

Legal Protection of Citizens' Education Regarding Freedom of the Press as an Implementation of the Indonesian Legal State

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Abstract

The press, as an information medium, is a tool for conveying or obtaining various important information, such as political, entertainment, social, and other issues. Through the press, people can learn or obtain useful information. Meanwhile, the press, as an educational medium, means that the information or news disseminated through the media also serves to educate, contain truth, educate, and encourage good deeds. Freedom of the press constitutes one of the fundamental pillars of democracy and the rule of law. In Indonesia, press freedom is constitutionally guaranteed under Articles 28E and 28F of the 1945 Constitution and further regulated by Law Number 40 of 1999 concerning the Press. This article aims to analyze the legal protection of press freedom in Indonesia and the challenges faced in its implementation. This study employs normative legal research using statutory and conceptual approaches. The findings indicate that although press freedom is normatively well protected, practical challenges remain, including the criminalization of journalists, the use of ambiguous provisions under the Electronic Information and Transactions Law (EIT Law), and political as well as economic pressures on media institutions. Therefore, strengthening regulatory frameworks, ensuring consistent law enforcement, and enhancing media independence are essential to guarantee responsible press freedom within the framework of a rule-of-law state.

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1. INTRODUCTION

In relation to the world of education, the press always plays an active role, because one of its functions is education. In addition to providing information and disseminating new knowledge, the press also has an educational and entertaining function (Hannah Mahfuzhah and Anshari Anshari, 2018: 137–49). In socializing flagship school programs, the involvement of the press is very significant in helping to educate the nation through healthy and accountable information. The presence of the press in society certainly has a positive impact on public information facilities. Likewise, for reference schools, the press provides support through the dissemination of information in order to encourage improvements in the quality of education. It must be admitted that educational issues remain very complex. It requires an active role from all of us to realize quality education, based on national education goals.

Press freedom is one of the main indicators in assessing the quality of a country's democracy. In a state governed by the rule of law (*rechtsstaat*), press freedom is not merely an individual right but also an instrument of social control over power. The press serves as a transmitter of information, a shaper of public opinion, and a monitor of government

operations. Without press freedom, transparency, and accountability in state administration will be difficult to achieve.

In essence, a democratic state cannot guarantee absolute freedom. There needs to be a commitment to building a tradition of freedom, a tradition among all citizens that is manifested in rules and strict law enforcement, that everyone is free to speak and express their opinions. This freedom refers to the ability of the mass media/press to broadcast news as freely as possible (by paying attention to something that is applied with norms without violating those norms) without fear of imposing sanctions on the mass media (Roumeen Islam, 2006: 5).

Through the role of mass media, individuals, groups, and institutions can participate in providing information to reach recipients (Ade Putranto Prasetyo, 2020). It is hoped that educational institutions will utilize this opportunity to play an active role and work together to convey positive messages through the media, specifically the press, so that they can reach the public. This term comes from Dutch, meaning to press. The same meaning is also found in English, namely, *press*. This is what Ade Putranto said. The meaning of pressing or press comes from the understanding of pressing or press, which originated from the understanding of an intermediary for communication between individuals in a society through the printing mechanism, which then developed into the term *press* to experience an expansion of meaning related to journalistic activities, which are not limited to print journalism but also extend to electronic journalism. The definition of the press according to Law of the Republic of Indonesia Number 40 of 1999 is a social institution and mass communication vehicle tasked with carrying out journalistic activities including seeking, obtaining, possessing, storing, processing, and conveying information in the form of writing, sound, images, sound and images, as well as graphic data, or in other forms using print media, electronic media, and all types of available channels (Ade Putranto Prasetyo, 2020).

