

JURIDICAL ANALYSIS OF LEGAL PROTECTION FOR JOURNALISTS IN INDONESIA

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Abstract

Journalists are recognized as essential professionals because they constitute a crucial pillar of democracy and actively contribute to safeguarding freedom of speech while participating in the development of democratic reforms. Therefore, it is essential to protect journalists through positive legal frameworks. However, legal formalities alone are insufficient to safeguard journalists, as the development of a legal culture becomes crucial in ensuring the security of their positions. This research is conducted through a juridical-normative approach to objectively examine the validity of the Press Law and the Information and Electronic Transactions Law (ITE Law) in protecting journalists. The research found that although legal products have outlined forms of protection, rights, obligations, and essential elements in press protection, they have not successfully cultivated a legal culture, particularly in establishing the press as an agent of change.

Keywords: Journalists, Juridical, Indonesia, Legal Protection.

INTRODUCTION

Press is defined as "the aggregate of publications published from the press or the giving publicity to one's sentiments and opinion through the medium of printing; as in the phrase 'liberty of the press,' freedom of the press is guaranteed by the first amendment." The term press comes from the Latin term *pressus*, which means pressure, pressed, squeezed, solid.

The press in the Indonesian vocabulary comes from Dutch as a term for printing equipment (Syafriadi, 2018). The press is recognized as the fourth pillar of democracy because it plays a central role in ensuring the balance and accountability of democratic government. As this pillar, the press not only functions as a provider of information but also as a means of openness and a tool to help the public see the truth of the government, a monitor of government policy, and a tool to correct abuse of power (Holt, 2020; Sutikna & Nuryanti, 2021).

The press is a social institution and a mass communication vehicle that carries out journalistic activities, including searching, obtaining, possessing, storing, processing, and conveying information in the form of writing, sound, images, sounds and images, as well as data and graphics and in other forms using the media.

Print, electronic media, and all types of available channels (Efendi, 2017). If journalism is a description of the process of searching for accurate information, then journalists, also known as reporters, are people who search for that information (Ashari, 2019).

The success of a democratic system is highly dependent on active participation and accurate information from the press. The press acts as a mouthpiece that voices people's aspirations, provides space for various views, and forms intelligent public opinion. By revealing facts and truth, the press plays a key role in bringing government transparency and accountability (Rahmawan, 2019). Protection of the role of the press is essential to ensure that the press can operate independently, free from political pressure or certain interests. Press freedom is not only a right for journalists but also a right for the public to receive diverse and reliable information.

Through this protection, the press can carry out its critical functions without fear of repression or obstacles that might hinder its existence. Protection of the press must also include the elimination of all forms of threats and violence against the press. Violence can refer to a broader meaning where there are physical actions of a personal nature, but it can also be interpreted in a narrower sense, namely, it can take the form of attacks, damage, destruction of a person's (physical) self or property or something that potentially belongs to another person (Setiadi, 2020).

By protecting the role of the press, we create a strong foundation for a healthy and efficient democracy. A free and protected press can make a major contribution to the development of society and safeguard the basic principles of democracy, such as justice, freedom, and prosperity. Therefore, protecting the role of the press is not only a form of respect for this profession but also an investment in the sustainability of a dynamic and responsive democracy.

In the context of press development, there is often a gap between theory and practice, where the press is faced with various challenges and pressures that hinder the implementation of its ideal function. The press is often the target of pressure and discrimination because it is deemed not to be in line with the wishes of those in power, creating a situation known as abuse of power. This phenomenon indicates a failure in the public and authorities' understanding of the vital role of the press in democracy. The mismatch between ideal expectations and reality on the ground creates conditions that are detrimental to the position of the press as a pillar of democracy.

This research does not only limit itself to the analysis of legal products as formal rules alone but further involves the sociological dimension of law (Ali, 2023). The focus of the research is to analyze how legal products in Indonesia not only formally protect the press community but also how these regulations shape legal culture in society. Through a legal sociology approach, this research aims to explore the complex interaction between law and culture in the context of press protection. By exploring sociological aspects, it is expected that this research can provide a more holistic understanding of how legal culture develops and how these regulations influence people's perceptions and attitudes towards the press. In addition, this research can be a basis for designing changes or improvements to existing legal products so that they can more effectively protect the press and build a legal culture that supports press freedom as an important element in building a country's future.

