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The Urgency Of Press Freedom Related To Conflict Of Norms Viewed From The Perspective Of Dignified Justice

Jonianto Silalahi[1], Teguh Prasetyo[2], Budiarsih[3*], Tomy Michael[4]
[1] Program Studi Doktor Ilmu Hukum, Fakultas Hukum, Universitas 17 Agustus 1945 Surabaya, Indonesia

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Abstract

The Unitary State of the Republic of Indonesia (NKRI) as a legal state based on the Almighty God has an obligation to protect the rights of its citizens, including press freedom. Press freedom, as the fourth pillar of democracy, is guaranteed by the 1945 Constitution and Law of the Republic of Indonesia Number 40 of 1999 on the Press, which guarantees the right to obtain and disseminate information. However, recent laws such as Law No. 19 of 2016 on Electronic Information and Transactions (ITE Law) and its revision in Law No. 1 of 2024, along with provisions in the Criminal Code, pose potential norm conflicts with press freedom. Articles in the ITE Law are often used to curb press freedom, contrary to the Press Law which provides legal protection for journalistic activities. This research uses a normative legal method to analyze the conflict of norms between the ITE Law, the Criminal Code, and the Press Law. Through this approach, the research examines how legal principles such as Lex Superior Derogat Legi Inferiori and Lex Specialis Derogat Legi Generalis can be applied to resolve conflicts and ensure effective protection of press freedom within the Indonesian legal framework.
Keywords : *Conflict of Norms: Dignified Justice; Freedom of the Press*

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Coresponding Author:
Budiarsih*
Email budiarsih@untag-sby.ac.id *

1. Introduction

The Unitary State of the Republic of Indonesia (NKRI) is a state of law based on the Almighty God, the State has an obligation to protect every citizen as well as press freedom is one of the manifestations of people's sovereignty and a very important element to create a democratic society, nation and state. Press freedom plays an important role in realizing the sovereignty of the nation and state, because the press is the fourth pillar of democracy after the executive, legislative and judiciary, which is explicitly guaranteed by the 1945 Constitution of the Republic of Indonesia (Cecep Cahya Supena, 2023). This guarantee is contained in Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia which states that “Everyone has the right to freedom of association, assembly, and expression,” and is reinforced by Article 28F which states that “Everyone has the right to communicate and obtain information to develop their personal and social environment, and has the right to seek, obtain, possess, store, process, and convey information by using all available channels.”

An independent press in seeking and conveying information has an important role in realizing human rights, as guaranteed in the United Nations Charter on Human Rights and Article 14 paragraph (2) of Law of the Republic of Indonesia No. 39 of 1999 on Human Rights (Rahmi, 2019). This article states that “Everyone has the right to seek, obtain, own, store, process and convey information by using all available means.” This is in line with Article 28E and Article 28F of the 1945 Constitution, which also regulate the freedom to seek, obtain and convey information.

Therefore, to guarantee everyone's right to obtain information, the Public Information Disclosure Law was established with the aim of ensuring access to information as part of human rights, which is one of the pillars of the life of a democratic nation and state.

One of the important elements in realizing open state administration is the public's right to obtain information in accordance with laws and regulations. The right to information is very important because the more open the state administration is to public scrutiny, the more accountable the state administration will be. The right of everyone to obtain information is also relevant in improving the quality of community involvement in the public decision-making process. This is regulated in Article 1 point 1 and Article 4 point (2) letter d of Law of the Republic of Indonesia No. 14 of 2008 on Public Information Disclosure (UU RI No. 14 of 2008 on KIP).

Article 1 point 1 defines information as information, statements, ideas, and signs that contain values, meanings, and messages, both in the form of data, facts, and explanations presented in various packages and formats, according to the development of information and communication technology, both electronic and non-electronic. Meanwhile, Article 4 point (2) letter d regulates the dissemination of public information in accordance with statutory regulations. The provisions in Law No. 14/2008 on Freedom of Information are in line with the 1945 Constitution of the Republic of Indonesia and Law No. 39/1999 on Human Rights, and in line with the Dignified Justice Theory based on the soul of the nation, where Pancasila, as the soul of the Indonesian nation, becomes the basic norm of the state and an important element in the legal system called the Pancasila Legal System.

According to the Dignified Justice theory, the purpose of law is to achieve justice that humanizes humans, with three main components: justice, expediency, and legal certainty. These three components must be present simultaneously in legal rules and the process of legal discovery, without any internal conflict between them. Justice, certainty, and expediency are considered as a balanced and inseparable whole (Disantara, 2021). This theory also states that law can be found in the soul of the nation, which includes applicable laws and court decisions that are legally binding (Prasetyo, 2015). In the context of press freedom, Article 1 number 1 and Article 4 paragraphs (1) and (3) of Law of the Republic of Indonesia Number 40 of 1999 concerning the Press stipulate that the press as a social institution has the right to seek, obtain, own, store, process and convey information. Article 4 paragraph (1) guarantees press freedom as a human right, while paragraph (3) affirms the right of the press to seek, obtain and disseminate ideas and information.

Law No. 40/1999 provides a legal basis for the press to carry out its journalistic function, strengthen people's sovereignty as a channel of mass communication, and maintain information order. Legal protection of journalists and guarantees of press freedom from interference are set out in Article 8, while Article 17 emphasizes the role of the public in developing press freedom and the right to obtain information (Surbakti, 2015). Along with the progress of the times and the era of internet-based globalization, Law of the Republic of Indonesia Number 19 of 2016 was born, which is an amendment to Law Number 11 of 2008 concerning Electronic Information and Transactions (hereinafter referred to as ITE Law No. 19 of 2016). Article 27 paragraph (3) of ITE Law No. 19/2016 stipulates that “Any person who intentionally and without right distributes and/or transmits and/or electronic documents that contain insults and/or defamation” is subject to criminal liability. Article 45 paragraph (3) of ITE Law No. 19/2016 states that this offense can be punished with a maximum imprisonment of 4 years and/or a maximum fine of Rp750,000,000.00. This law was later revised into Law No. 1 Year 2024 on Electronic Information and Transactions, which is the second amendment to Law No. 19 Year 2016 (hereinafter referred to as Law No. 1 Year 2024 on ITE). In this revision, Article 27 paragraph (3) of ITE Law No. 19 of 2016 is changed to Article 27A of Law No. 1 of 2024 on ITE, which reads: “Every person intentionally attacks the honor or good name of another person by alleging a matter, with the intention that it becomes public knowledge in the form of Electronic Information and/or Electronic Documents carried out through an Electronic System.” In addition, Article 45 paragraph (4) of Law of the Republic of Indonesia No. 1 of 2024 concerning ITE stipulates that the same

offense is subject to a maximum imprisonment of 2 years and/or a maximum fine of Rp400,000,000.00.

Article 27 paragraph (3) of ITE Law No. 16/2016 does not specifically explain the type of prohibition in distributing or transmitting electronic documents, so the criminal penalty can reach 4 years in prison. In contrast, Article 27A of the Indonesian Law No. 1 of 2024 makes it clear that the offense must be an attack on a person's honor or good name through electronic media, with a lighter punishment, which is a maximum of 2 years in prison (Wiratraman, 2023). Although the ITE Law has undergone several changes, from Law No. 11 of 2008 to Law No. 1 of 2024, this regulation still limits the freedom of the press in carrying out its functions. In addition, slander, insult and defamation are also regulated in the Criminal Code and Law No. 1 of 2023, with varying criminal penalties. Article 310 paragraph (1) of the Criminal Code and Article 433 paragraph (1) of Law No. 1 of 2023 have the same criminal penalty, which is 9 months in prison, but the fine in Law No. 1 of 2023 is higher. Meanwhile, Article 311 paragraph (1) of the Criminal Code stipulates a threat of 4 years in prison without a fine, while Article 434 paragraph (1) of Law No. 1 of 2023 stipulates a threat of 3 years in prison and a much heavier fine.

