

Protection Of Journalists' Right To Justice From Violence In The Performance Of Their Duties: A Human Rights Perspective

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Abstract.

It is very important to protect the justice rights of journalists in carrying out their duties to maintain freedom of the press and freedom of expression, as well as to prevent intimidation, threats, and violence against journalists in carrying out their journalistic functions. This study uses a normative method with a statutory standards in several aspects. Therefore, journalists should join a journalist organization to get help when they face legal problems. Currently, the legal protection received by journalists is still more repressive. One of the things that hinders journalists' organizations in carrying out their duties is that journalists who experience persecution often choose not to pursue the case they have reported to the authorities because they are worried about the consequences they will face if they report or pursue the case to the authorities..

Keywords: *Legal Protection, Violence Against Journalists and Human Rights.*

I. INTRODUCTION

Information has become one of the most important things that people need, not only to satisfy their curiosity about something, but in many ways information can be the key to informing about the social, economic and political situation in society. Therefore, it is important for people to pay attention to and obtain correct and credible information. The existence of a news agency or press is one of the most important sources of information and journalists are the spearhead to achieve this [1]. Freedom of information through the media and freedom of movement of the press must be guaranteed in a democratic country because it can be an indicator of the level of democracy in that country [2]. The mass media is often regarded as an institution that has great power to influence public opinion in a country. Therefore, it is not surprising that the press as a social institution [3] is often referred to as the fourth force in a democratic system of government, or the fourth force after the executive, legislative and judicial branches [4]. Indonesia's transition from authoritarian to democratic rule was a long and difficult one. The turning point in this transition was the June 1999 parliamentary elections, Indonesia's first democratic elections. The positive role of the 1945 Constitution in Indonesia's democratic transition is a great historical irony, a clear example of how authoritarian institutions and ideologies can be highly counterproductive for politicians who have spent decades as instruments of authoritarian power [5]. After democracy began to be managed, liberal democracy was born, then the Indonesian people wanted to make the system of government Pancasila democracy, with the government at that time embracing a democratic system of decision-making by deliberation rather than by voting [6].

The press and mass media play an important role in shaping democratic legal policies because journalists can act as social control, can shape public opinion, monitor and report, and maintain press freedom [7]. The granting of press freedom is based on the fact that people always need all the information that can make people think about developments [8]. The profession of journalists is important because they help disseminate correct and relevant information for the benefit of the public at large, including in reporting on voting for government or other news that the public may not necessarily know directly. Journalists have a crucial role in society to provide accurate and objective information to the public. Journalists are tasked with finding facts, reporting the latest news, exploring important issues, and maintaining transparency [9]. With

quality journalists, the public has access to news that can help us understand the situation around us better. Journalists also act as watchdogs to ensure that governments or those in power remain accountable to their people [10]. The function of journalists is very important and vital in a democratic country, they have a vital role in upholding democratic principles and promoting transparency and accountability in government. Some of the functions of journalists in a democracy are surveillance, information provider, public opinion shaper, community empowerment, and protector of press freedom[11]. Journalists must be protected by law and receive fair treatment equal to other rights.

Therefore, it is very important to protect journalists' rights to justice in carrying out their duties to maintain freedom of the press and freedom of expression, and to prevent intimidation, threats and violence against journalists in carrying out their journalistic functions [12]. When journalists have their rights to justice protected, they can work without fear of intimidation or threats of violence. They can also report acts of corruption, human rights violations or injustice without fear of reprisal or repression [13] However, many journalists rarely have the opportunity or even the difficulty to get information from sources to verify facts or the truth itself because some sources refuse to be interviewed to protect their personal interests [14] If a source feels aggrieved by a report made by a journalist, they also have the right to take responsibility and correct it [15]. To ensure that journalists can work safely and provide information in accordance with the code of ethics and applicable provisions, journalists must be protected from actions that hinder or prevent them from doing their jobs. During the course of their work, journalists enjoy legal protection [16]. Freedom of expression is a constitutional right that every human being has from birth. Freedom of thought and expression is regulated by the fourth amendment to the 1945 Constitution article 28 E paragraph (3) "Everyone has the right to freedom of association, assembly and expression". This includes freedom of expression, which is a fundamental right for the life of a nation [17]. Journalists have an important role in disseminating information in society. However, in carrying out their functions, journalists must pay attention to the journalistic code of ethics that every journalist must follow. The journalistic code of ethics guides journalists to always pay attention to professional ethical values in the process of carrying out their duties [18]. In Indonesia, the right to freedom of expression and opinion is guaranteed by the Constitution which affirms the right to freedom of expression in Articles 28 and 28E [19].