METHODS

This research adopts a normative juridical method to understand the legal framework for press protection in Indonesia. In the first analysis stage, researchers discuss ideal theoretical concepts related to press protection law. This includes an examination of the norms and principles that should form the basis for the protection of the press as an integral part of democracy.

At the second level of analysis, the research focus shifts to the reality of positive law in Indonesia regarding the protection of press freedom. This research includes an in-depth study of the Press Law and other related articles that officially regulate the rights and obligations of the press in Indonesia. At this stage, researchers analyze the extent to which these norms are implemented and effective in protecting press freedom in practice.

The final analysis stage discusses how the practice and reality of press law in Indonesia shape the culture of press protection or may have the opposite impact. Researchers will evaluate the extent to which the existing legal framework creates a climate that supports the protection of the press and maintains its integrity as a pillar of democracy. This involves understanding the interaction between legal regulations, implementation practices in the field, and their impact on press protection culture (Bachtiar, 2018).

By following these steps, normative juridical research methods allow researchers to detail theoretical concepts, analyze the positive legal framework, and discuss the reality and its impact on press protection culture. This approach provides a comprehensive picture of how press protection laws should function in theory, the extent of their implementation in practice, and their impact on the formation of a culture that supports press freedom (Irwansyah, 2020).

RESULTS AND DISCUSSION

Journalists play a central role in maintaining the health of a country's democracy. They not only act as transmitters of information but also as watchdogs who monitor and assess government actions. Their existence forms the term "fourth pillar of democracy," referring to the Trias Politics theory which states that the executive, judiciary, and legislature are the three main pillars in maintaining the balance of power. Without this fourth pillar, namely media or journalism, the existence of democracy could be threatened (Syam et al., 2021).

Ideally, journalists act as guardians of the government's integrity and reputation by providing accurate and transparent information to the public. They expose corruption, human rights violations, and policies that harm society (Sánchez Laws & Utne, 2019). Of course, democracy must be supported by freedom of the press, including the freedom to express opinions, communicate, seek and obtain factual information, as well as the right to monitor the running of the government (Manan, 2016).

The term "watchdog" reflects the critical role of journalists in monitoring and assessing every government action, ensuring accountability and transparency. The courage of journalists in revealing the truth, even though it sometimes involves risks, is essential for maintaining the health of democracy. Therefore, freedom of the press is a very important right, providing space

for journalists to act independently and express their opinions without fear of pressure from interested parties. Guarantees for universal press freedom are regulated in Article 19 of the Universal Declaration of Human Rights. According to Adami Chazawi (2015): This article stipulates that everyone has the right to freedom of expression, including the freedom to hold opinions without interference and to seek, receive, and convey information and ideas through any media without regard to borders.

Thus, the fourth pillar of democracy, namely journalism, is not only a source of information but also a guardian of morality and the balance of power in a country. The existence of journalists as guardians of integrity is key in forming and maintaining democratic ideals, ensuring that power is held by those who are responsible and serve the interests of society (Syahriar, 2015). In general, the protection of journalists is a vital aspect in maintaining press freedom and the sustainability of the function of journalism (Solis & Waggoner, 2021). Support for the role and work of journalism should be reflected in legal products or emerging initiatives such as in international agreements, as initiated by the United Nations (UN) through actions to protect journalists since 2012. The UN responds to serious concerns regarding the death toll of journalists, which has reached 1,600 since 1993, realizing that they are often targets in various conflicts and dangerous situations.

Formation action plan

The UN's protection of journalists reflects global efforts to respond to the challenges faced by reporters working in high-risk environments. However, the tragic reality continues to show that protection of journalists has not reached the desired level. Concrete examples such as the deaths of journalists during the armed conflict in Gaza, where nearly 48 journalists are estimated to have died, highlight the urgent need to increase protection efforts.

Case after case shows that protection for journalists is still far from adequate (Pickard, 2020). Effective protection includes not only legalization of legal products, but also consistent implementation and enforcement. Greater support from the international community and UN member states is needed to ensure that journalists can carry out their duties without fear of physical threats or punishment. Only with concrete steps and shared commitment can the protection of journalists be improved, ensuring the continuation of quality journalism and strengthening the foundations of global democracy.