The application of Article 27 paragraph (3) of the ITE Law No. 16 of 2016, as well as Article 310 paragraph (1) and Article 311 paragraph (1) of the Criminal Code, has implications that contradict the Indonesian Law No. 40 of 1999 on the Press. This can be seen from various legal cases against journalists related to their reporting through electronic and print media. For example, Toroziduhu Laia alias Toro was sentenced to 1 year in prison for violating Article 27 paragraph (3) Jo Article 45 paragraph (3) of Law of the Republic of Indonesia No. 19 of 2016 after being considered defaming the regent of Bengkalis. Sadli Saleh, editor-in-chief of liputanpersada.com, was sentenced to 2 years in prison by the Pasar Wajo District Court for violating Article 45 paragraph (2) Jo Article 28 paragraph (2) and Article 27 paragraph (3) of Law No. 19 of 2016, after his news was deemed to have defamed the regent of Central Buton. M. Reza alias Epong was also sentenced to 1 year in prison for violating Article 27 paragraph (3) Jo Article 45 paragraph (3) of the ITE Law after writing news that was considered to attack the honor of the younger brother of the regent of Bireuen. These cases show that the ITE Law is often used to curb press freedom, which should be guaranteed by the Indonesian Law No. 40/1999 on the Press. Overall, the ITE Law has contributed to restrictions on press freedom in obtaining, searching for, and disseminating news information.

Article 27 paragraph (3) of Law No. 16/2016 has the potential to ensnare journalists in defamation cases, which could threaten press freedom. It is important to understand Indonesia's legal regulations in accordance with Indonesian Law No. 12/2011, which establishes a hierarchy of laws and regulations, from the 1945 Constitution to local regulations, to ensure that the application of the ITE Law does not conflict with higher principles of press freedom protection.

Article 7

(1) Types and hierarchy of laws and regulations consist of:

a. *The 1945 Constitution of the Republic of Indonesia;*
b. *Decree of the People's Consultative Assembly;*
c. *Law / Government Regulation in lieu of Law;*
d. *Government Regulation;*
e. *Presidential Regulation;*
f. *Provincial Regional Regulations; and*
g. *Regency/City Regional Regulations.*

(2) The legal force of Laws and Regulations is in accordance with the hierarchy as referred to in paragraph (1).

The relationship between Law No. 40/1999 on the Press and Law No. 19/2016 on ITE is related to the legal hierarchy stipulated in Law No. 12/2011. Article 7 paragraphs (1) and (2) show that norm conflicts can occur vertically or horizontally. Vertically, the ITE Law must be subject to the

Press Law due to its higher position. Horizontally, the establishment of lower norms must be in accordance with higher norms (Soediro, 2018; Fathorrahman, 2021). Relevant legal principles, such as Lex Superior Derogat Legi Inferiori, Lex Specialis Derogat Legi Generalis, and the provisions of Article 310 Paragraph (3) of the Criminal Code, are used to resolve norm conflicts. In the context of the press, violations by journalists are regulated by the Press Law and ITE Law, while violations of the code of ethics are resolved by the Press Council through a mechanism regulated by the Police (Nurhayati et al., 2021).

The application of the Dignified Justice Theory in press freedom related to defamation cases includes two main aspects. First, if someone is accused of defamation under Article 27 paragraph (3) of ITE Law No. 19/2016, it is important to assess whether the reporting was done in the public interest. According to Article 310 paragraph (3) of the Criminal Code, news that aims at public interest or self-defense cannot be considered as punishable defamation. Secondly, if the perpetrator of the defamation is a victim who is also experiencing psychological impacts, this can be the basis for the abolition of punishment in accordance with the principle of humanizing justice, so that the perpetrator can be released from punishment (Oba, 2023).

There is a misalignment between *Das Sein (*the actual facts of reality*) and Das Sollen* (the rules of law that govern), so that there is a conflict of norms between freedom according to RI Law No. 40 of 1999 concerning the Press and the prohibition according to RI Law No. 19 of 2016 concerning ITE which has implications for punishment. (Explanation of the author's opinion related to ‘‘there is a misalignment between *Das Sein* ‘actual facts*’ and Das Sollen* ‘governing legal rules’, then there is a conflict of norms between freedom according to the press law and prohibitions according to the ITE Law).

2. Method

This research uses normative legal methods that focus on the legal norm system, including principles, rules, and legislation. This method aims to solve legal issues by understanding the three layers of legal science: dogmatics, theory, and philosophy. The approaches used include the statutory approach to analyze norms according to the legal hierarchy, the concept approach to examine the values underlying the regulations, and the case approach to examine the application of law in practice. Primary legal materials such as laws and court decisions, secondary legal materials such as books and journals, and tertiary legal materials such as magazines and internet sources were collected and classified. The collection and analysis of legal materials was conducted through desk research, followed by qualitative analysis involving legal reasoning, interpretation and argumentation.

3. Results and Discussion

I. The Urgency Of Freedom Of The Press Related To Conclict Of Norms Viewed From The Perspective Of Dignified Justice

A. Legal Protection Related To Freedom Of The Press According To The Provisions Of The Legislation

Members of the press in Indonesia cannot be excluded or*immune* as subjects of criminal law and must remain subject to the Indonesian Criminal Code (“KUHP”). However, this does not mean that press freedom has been restricted by law. Instead, the concept of thinking that must be developed is that the legislation was created and enacted with the aim of establishing a balanced, transparent and professional press. However, it must also be recognized that the press in Indonesia has not yet fully implemented a professional and responsible quality press in making news. To prevent this, the freedom of the press needs to be limited by legal guidelines, so that reporting remains responsible. If the press is used for slander or insults that fulfill criminal elements, the perpetrators must be sanctioned. However, reporting that is done responsibly and

professionally, despite factual errors, should not be penalized. Journalists must receive legal protection in carrying out their duties in accordance with Law No. 40/1999 on the Press. This legal protection is a guarantee from the government and society to carry out the functions and rights of journalists in accordance with the law. Freedom of speech and freedom of the press are human rights protected by Pancasila, the 1945 Constitution, and the UN Universal Declaration of Human Rights.

Press freedom is a means for people to obtain information and communicate, in order to fulfill their essential needs and improve the quality of human life. In realizing press freedom, Indonesian journalists also realize the interests of the nation, social responsibility, the diversity of society, and religious norms.

Protection of the press is guaranteed by Article 4 of Law No. 40/1999 on the Press, which reads: Kemerdekaan pers dijamin sebagai hak asasi warga negara.

1. No censorship, banning or prohibition of broadcasting shall be imposed on the national press.
2. To guarantee press freedom, the national press has the right to seek, obtain and disseminate ideas and information.
3. In taking responsibility for reporting before the law, journalists have the Right of Refusal.In addition, Article 18 paragraph (1) of Law of the Republic of Indonesia No. 40 of 1999 concerning the Press also provides sanctions for anyone who unlawfully deliberately takes actions that have the effect of hindering or obstructing the implementation of press freedom in accordance with the provisions of Article 4 paragraph (2) and paragraph (3) shall be punished with imprisonment for a maximum of 2 (two) years or a maximum fine of Rp500 million.