Violence against journalists on duty increases every year. This is very concerning because journalists are a pillar of democracy in this country. Most cases of violence against journalists involve certain irresponsible individuals or groups who feel threatened by the media [20]. This condition makes the work of journalists even more dangerous and requires more protection. Journalists are expected to adhere to the Journalistic Code of Ethics and broadcasting standards of conduct while working, which can help reduce violence that may occur against them in the field. The Press Law also provides protection for journalists and emphasizes that adhering to the Journalistic Code of Ethics is important. In some cases, journalists and the media have been ensnared by the ITE Law. Some argue that since the ITE Law does not mention the press specifically and the Press Law protects the press, its criminal provisions cannot be applied to the press. However, this is still a debate and the ITE Law must be amended to maintain press freedom [21]. The example of violence related to the arrest of Tempo journalist Nurhadi in Surabaya in March 2021 is one of the violent incidents that shows that press freedom in Indonesia is far from expectations. Lukman Rozaq, director of the Indonesian Television Journalists Association (IJTI), said that violence against journalists by law enforcement officials is considered a shameful and heartbreaking thing [22]. In 2023, AJI noted that in the period January to July, cases of attacks on journalists had reached 58 cases, especially now that it is a political year. There were 12 cases of physical violence, 10 cases of threats, 8 cases of digital attacks, 7 cases of terror and intimidation, 6 cases of deletion of coverage results, 5 cases of prohibition of coverage, 5 cases of sexual violence, 3 cases of deprivation of equipment, 1 case of legal prosecution, and 1 case of sexual harassment [23].

The acts of violence experienced by blokBojonegoro.com reporter Rizki Nur Diansyah, and JatimNow.com cyber media journalist Misbahul Munir by convoy participants on Thursday, January 5, 2023 made the Indonesian Cyber Media Association (AMSI) East Java (East Java) urge the police to investigate the beating case [24]. The other journalists who were assaulted were a cameraman from Kompas TV and a

reporter from CNN Indonesia while covering the discussion "Saving the Golkar Party to Win Pileg 2024" at Pulau Dua Restaurant, Senayan, Central Jakarta. The violent incident occurred when the journalists were waiting for the discussion to begin. Then, a group of unknown people immediately broke down the door of the discussion room made of glass, immediately the Kompas TV journalist immediately took out the camera to record the moment and was beaten by the unknown person [25], and there are many more acts of violence experienced by journalists while practicing their profession. Government action in addressing violence against journalists on duty still needs to be improved. Some of the measures taken by the government include raising awareness for media workers to abide by the Journalistic Code of Ethics, there are laws that protect journalists from violence, the government has also socialized to the public that journalists are protected by law when carrying out their duties, and security forces are expected to take firm action against perpetrators of violence against journalists [26]. Although some measures have been taken, improvements are still possible and not yet effective. Violence and persecution are rampant and often traumatize journalists. What is even more concerning is that cases of persecution against journalists are not properly investigated. Cases reported to the authorities sometimes go unaddressed and even drag on, making journalists feel that the state is not protecting their rights as Indonesian citizens.