Protection for journalists in Indonesia comes from the Amendment to the 1945 Constitution which outlines freedom of speech as a basic right of every Indonesian citizen, as regulated in Article 28E paragraph 3. Freedom of opinion and association are constitutional rights that support the practice of journalism as an integral part of democracy. However, the history of journalism in Indonesia records major challenges during the New Order era, where press freedom was limited and journalists often faced real obstacles. (Majid & Sugitanata, 2021; Padiatra, 2020). At that time, journalism was directed to exist but with limited functions, asked to maintain stability which was considered a form of subtle threat. These demands result in journalism not fully carrying out its critical role in conveying information that may question the integrity and process of government policy making. This period reflects the lowest time in

the development of the press and it was then that the idea arose that there was a need to provide clear forms of protection for journalists so that they could work without pressure and obstacles that might cause discomfort and even problems in the future.

At the end of the New Order era, Indonesia's reformative government responded by establishing the Press Law (UU no. 40 of 1999). The main function of this law is to provide guarantees and clarity regarding the protection of the work of the press as well as providing a conflict resolution mechanism if the press is in conflict with the law. It is expected that this Press Law will be the basis for fair and just solutions for journalists, preventing them from working under intimidation and influence from certain parties. With this regulation, it is expected that press freedom can be better protected, provide space for journalists to voice their views without fear of repression, and ultimately, strengthen democracy in Indonesia.

At that time, this solution was considered a more reasonable approach in overcoming the challenges faced by Indonesian society. The main rationale lies in the condition of the New Order which was a regime with minimal internal evaluation, thus creating an environment that was vulnerable to corruption, collusion, and provided wide space for the practice of nepotism. In this context, great hopes are placed on strengthening the role of the media as guardians of truth and balancers of power. By strengthening the role of the media, it is hoped that the state will also feel the benefits, because the media will act as a watchdog on the continuity of the regime without having to worry about experiencing intimidation. The initial idea of this concept was to provide protection to journalists who function as independent monitors, ensure transparency, and speak out for justice. In this way, it is expected that a more democratic system will be created, where power is not only concentrated in a few individuals or groups, but is accountable to society as a whole.

Protection of journalists is a crucial step in supporting press freedom and ensuring that the people's voice can be heard without hindrance. By providing a safe space for journalists to report facts and voice opinions, it is hoped that the public can become more informed and have a deeper understanding of government policies and actions. Thus, protection of journalists is not only beneficial for them individually, but also for the welfare of society and the sustainability of democracy. Top of Form

Evaluation of the Press Law

In the Press Law (Press Law), legal protection for journalists is emphasized in Article 8. The journalist profession is recognized as a profession that requires special legal protection, especially because of its differences from most professions. If someone makes news that cannot be verified, then legal sanctions can be imposed on him. Instead, journalists are given *privilege* as a source of information and has the responsibility to convey information accurately. However, it is necessary to understand the difference between journalists and the general public. In the Press Law, this difference is explained in Article 1 paragraph 4, which states that a journalist is a person who carries out journalistic work. However, this definition causes debate, because in theory anyone can become a journalist. This raises the question of where the line is between journalists and non-journalists.

First, the difference lies in the implementation of journalistic work. A journalist is a person who is actively involved in journalistic activities, including collecting, editing and disseminating information. They have a responsibility to maintain ethical standards and professionalism in carrying out their duties (Ward, 2019) . However, to ensure that there is no misuse of the definition of journalist, the Press Law must also contain more specific criteria or parameters to define a journalist. This may include specific educational or training requirements, affiliation with an accredited press agency, or meeting certain standards in carrying out journalistic duties. In this way, the boundaries between journalists and non-journalists can be clearer and can be applied consistently, ensuring that the legal protection provided by the Press Law remains relevant and effective. (Kusumaningrat, 2014)

Several journalist alliances have certain certifications and requirements to uphold the rules and profession of being a journalist. However, there is no legal basis that can be used to determine whether someone should be considered a journalist or not. Today, journalist status is conferred through social recognition or public approval. In fact, recognition of the journalist profession can often be given to anyone who works in the media. In the era of social media and open information, the position of journalists has become increasingly ambiguous. At the same time, there is also a dilemma, if the role and profession of journalists are standardized by the government, will this not cause controversy because it seems as if the state has the freedom to determine who can speak and who cannot? This means forgetting the principles of democracy itself.