Article 8 of Law No. 40/1999 on the Press provides legal protection to journalists in carrying out their journalistic duties, provided they do not violate the code of ethics and applicable regulations. The press is expected to be professional, respect human rights, and be open to public control. The Journalistic Code of Ethics is the main guide for journalists to maintain integrity and professionalism. According to Setiono, legal protection aims to protect the public from arbitrary actions of the authorities and maintain order and human dignity. Satjipto Raharjo added that legal protection also involves protecting human rights and providing legal certainty. Muchsin argues that legal protection includes legal instruments, such as laws, and law enforcement through sanctions for violators. Legal protection does not make the press immune to the law. Freedom of the press has limits set by law and a code of ethics. This freedom is not absolute; the press must exercise its rights and functions with high responsibility. In this context, legal protection focuses on the criminal law approach to protect journalists and create peace and tranquility in society (Muchsin, 2003).

In the history of Indonesian Criminal Law, the Presumption of Innocence is first regulated in Article 8 of Law No. 14 of 1970 on the Basic Provisions of Judicial Power, which states that every person suspected, arrested, detained, prosecuted, and/or brought before the court must be considered innocent before a court decision that has permanent legal force. Although it does not explicitly state the same, Article 66 of Law No. 8 of 1981 on KUHAP confirms that the suspect or defendant is not burdened with the obligation of proof, which is an embodiment of the Presumption of Innocence. Because this principle is regulated in criminal law legislation, many argue that this principle only applies to matters related to criminal law.

Press freedom as a pillar of democracy is closely related to human rights, so the press must interpret the presumption of innocence correctly. First, this principle must be understood in press practice as an effort to avoid “trial by the press” or trial by the media. In reporting that concerns a person's good name or honor, it is important to avoid negative labeling that can damage the image of individuals or the credibility of institutions, both private and public. Secondly, the presumption of innocence should also be understood as an awareness that “playing-judgment” or making premature judgments violates democratic values that value freedom until there is definitive evidence of one's guilt.

According to Article 5 paragraph (1) of Law No. 40/1999 on the Press, the press is required to pay attention to the principle of presumption of innocence in reporting. The press must filter information conveyed to and from the public, so that allegations relating to certain legal status are still considered as presumptions and not made into final judgments. If this provision is ignored, the press cannot exercise its right to legal protection under Article 310 paragraph 3 of the Criminal Code. The press is required to be more responsible than its sources, by ensuring the results of checks and rechecks and cross-checks before publishing information. The Press Law is not a lex specialis of Law No. 40/1999, Article 5 paragraph (1).

Third, the presumption of innocence in press practice is interpreted as the implementation of the press's function to increase public legal awareness and respect for the rule of law. All of this comes down to interpretation. Starting from Dworkin's view that law is through the concept of interpretation, then of course it revolves around the issue of understanding an event (fact), faced with legal rules (norms).

The press has an obligation to encourage the interpretation of an event in such a situation. Public truth is not always and not necessarily the same as legal truth. As Fletcher says, sometimes justice does not necessarily coincide with legality. The press may express “justice”, but it may not necessarily be seen as such in terms of legal legality(George P, Fletcher, 198).

a. **Code of Ethics for Journalists and/or Journalists**

Journalists are people who regularly carry out journalistic activities. Journalism is a profession that is required to be able to reveal the truth. That is why journalists must have courage and honesty in carrying out their noble duties. Not infrequently, journalists face risks in the form of threats in carrying out their profession. Mochtar Lubis in his book “Journalists and the Commitment of Struggle” emphasizes that honesty is the main key in the noble task of a journalist. This honesty must always be upheld in carrying out the profession, because journalists play an important role in educating the nation's life. If a journalist writes untrue news, it can mislead and fool the public as readers (Santoso et al., 2023).

The journalistic code of ethics, developed by journalists through congresses, serves as a guideline to ensure journalists understand the rules of the game in their profession. (Baskoro, 2021). This code of ethics reflects journalists' conscience to regulate themselves, considering the many risks they face in their daily work, both in relation to their profession and as a result of reporting that is perceived to be detrimental to others. In order to avoid these risks, a journalistic code of ethics is needed to keep the journalistic activity running smoothly. However, this code of ethics is not uniform from one country to another, as it is a reflection of the circumstances and traditions that develop in each country.

The Code of Ethics for Journalists and/or Journalists is a code of ethics that concentrates on reliable information and avoids distortion, suppression, sensational bias, invasion, privacy and will broadly relate to the view of the role of journalists in society. In general, journalism in the industry (Sandi & Nuraeni, 2018) Television describes the principles of the journalistic code of ethics which contains six points (Takalelumang et al., 2019) among others, namely, truthfulness of information, clarity of information, defense of public rights, responsibility in the formation of public opinion, standards for collecting and broadcasting information, respect for the integrity of sources.

Six principles of the journalistic code of ethics are the basic reference that must be held by every journalist organization and press company organization before formulating a professional code of ethics. So that the concept of a journalistic code of ethics formulated later will act as a journalist's outlook on life, not as a protector of journalists from the law.

b. **Freedom of the Press According to Law No.39/1999 on Human Rights**

In order to ensure democratic governance, the 1945 Constitution clearly affirms human rights. Sri Soemantri argues that the 1945 Constitution must include human rights guarantees, the constitutional structure, and the division of constitutional duties. Ismail Sunny added that although Pancasila is the basis of the state, human rights guarantees in the constitution are still

needed. Miriam Budiardjo explains that the constitution should contain provisions on state organization, human rights, amendment procedures, and prohibitions on changing certain characteristics of the constitution.

According to Wahjono, human rights are related to the Indonesian nation's goal of building a democratic and just state. Hamid S. Attamimi divides human rights into the rights of citizens and the rights possessed by all who reside in the country. Darwis stated that the transformation of human rights into the constitution must be done appropriately to reflect natural rights. The role of the press in upholding human rights before and after the amendment of the 1945 Constitution is very different. During the New Order era, freedom of the press was severely restricted even though Article 28 of the 1945 Constitution guarantees this right. Minister of Information Regulation No. 1/1984, for example, restricted press freedom and allowed for the cancellation of SIUP if the media did not reflect Pancasila. The human rights provisions in the 1945 Constitution before the amendment were also considered very vague, which did not help the press in monitoring and upholding human values. After the amendment, the 1945 Constitution provides full guarantees for the role of the press. Article 28 F affirms the right of everyone to communicate and obtain information as well as develop their personal and social environment. Post-amendment press freedom is broader, encompassing not only freedom from pressure but also the freedom to seek and disseminate information.

c. **Indonesian Law No.39 of 1999 on Human Rights**

Indonesia as a sovereign country also has ideals that must also be achieved. The country's ideals are called Pancasila, whose five points are a reflection of the overall spirit of Indonesian society. (Roky Huzaeni, 2022). The above goals make the Indonesian state have consequences and synergies to fulfill (human rights). The affirmation of the Indonesian state for this is stated in the 1945 Constitution of the Republic of Indonesia (Article 28 I paragraph 4 and 5 of the 1945 Constitution of the Republic of Indonesia) which reads (Pasal 28 I ayat 4 dan 5 UUD NRI 1945) which says (Tan & Disemadi, 2022):

> *"The protection, promotion, enforcement, and fulfillment of human rights are the responsibility of the state, especially the government; and to uphold and protect human rights in accordance with the principles of a democratic state of law, the implementation of human rights is guaranteed, regulated, and set forth in laws and regulations."*

In Indonesia, the state's responsibilities in relation to human rights include three main obligations: *"obligation to fulfill"*,"*obligation to respect*", and *"obligation to protect".* These obligations require the government to take legal and practical steps to ensure the full fulfillment of human rights (Smith et al., 2018). In addition, countries are expected to implement programs that reflect a commitment to achieving the desired results (W.Y. Sari Murti, dalam "Kumpulan Tulisan Buku Vulnerable Groups"). This obligation reflects the position of individuals and communities as rights holders, while the state functions as an obligation holder in terms of human rights. (Andrey Sujatmoko, 2009). Human *rights*, derived from the French term *"droits de l'homme"* and the English *"human rights*", are basic rights inherent in human beings as God's creation and are considered a fundamental divine gift. Legally, human rights are regulated by the 1945 Constitution and Law No. 39/1999 on Human Rights in Indonesia. Although often considered the same as human rights, human rights have a broader scope and are internationally recognized. While human rights are recognized globally and are an important issue in international relations, in Indonesia, human rights are governed by the constitution and domestic laws, which may differ from international standards. For example, same-sex marriage recognized in other countries cannot be applied in Indonesia because it is not regulated in the 1945 Constitution.