One form of equal rights is providing citizens with the freedom to express their opinions. One of these is the guarantee of press freedom. The term "Pers" comes from Dutch, which in English means "Press." Literally, "pers" means print, and in its literal sense, it means printed broadcasting or printed publication. Freedom of the press is a manifestation of popular sovereignty and is a very important element in creating a democratic society, nation, and state. Therefore, the freedom to express thoughts and opinions, as stated in Article 28 of the 1945 Constitution, must be guaranteed. Throughout the span of human civilization, the press has been a means of change and progress for society and the state. This is because the press functions to disseminate information, carry out constructive social control, channel people's aspirations, and expand social communication and community participation. Thus, the significance of the press's function means that it should receive equal place and treatment in developing its identity.

Freedom of the press is one of the manifestations of the sovereignty of the people and is a very important element in the life of a democratic society, nation, and state; therefore, the Republic of Indonesia Law Number 40 of 1999 concerning the Press was established. Article 3, paragraph (1) explains the function of the press as a medium of information, education, entertainment, and social control. In the current era of reform, violence against the press has actually increased. The freedom of the press law is very clear; every process of journalistic activity is protected by law. In reality, many journalists still experience intimidation and violence. The Press Law has provided security guarantees for journalists or press personnel in carrying out their duties to provide information to the public. However, after 18 years of the Press Law being in place, press freedom has not been fully implemented. There are so many violations of press rights, in this case, the rights of

journalists, that have occurred in Indonesia. From year to year, cases of violence against journalists have increased. According to the Legal Aid Institute (LBH), most violations are committed by law enforcement officers, government officials, and the public. As a social institution and a vehicle for mass communication, the press actually has the task of carrying out journalistic activities, covering, seeking, obtaining, possessing, and conveying good information in the form of written, audio, and visual, audio and visual, as well as data and graphics, as well as using print media, electronic media, and all available channels. This is stated in Article 1 paragraph (1) of the Press Law (Sentosa Sembiring, 2005:183).

Mass media/press can broadcast news depending on the news it contains; mass media can make a choice to broadcast news content that is considered good without any elements of norms being violated. The mass media/press must pay attention to objectivity in delivering news, so that the news has good quality elements. As explained by Edward Herman, the key to the quality of a mass media lies in how the mass media/press broadcasts news that does not favor one party in power, determines the eligibility of news based on news values that are applied consistently that are not influenced by political agendas, and certain ideological biases, and are not compromised by strategic balances or profit and loss.

After Indonesia declared its independence, the laws and regulations that served as its foundation also changed, including those governing the press. Freedom of the press to convey, broadcast, and report news is guaranteed by the constitution of the country in which the press is located (Metalinda, 2017: 76). Therefore, press freedom is universal and, as stated in Article 19 of the UN Charter of Human Rights (*Universal Declaration of Human Rights*) which explains that everyone has the right to freedom of expression. This includes the freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media, regardless of territorial boundaries.

The Indonesian Constitution guarantees freedom of opinion and access to information through Article 28E paragraph (3) and Article 28F of the 1945 Constitution. These provisions serve as the legal basis for press freedom. Furthermore, Law Number 40 of 1999 concerning the Press (Press Law) emphasizes that press freedom is a manifestation of people's sovereignty and is guaranteed as a basic human right of citizens. However, although legal protection is normatively available, practice in the field shows that there are still restrictions and pressures on the press. Several cases of criminalization of journalists, intimidation, and the use of defamation articles in the ITE Law indicate that press freedom is not yet fully protected effectively. Therefore, it is important to examine how legal protection for press freedom in Indonesia is implemented and the challenges faced in its implementation.

2. RESEARCH METHODS

This research employs a juridical-normative approach (legal research), which examines and analyzes the substance of laws and regulations related to the legal issues at hand and relevant to the legal principles related to the legal protection of press freedom. In this study, the author employed the following research approaches: First, the Statute Approach, which is an approach taken by examining all laws and regulations related to the legal issue at hand. Second, the Conceptual Approach, which is a methodological approach that refers to legal principles, which can be found in the views of scholars or legal doctrines.