In the context of recent developments, several journalist alliances have introduced certification and certain requirements to maintain rules and professionalism in the journalistic profession. However, ambiguity arises because there is no legal basis that clearly determines what criteria make someone considered a journalist. Today, journalist status is more often conferred through social recognition or public approval, and is sometimes granted broadly to anyone working in the media (Hidayat et al., 2020; Wijaya & Ariyanti, 2022) .

The problem is increasingly complex with the emergence of the era of social media and open information, where the boundaries between professionals and non-professionals are increasingly blurred. In this situation, the role and identity of a journalist becomes increasingly ambiguous, and recognition of the journalist profession can be given to individuals without in-depth consideration of journalistic ethics and standards. (Arisanty & Wiradharma, 2020) .

In the midst of this dilemma, several parties argue that standardizing the role and profession of journalists by the government could be a solution. However, this action can be controversial, as it can be seen as an attempt by the state to control the narrative and determine who has the right to speak or not. This creates the risk of violating the basic principles of democracy, where freedom of speech and access to information are the rights of every individual (Ramadhan & Masykuri, 2022; Wiratraman, 2023a) . Nonetheless, it is important to strike the right balance between maintaining journalistic integrity and avoiding potential abuse of power by the government. A better step would be to involve relevant parties, including alliances of journalists, media and civil society, in the process of establishing journalistic standards and ethics. In this way, a framework can be produced that supports press freedom, but still maintains

quality and professionalism in journalism practice. The statement reflects the inconsistency between legal norms that underline the freedom and protection of journalists with the reality on the ground. Although there are articles in the law that guarantee the freedom of journalists and prohibit intimidation against them, the reality is that intimidation against journalists in the field still often occurs. First of all, the low effectiveness of law enforcement against those who carry out intimidation is one of the main causes. If the person carrying out the intimidation is not punished or decisive action is not taken, this can create an environment where the perpetrator feels they can act without consequences. Therefore, more effective law enforcement is needed to ensure that violations of journalists' freedom receive strict sanctions (Sutikna & Nuryanti, 2021b; Wiratraman, 2023b).

Second, issues of cultural perception and social caste also play a role in hindering the protection of journalists. Some parties may feel that they are beyond the reach of the law and cannot be punished. This creates inequality in the eyes of the law and creates a sense of impunity among bullies. Therefore, it is important to change cultural perceptions and ensure that all individuals, regardless of social strata, can be punished for actions that harm journalists. In this case, the role of the government and legislature is very crucial. An evaluation of their role in creating an environment that supports press freedom and protects journalists must be carried out. Efforts are needed to strengthen law enforcement institutions, develop stricter policies regarding press freedom, and provide severe sanctions for violations against journalists.

It is important to evaluate the legal structure thoroughly. If the existing legal structure is unable to create a culture that protects journalists, comprehensive and in-depth legal changes or reforms need to be made. Ultimately, creating a culture that protects journalists is not only the responsibility of the government and legislative side, but also of society as a whole. Collaboration between the government, legislature, civil society and the media can form a solid framework to protect press freedom and prevent intimidation of journalists. The problems that arise when the press encounters the law, especially through criminal reporting, reflect a failure in developing an adequate legal culture in society. Article 9 of the Press Law should provide a basis for resolving disputes through the Press Council. However, in reality, journalists are often faced with criminal reporting, such as Article 310 paragraph 1 of the Criminal Code concerning defamation and Article 27 paragraph 3 of the ITE Law.