Human Rights (HAM) according to Article 1 Paragraph 1 of Law No. 39/1999 is a set of rights inherent in humans as creatures of God and is a gift that must be respected, upheld, and protected by the state, law, government, and every individual. Human rights are inherent, inviolable, and valid for life (Zandy, 2019). In Indonesia, human rights are regulated through normative, empirical, descriptive, and analytical approaches, making them basic and universal rights that

guarantee the survival, independence, and development of individuals and society. Pancasila covers human rights in various aspects: freedom of religion (Precept 1), recognition of human dignity (Precept 2), unity without discrimination (Precept 3), freedom of expression and participation in government (Precept 4), and social justice (Precept 5) (Hidayat et al., 2022; Nikolić, 2020).

Internationally, human rights are recognized through the 1948 Universal Declaration of Human Rights, which Indonesia adopted through TAP MPR No. XVII of 1998 on Human Rights. Human rights function as a means of resistance to oppressive power and are protected by democratic institutions such as parliament, the judiciary, political parties and the press (Hidayat et al., 2022). Indonesia has also ratified various international conventions related to human rights, including the Convention on the Political Rights of Women (Law No. 68 of 1958), the Convention on the Elimination of All Forms of Discrimination against Women (Law No. 7 of 1984), the Convention on the Rights of the Child (Presidential Decree no. 36 of 1990), the Convention against Apartheid in Sport (Presidential Decree No. 48 of 1993), the Convention against Torture (Law No. 5 of 1998), the International Convention on the Elimination of Racial Discrimination (Law No. 29 of 1999), and fourteen International Labor Organization (ILO) conventions related to workers' rights.

Human rights are categorized into two main aspects: individual rights, which each person possesses personally, and collective rights, which are enjoyed collectively such as the right to self-determination and the right to redress for violations of freedom. *Civil* and political rights stipulated in the *International Covenant on Civil and Political Rights* (ICCPR) include the right to self-determination, redress for violation of liberties, the right to life, freedom of thought and religion, and gender equality. The ICCPR also protects the right to know the reasons for arrest and freedom of expression.

Meanwhile, economic, social, and cultural rights listed *in the International Covenant on Economic, Social, and Cultural Rights* (ICESCR) include the right to be free from fear and poverty, prohibition of discrimination, the right to work and fair wages, the right to form labor unions, the right to strike, as well as the right to education and freedom from hunger. Human rights are universal, in that every individual is entitled to them simply by virtue of being human. The Vienna Declaration (1993) affirms the obligation of states to uphold human rights and advocates the ratification of international standards into national law to strengthen the protection of vulnerable groups.

d. Freedom of the Press According to UU KIP Number : 14/2008

Law No. 14/2008 on Public Information Disclosure (UU KIP) marks a new era of information disclosure in Indonesia with the main objective of promoting transparency, accountability, and public participation. The law requires public bodies to provide information in a fast, timely manner, at low cost, and through simple procedures. Public information disclosure is considered an important element in achieving good governance, increasing public participation, and reducing corrupt practices. The implementation of UU KIP is done through official government digital platforms, which facilitate public access to public policy information.

Article 2 of UU KIP states that public information is basically open, with exceptions for certain information that is confidential based on law and public interest, as well as the Maximum Access Limited Exemption (MALE) principle that strictly limits exceptions. Article 17 stipulates that public bodies are obliged to open access to information, except in cases that may impede law enforcement, violate intellectual property rights, endanger state security, or reveal personal secrets. In terms of the information request process, Articles 21 and 22 stipulate that information must be provided in a prompt, timely and low-cost manner. The process involves submitting a request for information, recording the applicant's data, providing proof of receipt, as well as written notification within 10 working days, with the possibility of an extension of up to 7 additional working days with written reasons. Further procedures are regulated by the Information Commission.

The Maximum Access Limitation Exception (MALE) principle adopted in the Public Information Disclosure Law (UU KIP) No. 14/2008 emphasizes that basically all information is open and accessible to the public, unless the disclosure of such information may harm the broader public interest. These exceptions should be limited and not permanent. (Dhoho A. Sastro 2010). In the context of journalism, every journalist must abide by the Journalistic Code of Ethics (KEJ) developed by the Press Council, which includes principles such as independence, accuracy, balance, and avoidance of ill will in news reporting. In addition, the KEJ also regulates the professional way of carrying out journalistic duties, including protecting the identity of victims and sources, avoiding discrimination, and respecting the right of reply and the right of correction. The relationship between law and mass media is very close, with law serving as the backbone that regulates media activities, although it is not the only determinant of media survival. Journalistic activities must also respect religious norms and the principle of presumption of innocence, and comply with the obligation to make corrections to misinformation conveyed.

Journalistic activities are completed with the mechanism of the Right of Reply service Article 5 paragraph (2) and or the right of correction service Article 5 paragraph (3) as well as honesty in carrying out the obligation to correct Article 1 paragraph 13 except for the reporting of events and opinions that do not respect religious norms and do not respect the principle of presumption of innocence Article 5 paragraph (1) Press Companies produce news and or other information, to their readers, News and or information that in simple language is referred to as press production are words that rely on the power of facts (Purwadi Wahyu Anggoro et al., 2023).

B. Prohibitions and Sanctions in Indonesian Law No. 19 of 2016 concering ITE

Law of the Republic of Indonesia Number 19 of 2016 on Electronic Information and Transactions (ITE Law) regulates prohibitions and sanctions related to press freedom, especially in the context of using electronic media. Some of the key prohibitions in the ITE Law that impact press freedom include:

1. Dissemination of Information that Violates Decency: Article 27 paragraph (1) prohibits any person from intentionally and without right distributing or transmitting electronic information that has content that violates decency.
2. Dissemination of Information Containing Insult and/or Defamation: Article 27 paragraph (3) prohibits the dissemination of electronic information containing insults or defamation.
3. Dissemination of Hatred or Hostility Based on SARA: Article 28 paragraph (2) prohibits the dissemination of electronic information that aims to cause hatred or hostility of individuals or groups of people based on ethnicity, religion, race, and inter-group (SARA).
4. Dissemination of False and Misleading News: Article 28 paragraph (1) prohibits the dissemination of electronic information containing false and misleading news that may cause consumer harm in electronic transactions.

The sanctions stipulated in the ITE Law for these violations vary, but in general they can be in the form of imprisonment, namely violations of the above provisions can be subject to imprisonment sanctions that range from 4 to 6 years, depending on the type of offense. In addition to imprisonment, violators may also be subject to fines that can amount to several hundred million rupiah, as stipulated in Article 45 and Article 45A. The ITE Law emphasizes the importance of responsibility in the use of electronic media, including in journalistic practices, to ensure that freedom of the press is not abused so as to harm other parties or threaten the public interest.