3. RESEARCH RESULTS AND DISCUSSION

1. The Concept of Citizen Education Regarding Press Freedom in a State Based on Law

A state of law is a state that stands on the law that guarantees the security of its citizens (Muntoha, 2013: 1). Satjipto Rahardjo quoted Fitzgerald's opinion in his book "Legal Science," explaining the meaning of the theory of legal protection. According to Salmond, the purpose of law must be made with the aim of protecting the interests of society by integrating and coordinating various interests in society, because in a traffic of interests, the protection of certain interests can only be achieved by limiting various other interests. The interest of law is to take care of human rights and interests, so that the law has the highest authority to determine human interests that need to be regulated and protected. Legal protection is protection given to legal entities, both as a preventive and repressive effort, both verbally and in writing. In other words, it can be said that law enforcement is a special case of the implementation of the law itself, with the understanding that law provides justice, order, certainty, benefit, and peace (Anggun Lestari Suryamizon, 2017: 9).

A state based on the rule of law places the law as supreme in governance. One of the main principles of a state based on the rule of law is the protection of human rights, including freedom of expression and freedom of the press. Press freedom is not only defined as the freedom to convey information, but also as freedom from government interference and censorship.

The function of the press as education means that the press provides information about something that the public does not yet know, which can be guaranteed to be true, so that the public can get education from the information provided. As an educational medium, the press can also develop knowledge and insight in the public by searching and finding news from the mass media that will increase their knowledge and insight. As a student, the function of education is very important, such as searching for learning materials from various media, especially internet media.

Freedom of the press, or often called press independence, in English is called *freedom of the press*. John C. Nerone (1995:77) defines *Freedom of the press* as the freedom to communicate and express oneself through media, including various electronic and print media. Freedom of the Press is the freedom to express one's opinion, both in writing and orally, through press media, such as dailies, magazines, and bulletins. Freedom of the press is the freedom to express concepts, ideas, principles, and values that are inherent in humanity wherever it is found. Human values are the instinct to express one's feelings to others as individuals whose voices are to be taken into account and arise from the desire to assert one's existence. Freedom of thought and expression (*freedom of opinion and expression*), Freedom of speech (*freedom of speech*). The freedom to express, hold, and broadcast opinions through the press is guaranteed by the constitution of the country, wherever the press is located. Therefore, the guarantee of freedom of the press is universal. This is guaranteed in the UN Charter of Human Rights (*Universal Declaration of Human Rights*). Article 19 states that everyone has the right to freedom of expression. This includes the freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media, regardless of territorial boundaries.

Freedom of speech and access to information are human rights. This right is guaranteed by law and is the right of every citizen. The Republic of Indonesia guarantees the right to freedom of speech and information for its citizens. These guarantees include the following:

- Article 28 of the 1945 Constitution, "Freedom of association and assembly, expressing thoughts orally and in writing, and so on, is determined by law."

- Article 28 F of the 1945 Constitution, "Everyone has the right to communicate and obtain information to develop their personality and social environment, and has the right to seek, obtain, possess, store, process and convey information using all available channels."
- MPR Decree No. 20 XVII/MPR/1998 concerning Human Rights, Chapter VI, Articles 20 and 21, which states "Everyone has the right to communicate and obtain information to develop their personality and social environment" and "Everyone has the right to seek, obtain, possess, store, process and convey information using all available channels".
- Law Number 39 of 1999, especially in Article 14 Paragraph (1) and (2) concerning Human Rights, namely "Everyone has the right to communicate and obtain information needed to develop their personality and social environment" and "Everyone has the right to seek, obtain, possess, store, process and convey information using all available means".