II. METHODS

This research uses a normative method with a statutory approach. This approach refers to legal analysis based on primary legal materials, namely Article 28E of the Constitution, Press Law No. 40 of 1999, Law No. 39 of 1999 on Human Rights, and the Journalistic Code of Ethics. In addition, this research also uses secondary legal materials in the form of books in the form of scientific books in the field of law, papers, scientific journals, and scientific articles. Secondary legal materials are all publications on law that are not official documents. This research is descriptive qualitative research, which focuses on collecting and analyzing qualitative data to describe legal phenomena. From the results of the analysis, this research concludes deductively, namely producing conclusions based on observation and systematization of legal materials that have been collected.

III. RESULT AND DISCUSSION

The press is a social institution and a vehicle for mass communication that performs journalistic work. Among these tasks are seeking, obtaining, possessing, storing, processing, and conveying information in any form used by publications, such as text, images, sound, data, and graphics, as well as in any other form by using print, radio, television, and other media available [27]. John C. Nerone defines press freedom, also known as "freedom of the press", as follows: "Freedom of the press or freedom of the media is freedom of communication and expression through the media including various electronic and print media [28]. Law No. 40/1999 on the Press, which regulates press freedom, is based on Article 28 of the 1945 Constitution. When carrying out their profession, journalists are one of the manifestations of the right to freedom of the press as stated in the Preamble of the 1945 Constitution of the Republic of Indonesia which clearly states the purpose of the establishment of the state, namely "to educate the nation's life" which is a basic commitment that must be carried out by the state [29]. One of the main pillars in maintaining freedom of information and ensuring the quality of a country's democracy is the right of journalists. One of the principles of press freedom in human rights is the right of journalists to obtain, seek and convey information through the mass media without interference or obstruction from other parties. In the context of press freedom, the government must protect journalists from threats and violence [30]. Journalists are essential for delivering objective and critical information to the public. However, in carrying out their duties, they (journalists) often face challenges and risks that threaten their freedom.

Therefore, it is imperative to protect the rights of journalists to maintain press freedom and freedom of expression. The emergence of press freedom protected by law in Indonesia, instead of being a shield for journalists in carrying out their journalistic functions, has become an opportunity for a high level of threat to the safety of press workers. Journalists are tasked with conveying facts about events, but they face difficulties when obtaining information about these events, even experiencing intimidation and violence [31].

Another factor that hinders journalistic work is the reluctance of various parties to provide information for privacy reasons, which can jeopardize personal interests and colleagues, and lead to criminal acts against journalists [32]. Post-reform press freedom has seen changes in all forms of national life protected by press-related laws such as the Press Law, KHUP, and the Journalistic Code of Ethics, but violence against journalists continues to occur. The understanding of equality before the law or guaranteeing equality before the law still does not seem to be well applied by Indonesian society. Violence, both verbal and physical, still occurs frequently and alarmingly, not only among the general public but also among professionals, including journalists. Violence against journalists is a form of human rights violation [33]. It must be recognized that the role of the press in protecting and upholding human rights is very different before and after the amendment of the 1945 Constitution. The press had practically no freedom in the pre-amendment era, the New Order era. While Article 28 of the 1945 Constitution guarantees freedom of the press, there are several clauses that limit this freedom.

Minister of Information Regulation (Permenpen) No. 1 of 1984 on Press Publishing Business License (SIUP) based on Law No. 21 of 1982 on the Basic Provisions of the Press severely restricted press freedom. This is due to the fact that one of the articles of Permenpen allows for the cancellation of the SIUP in cases where the media is deemed not to reflect Pancasila anymore. It is not surprising that the mass media at the time were plagued by SIUP cancellations [34]. With the existence of Law No. 40/1999 on the Press, journalists are given special legal protection when performing their duties, functions and roles in carrying out journalistic activities. This law, which is currently in force, contains some important changes from Law No. 11/1966 on the Basic Provisions of the Press, as amended by Law No. 4/1967 and Law No. 21/1982 [35]. One important element in maintaining freedom of information and ensuring the quality of a country's democracy is the rights of journalists [36]. Apart from being regulated by Law No. 40/1999, journalists are also protected and regulated by the Journalistic Code of Ethics. According to Article 7 paragraph 2 of Law No. 40/1999, journalists are required to have and comply with a Journalistic Code of Ethics. Article 7 paragraph 2 explains that the journalistic code of ethics is a rule agreed upon by journalist organizations and established by the Press Council. Therefore, journalists must follow the Law and the Journalistic Code of Ethics when performing their duties, functions and roles. The protection of journalists' rights is crucial to maintaining press freedom and democracy in a country. Journalists' rights fall under the category of human rights and must be respected and protected by the government [37]. Internationally established human rights standards, such as the Universal Declaration of Human Rights, also cover the protection of journalists' rights. Human rights standards for the protection of journalists' rights cover several important aspects.