C. The Urgency of Press Freedom in Relation to Norm Conflicts from the Perspective of Dignified Justice

a. Fair and Dignified Freedom of the Press

The urgency of press freedom in dealing with norm conflicts from the perspective of Dignified Justice emphasizes the importance of impartial and balanced justice, in accordance with the values of Pancasila and the 1945 Constitution of the Republic of Indonesia. Justice in this context is defined as a principle rooted in the values of divinity, humanity, and the culture of the

Indonesian nation, and is respected by all parties even though individual views of justice may differ (Budiarsih, 2022). These differing views lead to legal uncertainty, so Pancasila and the 1945 Constitution of the Republic of Indonesia are used as benchmarks for understanding and implementing justice in Indonesia.

The ideology of Pancasila, outlined in the preamble of the 1945 Constitution, includes protecting the entire Indonesian nation, realizing the ideals of independence and prosperity, upholding the sovereignty of the people, and basing the state on divinity and just and civilized humanity (Sunarjo Wreksosuhardjo, 2005; Teguh Prasetya dan Abdul Halim Barkatullah, 2009). In the context of Dignified Justice, freedom of the press is recognized as part of a legal system that aims to achieve humanizing justice, with each element of the law interrelated to achieve this goal (Prasetyo, n.d.) Dignified Justice Theory, which is rooted in the soul of the nation and Pancasila as the basic norms of the state, places justice as the main goal of law, where justice must humanize humans and include elements of expediency and legal certainty.

In the Pancasila Legal System, justice, expediency, and legal certainty are an inseparable unity and must be maintained without internal conflict. This theory emphasizes that law is not only seen as a collection of regulations, but also as a system that reflects the soul of the nation, which contains the values of justice, certainty, and expediency sourced from Pancasila and the 1945 Constitution of the Republic of Indonesia (Ali, 2015; Prasetyo, n.d Legal interpretation methods such as analogy and a contrario are used to ensure that the law can be applied fairly in various situations, with legal safeguards aimed at protecting human dignity from arbitrary actions by the authorities (Mertokusumo, 2014; Setiono, 2004). As a legal theory, Dignified Justice is oriented towards the value of benefits for humans and society, in accordance with a deep and systematic view of legal philosophy (Muchsin, 2003; Mahadi, 2003; Dirjosisworo, n.d.).

The urgency of press freedom in the face of norm conflicts viewed from the perspective of Dignified Justice emphasizes the importance of a quality legal system, which is not only useful but also serves as a unifying tool and maintainer of a nation's legal system. In the Indonesian context, Dignified Justice is based on Pancasila, which is the state philosophy and theoretical foundation of Dignified Justice. Pancasila, as a philosophy that is systematic and objective, linking all the precepts as a whole, reflects the spirit of the Indonesian nation that has developed for generations. Dignified Justice, which is based on the 2nd precept (just and civilized humanity) and the 5th precept (social justice), prioritizes justice with a spiritual dimension and humanizes humans. This theory asserts that legal justice in Indonesia must respect human dignity without discrimination, and even if someone is legally guilty, they must still be treated as a human being. Dignified Justice balances rights and obligations, and ensures humanizing justice in every aspect of the nation's legal life (Prasetyo, n.d.; Pasha et al., 2019).

b. Legal Certainty in Law No.19/2016 on ITE After the Constitutional Court Decisions

Law No. 11/2008 on Electronic Information and Transactions (ITE Law) has a jurisdictional reach that extends beyond Indonesia's territorial borders, applying to legal acts both inside and outside the territory of Indonesia that have legal impact in Indonesia, given the cross-territorial nature of information technology. The ITE Law, which was revised by Law No. 19/2016, aims to ensure legal certainty, encourage economic growth, and protect the public in electronic transactions. Several decisions of the Constitutional Court, such as Decisions No. 50/PUU-VI/2008 and No. 20/PUU-XIV/2016, have clarified the legal aspects of ITE Law, such as establishing the offense of defamation as a complaint offense and regulating the legality of wiretapping to protect human rights. The Constitutional Court also emphasized the importance of wiretapping being conducted lawfully in accordance with the 1945 Constitution of the Republic of Indonesia, to ensure legal certainty and justice for the public in the use of information technology.

The conventional principle of legality faces significant challenges in dealing with cybercrime, which develops in an electronic and cyber environment that is difficult to identify, is associated with rapidly changing technology, and transcends national borders (Arief, 2018). Law

No. 11/2008 and Law No. 19/2016 on Electronic Information and Transactions regulate prohibited acts, such as the distribution of electronic information that violates decency, gambling, defamation, libel, extortion, and threatening, as stated in Article 27 of the ITE Law. This article is bound by the principle of lex certa, which requires clear and careful formulation of criminal offenses. Although criminal law outside the Criminal Code has developed, it still requires enforcement in accordance with the general principles of criminal law, as contained in Book I of the Criminal Code. Another challenge is the lack of understanding of law enforcement officials about information technology, especially in areas that are still poorly supported by technological infrastructure, such as internet networks (Ahmad S. Daud, 2013). Investigation of criminal offenses in the field of information under the ITE Law is regulated in accordance with the provisions in the Criminal Procedure Code and other relevant laws.

c. Indonesian Law No.27 of 2022 on Personal Data Protection

Perkembangan pesat teknologi informasi dan komunikasi di era digital telah meningkatkan collection, processing, and exchange of personal data, making it a highly valuable asset for companies, organizations, and governments. However, the expansion of access to personal data also increases risks to individual privacy and security. To protect the constitutional rights of citizens, especially the right to personal protection as stipulated in Article 28G Paragraph (1) of the 1945 Constitution, the Indonesian government passed Law No. 27 of 2022 on Personal Data Protection (PDP), which aims to provide stronger legal protection regarding the collection, use, and dissemination of personal data.

This PDP Law covers not only civil and administrative law aspects, but also criminal law, which is important in responding to violations of personal data, such as data theft or misuse. Criminal law, which consists of norms containing commands and prohibitions with criminal sanctions, serves as a protection mechanism against the misuse of personal data (Lemaire, dalam Lamintang, 2013; Chazawi, 2021). Criminalization in this context aims to ensure effective law enforcement, maintain personal data security, and protect individual privacy rights from abuse and threats that are increasingly complex in the digital age.

Criminal Law Theory provides an intellectual foundation for understanding basic principles in the field of criminal law, including in the context of personal data protection. The application of this theory enables the categorization of violations of personal data as criminal offenses and the application of appropriate criminal sanctions to protect individuals' personal data, in line with the broader legal objectives of creating security and justice in society.

d. Personal Data Protection as a Component of Human Rights

Human rights are not only legal because they are guaranteed by law, but also because they ensure the existence of a just legal system, which can only be achieved in a society that embraces the idea of the rule of law (Kusnadi, 2021). Personal data protection, as part of the right to privacy, is an important component of human rights that must be defended. Privacy is an important independent right for individuals in maintaining social standing and private life, including the right to live a domestic life unknown to others, which Warren refers to as “the right against the world”. The harm caused by privacy violations is difficult to assess and can have a greater impact than physical harm, so legal protection is needed to provide proper compensation to victims.

In Indonesia, with the advancement of information technology and the huge potential of the digital economy, threats to privacy rights and personal data are increasingly evident. The protection of personal data as a human right is not only important for maintaining individual dignity and freedom, but also a key element in achieving political, spiritual, and religious freedom (Dewi Sinta, 2016). Human rights theory is relevant in this context because personal data protection is closely linked to the right to privacy of individuals. This theory emphasizes the importance of basic rights in maintaining privacy, freedom of speech, and personal autonomy, makes personal data protection an integral part of human rights, and provides guidance in assessing the criminal law implications related to personal data protection.