2. Regulation of Press Freedom as a Means of Information in Indonesian Positive Law

The main provisions regarding press freedom are contained in Law No. 40 of 1999 concerning the Press. Article 4 of the Press Law states that press freedom is guaranteed as a fundamental right of citizens and that the national press is not subject to censorship, banning, or broadcasting bans. The Press Law also regulates dispute resolution mechanisms through the right of reply and the right of correction. This indicates that the approach used is an ethical and administrative one, not a criminal one. The Press Council plays a crucial role in maintaining the independence and professionalism of the press. However, in practice, there is often overlap between the Press Law and other regulations such as the Criminal Code and the Electronic Information and Transactions (ITE) Law. Several cases have shown that journalists can be charged with defamation or hate speech, even though their journalistic work should be protected by the Press Law.

The laws and regulations that serve as the basis have also changed, including those governing the press. Freedom of the press to convey, broadcast, and report news is guaranteed by the constitution of the country where the press is located (Metalinda, 2017: 76). So that freedom of the press is universal and as contained in Article 19 of the UN Charter of Human Rights (*Universal Declaration of Human Rights*) which explains that everyone has the right to freedom of expression. This includes the freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media, regardless of territorial boundaries.

In exercising this freedom, the freedom of speech and access to information, as explained above, is a human right. This human right is guaranteed by law and is the right of every citizen. The Republic of Indonesia has guaranteed the right to freedom of speech and information for its citizens. This guarantee of freedom of opinion and expression is contained in:

1. Article 28 of the 1945 Constitution
2. Article 28 F of the 1945 Constitution
3. Tap MPR No. XVII/MPR/1998 on Human Rights, Chapter VI, Articles 20 and 21.
4. Law No. 29 of 2000, Article 14, Paragraphs 1 and 2 concerning Human Rights,

During the reign of the New Order regime, several articles as explained previously regarding expressing opinions as regulated in Article 28 of the 1945 Constitution were not implemented properly, this also had an impact on the country's

democratic system where in a democratic system expressing an opinion is one of the main elements in a government system characterized by a democratic state (Satrio Saptohadi, 2011: 128).

This non-democratic aspect of a democratic state impacted the regulation of the role and function of press institutions. At that time, regulations regarding the press were enacted, including:

1. MPR Decree Number 11 of 1983 concerning GBHN regarding information and mass media.
2. Law Number 11 of 1966 concerning the basic provisions of the press.
3. Law of the Republic of Indonesia Number 21 of 1982 concerning amendments to Law Number 11 of 1966 concerning the main provisions of the press as amended by Law of the Republic of Indonesia Number 4 of 1967, which can be called the old UUP (UUPL).
4. Government Regulation Number 19 of 1970 concerning the Press Council
5. Regulation of the Minister of Information Number 01/Per/Menpen/1967 concerning journalists
6. Regulation of the Minister of Information Number 02/Per/Menpen/1969 concerning Press Publications
7. Regulation of the Minister of Information Number 01/Per/Menpen/1984 concerning Press Publishing Business Licenses, hereinafter abbreviated as 'SIUPP', which is issued by the government.
8. Republic of Indonesia Law Number 40 of 1999 concerning the Press.

3. Challenges in Protecting Press Freedom as a Source of Citizen Information

Education, as part of the Humanities, demonstrates a continuous process toward perfection, becoming increasingly humane. Education is fundamentally humanitarian, encompassing both hominization and humanization. Hominization is the general process of humanization, namely, incorporating humans into a minimally human scope. Humanization is a further process, a continuation of hominization. In this process, humans can achieve higher development, as seen in cultural and scientific advancements. One important agenda in overcoming the crisis in our nation's life is through character education, values education, moral education, ethical education, and character education. Good educators (teachers) are vital to the nation's progress and safety. Teachers not only convey ideas, but should also be representatives of a creative way of life, a symbol of peace and tranquility in a world plagued by anxiety and persecution.