First, freedom of opinion and expression is a fundamental right that needs to be guaranteed. Journalists have the right to express opinions and information without fear of intimidation or repression. Second, freedom of the press and access to information create the foundation for government transparency and accountability. Journalists must have free and open access to the sources of information necessary to reveal the truth to the public. Third, journalists must be free from oppression and intimidation, they must be able to carry out their journalistic functions without fear of becoming victims of violence or pressure [38]. Overall, the protection of journalists' rights has not met human rights standards in several aspects. Freedom of opinion and expression, freedom of the press, and freedom from oppression and threats are internationally recognized cornerstones. However, there are still challenges to overcome to ensure better protection of journalists' rights in the future. Therefore, there is a need to continue effective law enforcement efforts, training and education of journalists, as well as public awareness campaigns on the importance of press freedom, and this protection is provided to the public in order to enjoy all the rights granted by law [39]. Law can protect the rights and obligations of each individual in practice, and with strong legal protection, the general legal objectives of order, security, tranquility, welfare, and harmony, peace, truth and justice will be achieved. Laws that are violated must be enforced by law enforcement. Legal protection is to protect legal actors through existing laws and regulations and their enforcement is strengthened by sanctions [40].

Legal protection can be divided into two according to Philipus M. Hadjon, namely preventive legal protection is protection provided by the government to prevent violations before they occur, and repressive legal protection is strict protection in the form of sanctions such as fines, imprisonment and additional

sanctions imposed in the event of a dispute or violation [41]. The national press as a means of mass communication, information dissemination, and opinion forming, must be able to carry out its functions, rights, obligations, and responsibilities as well as possible based on professional press freedom. In addition, the national press must be protected and guaranteed by law. They must also be free from influence and pressure from other parties. The national press plays an important role in maintaining global order based on independence, lasting peace and social justice. The national press serves as a medium of information, education, entertainment, social and economic control and promotes democracy, social justice and the rule of law as its principles. The law has the function of protecting human interests so that human interests are protected, the law must be applied professionally [42]. The state needs to ensure that there is an adequate legal umbrella for the protection of journalists, such as the Press Law and the Criminal Code. The Press Law and the Criminal Code are reformist and responsive, and cover important aspects of protecting journalists and ensuring that the laws of society do not conflict with the principle of legality and the concept of human rights.

As a state institution representing the state and society, the Press Council safeguards press freedom and ensures that journalistic companies and organizations adhere to its code of ethics. The Press Council also serves as a mediator between the national press and other journalistic organizations [43]. On the other hand, the Criminal Code helps safeguard national life and democracy in Indonesia by strengthening the status and authority of the KPK. The KUHP also includes rules or legal umbrella for the KPK [44]. In addition, the drafters of the Criminal Code must consider the human rights guaranteed in the 1945 Constitution and establish policies that reflect the seriousness of criminal offenses and the severity of punishment. Press freedom and the survival of democracy depend on the comprehensive protection of journalists. With this protection, journalists can do their jobs independently and contribute to the improvement of public knowledge. However, Article 8 of the Press Law does not provide a clear and detailed explanation of the type of protection provided to journalists. The article only states that journalists have the right to receive protection while carrying out their journalistic work, without explaining the mechanism or type of protection in question. The Press Council's Regulation on Standards for the Protection of Journalists provides further explanation on the type of protection afforded to journalists. This regulation is not legally binding and has no criminal consequences, but serves as a guideline for press companies and journalists in carrying out their journalistic duties. In addition, there is no law that facilitates or guarantees the safety of journalists in a preventive manner, i.e. reducing or preventing persecution [45]. In addition, legal protection for journalists has not been fully implemented; every year there are cases of persecution or other violence against journalists. In more specific terms, the dissemination of information in the mass media is not always smooth in the sense that it is not problematic in its management. This is mainly due to mass media competition, which requires mass media management to take refuge behind the freedom to convey information, leading to the emergence of new problems, namely news that is considered irrelevant.