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II. The Concept of Resolving Norm Conflicts Related to Freedom of the Press in Article 27 Paragraph (3) UU ITE and Article 310 Jo Article 311 of the Criminal Code Viewes from the Perspective of Dignified Justice

A. Concept of Conflict between Norms Related to Article 27 Paragraph (3) with Freedom of the Press and According to the Criminal Code

The concept of conflict between norms related to Article 27 paragraph (3) with freedom of the press and the Criminal Code can be analyzed through the perspective of the hierarchy of legal norms. In a legal system, norms have a hierarchy that regulates the relationship between one norm and another. Meta Suriyani (2016) states that the legal system does not consist of equal norms, but is a tiered order in which lower norms depend on higher norms, ending at the basic norm (Grundnorm). This Grundnorm serves as the basis for the entire legal system and its regulation.

According to Hans Kelsen, there are two juridical realms, namely the metayuridisch realm and the juridical realm. The juridical realm is divided into three levels of rules: Grundnorm as the highest method, Sachnorm as the middle level method, and Kasusnorm as the lower level method (Sahara & Suriyani, 2018). Norm conflicts arise when existing norms are incompatible or in conflict with each other, causing the implementation of one norm to violate another (Kelsen, 2019; Irfani, 2020).

In the context of laws and regulations in Indonesia, norm conflicts often arise due to sectoral ego among regulation-making authorities, which is exacerbated by the government system with various organs that have the authority to form regulations. The conflict between Article 27 paragraph (3) and press freedom can be analyzed through the hierarchy of laws and regulations, where the 1945 Constitution as the highest norm must be obeyed and become the basis for lower regulations (Irfani, 2020).

The conflict of legal norms, particularly between Article 27 paragraph (3) and freedom of the press, as well as provisions in the Criminal Code, can be analyzed by applying the principles of Lex Superior Derogat Legi Inferiori (higher norm overrides lower norm), Lex Specialis Derogat Legi Generali (more specific norm overrides more general norm), and Lex Posterior Derogat Legi Priori (newer norm overrides older norm). These principles are important in understanding how specific norms can override general norms and create “legal loopholes” (Nurfaqih Irfan, hlm. 314).

Defamation is regulated in Article 310 of the Criminal Code, which states that this act is a criminal offense if it is committed intentionally and with the perpetrator's awareness of the impact on the honor of others. The essential elements include deliberate intent and a clear accusation of a specific act. Article 311 of the KUHP also covers slander, which is defamation by unproven accusations, and carries a prison sentence of up to four years.

While Law No. 40/1999 on the Press does not specifically address defamation, it emphasizes the role of the press in maintaining the integrity of information and respecting social norms and the law. Journalists, in carrying out their journalistic duties, are protected by the legal provisions stipulated in Law No. 40/1999 on the Press. However, the defamation provisions in this law still open up opportunities for criminalization of journalists, especially if their reporting is considered to violate legal norms, such as judging a person in an ongoing case, exceeding the limits set by law, or deliberately demeaning religious dignity and disturbing inter-religious harmony. This provision is often considered an obstacle to press freedom and freedom of expression as it does not strictly distinguish between legitimate journalistic practices and acts of defamation against individuals. As a result, a number of journalists have been forced to face legal proceedings on defamation charges, even though they are supposed to receive legal protection under Article 8 of Law No. 40/1999 on the Press.

This flexibility in the application of the defamation article also has the potential to lead to over-criminalization, which in turn can lead to overcapacity in correctional institutions and highlight weaknesses in law enforcement due to differences in interpretation among law enforcement officials. This situation reflects injustice in law enforcement, where the criminal penalties stipulated in articles of the Criminal Code are often not proportional to the harm caused.

Therefore, the existence of the press must be viewed carefully in a legal context, considering that the interaction between the press and the public can lead to legal problems, especially if the information conveyed by the press is considered inaccurate or detrimental to the public interest.

The conflict between Article 27 paragraph (3) with press freedom and the provisions in the Criminal Code requires a fair and systematic resolution so as not to disrupt public life and the sustainability of the press. Although Law No. 40/1999 on the Press does not specifically regulate criminal provisions regarding defamation by the press, the law still provides protection to journalists as professional executives who function within the framework of freedom of expression guaranteed by the constitution and various international instruments. The applicable legal mechanisms, such as the right of reply and the right of correction, as well as the role of the Press Council in resolving disputes, are key in maintaining the balance between press freedom and respect for the good name of individuals. In this case, criminal law should be treated as an ultimum remedium, and settlement through the mechanisms of the Press Law is preferred in order to maintain efficiency and effectiveness in restoring the good name of victims without the need to go through lengthy court proceedings. Thus, these measures support the creation of balanced justice and do not harm press freedom.

B. The Concept of Harmonization between Freedon of the Press with the Prohibition of Distributing According to Law No.19 of 2016 on ITE and the Criminal Code

Article 27 Paragraph (3) of Law of the Republic of Indonesia No. 19/2016 on Electronic Information and Transactions (ITE) may potentially limit the freedom of the press in conveying information to the public, especially due to the element of "intentionally and without rights." This implies that the application of this provision together with the provisions in Article 4, Article 5, and Article 6 of the Press Law, which guarantee the protection of the rights of journalists and leaders of press organizations in carrying out their journalistic duties, could lead to legal uncertainty for journalists. Although journalists and leaders of press organizations who perform their journalistic duties in accordance with the Press Law and adhere to the journalistic code of ethics should be protected from the sanctions of the ITE Law, the existing provisions may make it difficult for them if there are complaints from the public regarding insults or defamation.

The Supreme Court, in a judicial review of Article 27 Paragraph (3) and Article 45 Paragraph (1) of the ITE Law, as well as through Constitutional Court Decisions No. 50/PUU-VI/2008 and No. 2/PUU-VI/2009, stated that these norms are constitutional and do not contradict democratic values, human rights, and the principle of the rule of law. This decision was strengthened by Constitutional Court Decision No. 1/PUU-XIII/2015 which approved the withdrawal of the petition, affirming that the provisions of the ITE Law remain in force. However, criminalizing journalists can have a chilling effect, potentially curbing press freedom and encouraging self-censorship.

Settlement of press disputes through the Press Council does not guarantee that the case will not progress to criminalization, and articles that are considered rubber and have multiple interpretations in the ITE Law can be misused to criminalize journalists and social media activists. Therefore, legal norms must be formulated clearly, without causing many interpretations, and can adapt to the development of society and the times without ignoring legal certainty. The ITE Law needs to be revised to reflect the original spirit of keeping the digital space clean and ethical, while still promoting the principles of democracy and press freedom.

The concept of harmonization between press freedom and the prohibition of distributing information according to Law No. 19/2016 on Electronic Information and Transactions (ITE) and the Criminal Code is clearly regulated in the Memorandum of Understanding (MoU) between the Press Council and the Indonesian National Police Number: 2/DP/MoU/II/2017 and Number: B/15/II/2017. Relevant articles in this MoU, such as Article 4 Paragraphs (2) and (3), and Article 5 Paragraphs (2) and (3), establish guidelines regarding the alignment between press freedom and the rule of law. The concept of press freedom in Indonesia, which is regulated in Law No. 40/1999 on the Press, explains that the press is a means of social control that aims to fulfill the

rights of society through supervision, criticism, correction, and suggestions regarding the public interest, with a focus on the struggle for justice and truth.

However, reality shows great challenges for journalists, where press freedom is often significantly challenged. The rise in lawsuits against mass media and journalists demonstrates the conflict between the desire for maximum press freedom and the need to comply with applicable laws. This highlights the complexity of balancing press freedom with legal responsibility in the context of ITE law and the Criminal Code.