Every citizen has the same rights and obligations as everyone else, without exception. Equality between humans is always upheld to avoid various social jealousies that can trigger various problems in the future. This includes the state's responsibility to fulfill the public's right to public information. The right to information is part of press freedom in a democratic state. Education is a ladder to class mobility, and with education, a person can change their destiny. Education should also cultivate solidarity and sensitivity. Because of its significant social impact, education plays a crucial role. Access to information is part of the implementation of education, as mandated by the constitution, to educate the nation. The state must be able to provide easy access to information, with the development of an open press as a positive impact on the progress of national education.

Legal protection in the press is all efforts to fulfill rights and provide assistance to provide a sense of security to all levels of society, social facilities, educational or

cultural facilities, as well as legal protection for victims of crime, is one part of protecting society through information media so that the public can know and use it as a learning tool in social life.

The Indonesian people believe that the Republic of Indonesia is a State of Law which is useful for protecting human rights in accordance with Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia, hereinafter referred to as the 1945 Constitution of the Republic of Indonesia, which states that the Republic of Indonesia is a State of Law, on this basis there is a guarantee of certainty, order and legal protection based on truth and justice, thus referred to as the Principle of a State of Law or *rechtstaat* (Firman Floranta Adonara, 2016: 48).

This legal principle is one of the foundations for the press to obtain freedom guaranteed by law, which is aimed at the public interest, so that in carrying out its duties, the press respects the human rights of every person, is open to control by society, and is professional (Dandhy Dwi Laksono, 2012: 25).

This has been explained in Article 28 of the 1945 Constitution of the Republic of Indonesia, namely the state guarantees comprehensive human rights which include the right to life, the right to form a family, to receive protection from violence and discrimination, to develop oneself through the fulfillment of basic needs, equal treatment in the eyes of the law, the right to embrace religion, and to worship according to one's religion, and other rights. in Law Number 40 of 1999 concerning the press, Article 1 states that "the press is a social institution and a means of mass communication that carries out journalistic activities including seeking, obtaining, possessing, storing, processing, and conveying information in the form of writing, sound, images, sound and images, as well as data and graphics or in other forms using print media, electronic media, and all types of available channels, the press as one of the pillars in upholding democracy must be free from government intervention and provide protection to anyone who wants to express their thoughts and opinions.

Freedom of the press is guaranteed by law and is intended for the public interest, so that in carrying out its functions, matters, obligations, and roles, the press also respects the human rights of every person, is professional and open to control by the community. Journalists who are a group of citizens who carry out their profession to fulfill the human rights of the community to express themselves and obtain information to develop themselves and their social environment are guaranteed by the state, a profession that includes having privileges and chosen people because when carrying out their duties, journalists are given the freedom to enter the space of a public official, and are given weapons to investigate the activities of public officials and control them responsibly.

The main challenge in protecting press freedom is the criminalization of journalists. The use of certain articles in the Criminal Code and the Electronic Information and Transactions Law often has a chilling effect on journalistic work. Furthermore, political and economic pressure on the media is also a serious problem. Media ownership by certain groups can affect editorial independence, potentially compromising the objectivity and balance of reporting. Another challenge is violence against journalists. Several reports indicate intimidation and physical violence against journalists while covering certain events. This situation indicates that legal protection is not yet fully effective in practice.

4. CONCLUSION

Legal protection for press freedom in Indonesia is comprehensively regulated through the 1945 Constitution and Law No. 40 of 1999 concerning the Press, which serves as a means of educating citizens to access all forms of information and freedom of expression in accordance with normative values. Press freedom is guaranteed as a human right and a pillar of democracy in a state based on the rule of law. However, in practice, various challenges remain, such as the criminalization of journalists, the use of loose articles in other regulations, and political and economic pressure on the media. Therefore, harmonization of laws and regulations is necessary to avoid conflicts between the Press Law and other regulations. In addition, the role of the Press Council needs to be strengthened, and law enforcement officials must understand the principle of *lex specialist* in the Press Law in handling press disputes. Thus, responsible press freedom can be optimally realized within the framework of the Indonesian rule of law, which aims to educate the nation.

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