rights is more challenging when it comes to proving the extent of harm suffered by the creator. Violations of economic rights are comparatively easier to measure; for instance, if someone unlawfully takes another person's copyrighted work and commercializes it, the financial gain derived from the infringement can be calculated. In contrast, violations of moral rights are more difficult to prove and quantify in terms of the damage experienced by the creator.

If a creator feels significantly harmed by a violation of their work, it is recommended that they file a lawsuit to serve as a deterrent. However, if the matter can be resolved through non-litigation channels, this approach is generally preferable and more straightforward.

To date, the creators of the monument have not pursued any legal or institutional action in response to the unauthorized alteration of their work, despite it constituting a clear violation of their moral rights. This inaction stems primarily from a limited understanding of their legal entitlements as architects and creators of architectural works. Additionally, there appears to be a sense of resignation, as many architects in similar situations have faced comparable violations without recourse, leading to a broader normalization of such infringements within the professional community.

## 4. Conclusions

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The study concludes that the unauthorized color alteration of the 5-Junction Roundabout Monument in Banda Aceh represents a clear violation of the architects' moral rights as protected under Indonesian Copyright Law. Despite the existence of relevant legal provisions, enforcement remains weak due to low public awareness, limited understanding among creators themselves, inadequate legal infrastructure, and an inefficient copyright registration system. Structural and institutional barriers, such as a lack of legal education, insufficient law enforcement, and underutilization of non-litigation dispute resolution methods, further hinder the protection of moral rights in architectural works. The findings underscore the urgent need for systemic reform, including public education campaigns to raise awareness of moral rights, capacity building for architects regarding legal protections and procedures, improved access to legal assistance, and the establishment of more efficient and accessible copyright registration and enforcement mechanisms. It is recommended that stakeholders including government agencies, academic institutions, professional associations, and legal practitioners collaborate to strengthen legal culture and promote a rights-aware creative environment in Indonesia.

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