C. The Concept of Dispute Resolution Related to Conflict of Norms Viewed from the Perspective of Dignified Justice

The concept of resolving press disputes related to norm conflicts, seen from the perspective of dignified justice, illustrates the distinctive Indonesian principles of justice offered by Pancasila. Teguh Prasetyo argues that dignified justice seeks to integrate the Indonesian legal system with local identity amidst the dominance of global legal influences (Prasetyo, n.d.). Indonesia's legal system does not fully embrace the statute law or common law systems, although judge made law often emphasizes the role of judges as law makers. Dignified justice theory seeks to avoid internal conflicts in the law by maintaining a balance of different views within the layers of legal science, as well as paying attention to societal norms such as religion, decency, and morality that influence the formation of law and provide moral legitimacy (Pojanowski, 2024; Brinkmann, 1999).

The importance of ethics in the legal context cannot be ignored. Ethics, although often abstract, has been shown to influence the development of legal studies in both principle and practice (Cairns, 2019). However, there is often a tension between law and ethics, where legal actions can be considered unethical, and conversely, ethical actions can be considered illegal (Rhode et al., 2020). This tension creates a conflict between legal norms and ethical norms, emphasizing the need for an understanding of law that is based not only on formal rules but also on moral values. Prasetyo's theory of dignified justice, widely recognized in academia and the judiciary, offers a perspective that humanizes the law and has been accepted as an important part of legal studies in Indonesia.

The concept of dignified justice in press dispute resolution related to conflict of norms underscores the importance of fair and humane judgment in the investigation and investigation process. At the investigation stage, investigators are obliged to take statements from all relevant parties, both the complainant and the reported party, to clarify the alleged defamation. This reflects dignified justice by providing an opportunity for the reported party to defend himself and the reporter to explain the harm he has suffered. Furthermore, in raising the status of a report from investigation to investigation, investigators must consider not only legal elements such as witness testimony, experts, and evidence, but also human values and propriety, so that the decisions taken do not harm the sense of justice.

The practice of using the theory of dignified justice can be seen in various court decisions that consider human values and decency in making decisions. For example, the Evi Novida Ginting case and decisions from the High Court show the application of this theory in resolving disputes by balancing legal and ethical norms. This theory emphasizes that the law must prioritize humanizing justice, which means that legal decisions must be acceptable and beneficial to all parties and support the ultimate goal of justice.

However, the conflicting norms between defamation laws such as the ITE Law and the Criminal Code and the Press Law pose challenges in practice. Dignified justice serves as an analytical tool to resolve these differences by ensuring that the application of the law is based not only on formal rules but also on higher moral and ethical principles, namely Pancasila. As such, this theory offers a more holistic approach in achieving fair and dignified justice in the Indonesian legal system.

Conclusions

The author argues that law enforcement in this case the police in handling press cases related to reporting that has implications for defamation must be guided by the MoU agreement between the Press Council and the Police Number: 2/DP/MoU/II/2017 and Number: B/15/II/2017 Article 4 paragraphs (2), (3) and Article 5 paragraphs (2), (3) related to the protection of press freedom and law enforcement related to the abuse of the journalist profession in order to achieve the ultimate legal goal, justice and dignity. The concept of resolving conflicts of norms related to freedom of the press in Article 27 paragraph (3) of Law of the Republic of Indonesia Number 19 of 2016 concerning ITE and Article 310 Jo Article 311 of the Criminal Code viewed from the perspective of dignified justice, namely if defamation is carried out in the public interest and self-defense, it cannot be subject to Article 27 paragraph (3) of the ITE Law jo Articles 310 and 311 of the Criminal Code because it is considered conditionally unconstitutional in the Constitutional Court Decision number: 78/PUU-XXI/2023 which says that Article 310 paragraph (1) of the Criminal Code is contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force, because the element contained in Articles 310 and 311 of the Criminal Code is the element "to be known by the public", meaning that defamation becomes a crime if it is intended to be known by the public, in accordance with the Constitutional Court Decision Number: 50/PUU-VI/2008 which explains that Article 27 paragraph (3) of the ITE Law is not a new norm because it must absolutely refer to the basic norms of Articles 310 and 311 of the Criminal Code.

Bibliografy

Aldriano, M. A., & Priyambodo, M. A. (2022). Cyber Crime Dalam Sudut Pandang Hukum Pidana. Jurnal Kewarganegaraan, 6(1).

Ali, A. (2015). Achmad Ali,. Tinjauan Yuridis Terhadap Tindak Pidana Pencemaran Nama Baik, 3.

Andrey Sujatmoko. (2009). Sejarah, teori, prinsip dan kontroversi HAM. Sejarah, Teori, Prinsip Dan Kontroversi HAM.

Angkasa, N., Wardani, Y. K., Zulkarnain, Agustin, Y., Faisal, A., Susanti, R., Gunawan, Mubaroq, H., & Shafira, M. (2019). Metode Penelitian Hukum: Sebagai Suatu Pengantar. In Lex Privatum (Vol. 2, Issue 1).

Anindita, T. A. (2020). Perkembangan HAM di Indonesia. Kompasiana.Com, August.

Arief, B. N. (2018). Masalah Penegakan Hukum dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan. In Kencana Prenada Media Group.

Audina, N. A. (2020). Perlindungan Hukum Terhadap Korban Pelanggaran HAM berat (Tinjauan Hukum Nasional dan Hukum Internasional). Legalite : Jurnal Perundang Undangan Dan Hukum Pidana Islam, 5(1). https://doi.org/10.32505/legalite.v5i1.1464

Aulia, M. Z. (2018). Hukum Progresif dari Satjipto Rahardjo. Undang: Jurnal Hukum, 1(1), 159–185. https://doi.org/10.22437/ujh.1.1.159-185

Bambang Hermanto, A. (2020). Pandangan Tentang Apakah Politik Hukum Itu? Modern at Large: Cultural Dimensions of Globalization, 6(1), 3–41. http://dx.doi.org/10.1016/j.cirp.2016.06.001%0Ahttp://dx.doi.org/10.1016/j.powtec.2016.12.055%0Ahttps://doi.org/10.1016/j.ijfatigue.2019.02.006%0Ahttps://doi.org/10.1016/j.matlet.2019.04.024%0Ahttps://doi.org/10.1016/j.matlet.2019.127252%0Ahttp://dx.doi.o

Baskoro, L. R. (2021). Kekerasan Terhadap Pers dan Perlindungannya. Jurnal Hak Asasi Manusia, 7(7). https://doi.org/10.58823/jham.v7i7.67

Bellamy, R. (2023). Victorian Liberalism. In Victorian Liberalism. https://doi.org/10.4324/9781032671581

Bentham, J. (2015). The Collected Works of Jeremy Bentham: An Introduction to the Principles of Morals and Legislation. In The Collected Works of Jeremy Bentham: An Introduction to the Principles of Morals and Legislation. https://doi.org/10.1093/actrade/9780198205166.book.1

Bodenheimer, R. (2019). The Politics of Story in Victorian Social Fiction. In The Politics of Story in Victorian Social Fiction. https://doi.org/10.7591/9781501733444

Brinkmann, B. (1999). Harmonisation of medico-legal autopsy rules. In International Journal of Legal Medicine (Vol. 113, Issue 1). https://doi.org/10.1007/s004140050271

Bryan, A., Garner, G., & et all. (2014). Black Law Dictionary. In Dictionary.

Budiarsih. (2022). Sekilas Tentang Konsep Teori Keadilan. Madza Media

Cecep Cahya Supena. (2023). Tinjauan Tentang Konsep Negara Hukum Indonesia Pada Masa Sebelum Dan Sesudah Amandemen Undang-Undang Dasar Negara Republik Indonesia Tahun 1945. Moderat : Jurnal Ilmiah Ilmu Pemerintahan, 9(2). https://doi.org/10.25157/moderat.v9i2.3125

Darwis, N. (2006). Membangun Politik Hukum, Menegakkan Konstitusi. Membangun Politik Hukum, Menegakkan Konstitusi-Tinjauan Status Dwi Kewarganegaraan Berdasarkan Undang-Undang No. 12 Tahun 2006, 7(12).