The use of these articles shows a lack of understanding of the special role and freedom that the press has in carrying out its journalistic duties. These criminal articles seem to ignore the principle of *lex specialis*, namely the legal principle that provides special treatment for certain situations or groups that have unique characteristics. Journalists, as part of the press, should be treated with a legal approach that recognizes the need for freedom of expression and the right to convey information to the public. (Hiariej, 2016). The problem is not only limited to the selection of legal articles, but also to a legal culture that has not been able to adapt to changes in the dynamics of media and information. Legal protection for the press should exceed the limits of a formal approach, involving cultural aspects and a deep understanding of the strategic role of the media in supporting democracy.

Deeper reforms in legal culture need to be carried out, including increasing legal understanding among law enforcers, legislators and the public. There needs to be awareness that the press has a unique role in giving voice to society and monitoring government performance. Therefore, legal protection for the press must reflect the special needs and challenges faced by the journalistic profession. Apart from that, building a legal culture also requires active participation from all related parties, including the government, law enforcement agencies, the media and civil society. Only in this way can a legal environment be created that is more adaptive, responsive and based on democratic values and freedom of expression.

The Future of Press Law

Protection of the press really needs to be returned to a more fundamental paradigm shift. Even though Article 28E paragraph 3 of the 1945 Constitution states freedom of the press as a constitutional right, the existing Press Law does not fully reflect the essence of the role of the press as a pillar of democracy and a tool for correcting power. The Press Law has so far focused more on ideals and norms, while highlighting less changes in thinking regarding the strategic role of the press in shaping public opinion and ensuring government accountability. The press has a central role in monitoring, conveying information, and being a mouthpiece for people's aspirations.

Expanding discourse in the Press Law is a necessity. Mere protection and freedom are not enough; it needs to be acknowledged that the press has enormous power in shaping public opinion, guarding the truth, and being an instrument of reform. For example, Indonesian history shows how the movement and dynamics of the press contributed greatly to the struggle for independence and reform. A new paradigm that positions the press as a critical element in a democratic system needs to be implemented. Recognition of the role of the press in creating transparency, fighting corruption and ensuring government accountability must be realized in the form of stronger and more constructive legal norms. The press must be respected not only in providing protection and freedom, but also in recognition of its honorable position in expressing truth and justice.

Therefore, the paradigm revolution is not only at the level of legal regulations, but also at the level of culture and understanding of society. Increasing awareness of the power of the press as a forum for aspirations and social control needs to be encouraged. In this way, the press can carry out its role as an agent of positive change and help build a strong democratic foundation.

CONCLUSION

The conclusion of this research indicates that the current Press Law is still limited in providing adequate formal protection to the press profession. Although, at a theoretical level, the Press Law acknowledges the freedom and rights of the press, in practice, the press profession is not fully appreciated based on its unique position. The laws applied to the press, especially through articles in the ITE Law and other provisions, seem to treat the press as if they were society in general. The application of these articles creates uncertainty regarding the function and position of the press in society. Articles such as Article 27 paragraph 3 of the ITE Law, designed to

address criminal acts in cyberspace, are at times ambiguously applied to press reporting that should be protected by the right to freedom of expression. The application of these articles raises questions about their relevance to the special function and position of the press as a guardian of truth and a tool for correcting power. In the face of such conditions, a more radical approach is needed to change this perception. The importance of creating a legal culture that aligns with the role of the press as an essential element in state development cannot be ignored. The press must be viewed not only as part of civil society but as a critical force that is efficient and effective in carrying out its role as a tool for correcting power. Steps toward this change include a revolution in legal paradigms, understanding of society, and increased awareness of the vital role of the press in developing the country. The law must provide concrete and contextual protection according to the unique characteristics of the press. Furthermore, educational efforts need to be made to build public understanding of the important role of the press in conveying the truth and maintaining government accountability. With this more radical approach, it is hoped that a legal culture will be created that genuinely protects and respects the role of the press as the guardian of democracy.