If that happens, it can cause harm, especially moral harm to members of the public who are being reported on and who are indirectly involved in the news [46]. Fundamentally, it is important to maintain a balance between reporting and the press, regardless of whether it is written by journalists or inkers. Journalists seeking news must produce and deliver news to the public in accordance with the facts because of this balance. In addition, it is not harmful or contrary to human rights in society and the rule of law. Not a few journalists have experienced difficulties and felt harmed because of their reporting. Among these problems are beatings, seizures, and camera damage. Some of the things that harm journalists have been mentioned above include the heavy responsibility of journalists to seek, gather, and deliver news or information. As a result, press freedom is often in conflict with human rights. While working as journalists, they are vulnerable to various threats and are very likely to be involved in legal cases. Therefore, journalists should join a journalist organization to get help when they face legal problems. Journalists who do not join organizations recognized by the Press Council such as PWI, AJI, and IJTI will find it difficult to be defended when problems occur while on duty. This relates to John Rawls' theory of the right to justice, in which everyone has equal rights to the basic freedoms that are most extensive and compatible with similar freedoms for others, and Thomas Santoso's theory of violence, in which violence describes the complex and

often contradictory nature of social order, rule-breaking, and society's response to rule-breaking. The ideal protection of journalists' rights to justice requires a strong legal framework, fair law enforcement without pressure, as well as education and supervision efforts by various parties so that the journalist profession is safe from all acts of violence. In addition, joining a journalist organization is very important for a journalist because these organizations ensure that journalists remain professional while working in the field. If a journalist does not join these organizations, they tend to become unprofessional journalists.

IV. CONCLUSION

The national press is responsible for providing information, education, entertainment, and social supervision, in accordance with Article 3 paragraph (1) of Law No. 40 of 1999. The press must seek, obtain, own, store, process and convey information in accordance with the media used. The press must have a sense of ethics and responsibility in carrying out its duties and functions in order to be in line with the applicable laws. Currently, the legal protection received by journalists is still more repressive. According to human rights, journalists should receive legal protection in Law No. 40 of 1999, which protects their rights and performance while performing their duties and functions. The protection of the right to justice for journalists has not met human rights standards in several respects. The world recognizes freedom of opinion and expression, freedom of the press, and freedom from threats and oppression. To improve the protection of journalists' rights in the future, there are still challenges to overcome. As a result, strong law enforcement, education and training of journalists, and raising public awareness about the importance of press freedom must continue.

Press freedom, journalistic obligations, right of reply, and criminal sanctions related to violations of journalists' honor and reputation are only regulated in the Press Law. If not regulated, journalists can be vulnerable to violence such as persecution, intimidation, deprivation of work tools, censorship, and other actions that can interfere with their work. In dealing with abuses against journalists, journalist organizations help report the case to the police, serve as witnesses, help find a lawyer, and accompany the journalist until the judge hands down a verdict or sentence for the offense committed by the perpetrator. In dealing with abuses against journalists, journalist organizations help report the case to the police, serve as witnesses, help find a lawyer, and accompany the journalist until the judge hands down a verdict or sentence for the offense committed by the perpetrator. One of the things that hinders journalists' organizations in carrying out their duties is that journalists who have suffered persecution often choose not to pursue the cases they have reported to the authorities because they are worried about the consequences they will face if they report or pursue the case to the authorities.

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