References

- 1) Ali, H. Z. (2023). *Sociology of law*. Graphic Rays.
- 2) Adami Chazawi, Prija Djatmika, and Ardi Ferdian, *Press Crime: Attacks on Protected Legal Interests by Publishing Writings*, Mandar Maju, Bandung, 2015.
- 3) Arisanty, M., & Wiradharma, G. (2020). The acceptance and resharing behavior of hoax information on social media. *Journal of Social and Political Studies*, 4(2), 87–99.
- 4) Ashari, M. (2019). Digital Journalism: From Information Gathering to Message Dissemination. *Inter Komunika: Journal of Communication*
- 5) Bachtiar. (2018). *Legal Research Methods*. Pamulang: Unpam Press.
- 6) Erwan Efendi. et.al, 2017. *Contemporary Practical Journalism*. Prenadamedia Group. Depok
- 7) Hiariej, Eddy O.S. (2016)/ *Principles of Criminal Law*. Ed. Revision. Yogyakarta: Cahaya Atma Pustaka.
- 8) Hidayat, R., Chatra, E., & Arif, E. (2020). Implications of Journalist Competency Tests on Professionalism (Phenomenological Study of Certified Journalists in Realizing Professionalism and Balance in Journalistic Products). *Al-Hikmah Media Da'wah, Communication, Social and Cultural*, 11(2), 68–79.
- 9) Holt, K. (2020). Populism and alternative media. *Perspectives on Populism and the Media*, 201–214.
- 10) Irwansyah. 2020. *Legal Research Choice of Article Writing Methods and Practices*. Mirra Buana Media. Yogyakarta
- 11) Kusumaningrat, H., Kusumaningrat P. (2014). *Journalism, Theory and Practice*. Bandung: Rejama Rosdakarya
- 12) Majid, A., & Sugitanata, A. (2021). Electoral System as a Form of Democracy in Indonesia: Between the Old Order, New Order and Reform. *Qaumiyah: Journal of Constitutional Law*, 2(1), 1–21.
- 13) Manan, B. (2016). *Press, Law and Human Rights*. Jakarta: Press Council
- 14) Padiatra, A. M. (2020). Post-New Order Press: A Contemporary Historical Review. *Khazanah: Journal of Islamic History and Culture*, 10(1).

- 15) Pickard, V. (2020). Restructuring democratic infrastructures: A policy approach to the journalism crisis. *Digital Journalism*, 8(6), 704–719.
- 16) Rahmawan, T. I. (2019). Characteristics of Press Legal Products and Prospects for Democratic Consolidation. *WASKITA: Journal of Values Education and Character Development*, 2(2), 1–16.
- 17) Ramadlan, M. F. S., & Masykuri, R. (2022). The Decline of Democracy and Press Freedom in Southeast Asia: Reflections from Six Countries. *Journal of Political Research*, 18(2), 141–158.
- 18) Sánchez Laws, A. L., & Utne, T. (2019). Ethics guidelines for immersive journalism. *Frontiers in Robotics and AI*, 6, 28.
- 19) Setiadi, Elly M, 2020, A Brief Introduction to Sociology, Kencana, Jakarta
- 20) Solis, J. A., & Waggoner, P. D. (2021). Measuring media freedom: An Item Response Theory analysis of existing indicators. *British Journal of Political Science*, 51(4), 1685–1704.
- 21) Sutikna, N., & Nuryanti, S. (2021a). Heading Towards Autonomous And Dynamic Press Freedom In Indonesia. *NVEO-Natural Volatiles & Essential Oils Journal* | NVEO, 2708–2717.
- 22) Sutikna, N., & Nuryanti, S. (2021b). Heading Towards Autonomous And Dynamic Press Freedom In Indonesia. *NVEO-Natural Volatiles & Essential OilS Journal* | NVEO, 2708–2717.
- 23) Syahriar, I. (2015). Press Law Enforcement. Surabaya: Aswaja Pressindo
- 24) Syafriadi. (2018). Press Law in Indonesian Constitution. Yogyakarta: Suluh Media
- 25) Syam, H. M., Yuniati, U., Hardi, N. M., & Tabroni, R. (2021). *Book Series Contemporary Journalism: Ethics and Business in Journalism*. Shia Kuala University Press.
- 26) Ward, S. J. A. (2019). Journalism ethics. In *The handbook of journalism studies* (pp. 307–323). Routledge.
- 27) Wijaya, T., & Ariyanti, R. (2022). Media Studies Journal. *Journal of Media Studies*, 6(1).
- 28) Wiratraman, H. P. (2023a). Press Freedom, Law, and the Politics of Digital Authoritarianism. *Invite: Law Journal*, 6(1), 1–31.