Disantara, F. P. (2021). Perspektif Keadilan Bermartabat Dalam Paradoks Etika Dan Hukum. Litigasi, 22(2). https://doi.org/10.23969/litigasi.v22i2.4211

Farinelli, F. (2000). Friedrich Ratzel and the nature of (political) geography. Political Geography, 19(8). https://doi.org/10.1016/S0962-6298(00)00036-6

Fathorrahman, F. (2021). Politik Hukum Hierarki Peraturan Perundang-Undangan Indonesia. HUKMY : Jurnal Hukum, 1(1), 73–90. https://doi.org/10.35316/hukmy.2021.v1i1.73-90

Gaus, G. F. (2015). Social Philosophy. In Social Philosophy. https://doi.org/10.4324/9781315700717

Gst. Ayu Atun Luviana, Ejasa Sembiring, & A.A.I.N Dyah Prami. (2022). Pengaruh Iklan Media Sosial Instagram (Instagram Advertisement) Dan Electronic Word Of Mouth (Ewom)Terhadap Minat Beli Di Ayrin Moms & Baby Care. Journal of Applied Management Studies, 3(2). https://doi.org/10.51713/jamms.v3i2.51

Hamid S. Attamimi. (1988). Pancasila Sebagai Ideologi Bangsa. Tep. Apx., 60(8).

Harjono. (n.d.). Perlindungan Hukum (Membangun Sebuah Konsep Hukum).

Hasanuddin, I. (2018). Keadilan Sosial: Telaah atas Filsafat Politik John Rawls. Refleksi, 17(2), 193–204. https://doi.org/10.15408/ref.v17i2.10205

Hermiyanty, D.; Bertin, Wandira Ayu; Sinta, D. (2017). Teori Negara Hukum. Journal of Chemical Information and Modeling, 8(9), h. 15.

Hidayat, M. I., Sakti, M. D. A. B., Hafidz, N., & Al Manaanu, Y. (2022). The Elements of Secularization in The Universal Declaration of Human Rights. Tasfiyah: Jurnal Pemikiran Islam, 6(2). https://doi.org/10.21111/tasfiyah.v6i2.8321

Ibrahim, Z., Hukum, F., & Sriwijaya, U. (2013). HUKUM PENGUPAHAN YANG BERKEADILAN SUBSTANTIF (Kajian Teoritis Terhadap Teori Upah Teladan). Masalah-Masalah Hukum, 42(2).

Irfani, N. (2020). Asas Lex Superior, Lex Specialis, Dan Lex Pesterior: Pemaknaan, Problematika, Dan Penggunaannya Dalam Penalaran Dan Argumentasi Hukum. Jurnal Legislasi Indonesia, 17(3). https://doi.org/10.54629/jli.v17i3.711

Kameo, J., & Prasetyo, T. (2020). Hakikat Hukum Ekonomi (Internasional) Dalam Perspektif Teori Keadilan Bermartabat. Jurnal Hukum Ius Quia Iustum, 27(2). https://doi.org/10.20885/iustum.vol27.iss2.art5

Kelsen, H. (2019). Teori Umum Tentang Hukum dan Negara. Nusamedia, 656. https://opac.perpusnas.go.id/DetailOpac.aspx?id=667246

Kusnadi, S. A. (2021). Perlindungan Hukum Data Pribadi Sebagai Hak Privasi. Al Wasath Jurnal Ilmu Hukum, 2(1), 9–16. https://doi.org/10.47776/alwasath.v2i1.127

Lili Rasjidi dan B. Arief Sidharta. (1989). Filsafat Hukum Mazhab dan Refleksinya. Remaja karya.

Mahendra Gautama, I. D. G. A., & Purwanto, I. W. N. (2020). Pengaturan Pembatasan Kebebasan Pers Dalam Penyebaran Informasi Di Indonesia. Kertha Semaya : Journal Ilmu Hukum, 8(10). https://doi.org/10.24843/ks.2020.v08.i10.p12

Mahfud, M. (2014). Hermeneutika Hukum dalam Metode Penelitian Hukum. Kanun Jurnal Ilmu Hukum, 16(2).

Mahmud Marzuki dan Peter Mahmud. (2011). Penelitian Hukum, In jurnal Penelitian Hukum.

Mangesti, Y. A. (2017). KONSTRUKSI KODE ETIK PROFESI DALAM BINGKAI NILAI KEINDONESIAAN. VOCATIO : Jurnal Ilmiah Ilmu Administrasi Dan Sekretari, 1(1).

Mangesti, Y. A., Suhartono, S., & Mahyani, A. (2021). Ethico-Legal Aspects Of Personal Data Protection In Indonesia. International Journal of Educational Research & Social Sciences, 2(5).

Margiyono, M. (2020). Aplikasi Regional Sustainable Account (RSA) pada Keberlanjutan Perkotaan di Kalimantan Timur [Regional Sustainable Account (RSA) Application on Sustainabililty Urban in East Kalimantan]. Jurnal Ekonomi & Kebijakan Publik, 10(2).

Margiyono, M., Fauzi, A., Rustiadi, E., & Juanda, B. (2019). Kerugian Ekologis dalam Pembangunan di Provinsi Kalimantan Timur. Jurnal Ekonomi Dan Kebijakan Publik, 10(1). https://doi.org/10.22212/jekp.v10i1.1162

Marzuki, P. M. (2005). Penelitian Hukum. Kencana.

Marzuki, P. P. M. (2008). Penelitian Hukum. Penelitian Hukum.

Mertokusumo, S. (2014). Penemuan Hukum Sebuah Pengantar Edisi Revisi,. Yogyakarta: Liberty.

Moreland, M. P., & Pojanowski, J. A. (2020). The Moral of Torts. SSRN Electronic Journal. https://doi.org/10.2139/ssrn.3617969

Nikolić, O. (2020). The Cairo Declaration on Human Rights in Islam. Strani Pravni Zivot, 3. https://doi.org/10.5937/spz64-28285

Nonet, P. (1976). For Jurisprudential Sociology. Law & Society Review, 10(4). https://doi.org/10.2307/3053296

Nonet, P., & Selznick, P. (2017). Law & Society in Transition. In Law & Society in Transition. https://doi.org/10.4324/9780203787540

Nurhayati, Y., Ifrani, I., & Said, M. Y. (2021). Metodologi Normatif Dan Empiris Dalam Perspektif Ilmu Hukum. Jurnal Penegakan Hukum Indonesia, 2(1). https://doi.org/10.51749/jphi.v2i1.14

Oba, E. (2023). Penyelesaian Sengketa Pers Pencemaran Nama Baik Media Online Ditinjau Dari Undang-Undang Nomor 40 Tahun 1999 Tentang Pers. COMSERVA : Jurnal Penelitian Dan Pengabdian Masyarakat, 3(03). https://doi.org/10.59141/comserva.v3i03.871

Pasha, M. K., Ahmad, I., Mustafa, J., & Kano, M. (2019). Modeling of a nickel-based fluidized bed membrane reactor for steam methane reforming process. Journal of the Chemical Society of Pakistan, 41(2).

Philipus M. Hardjon. (2002). Pengantar Hukum Administrasi Indonesia Introduction to Indonesian Administrative Law. In Gajah Mada University Press.

Pojanowski, J. A. (2024). Private law formalism and jurisprudential method. In Methodology in Private Law Theory: Between New Private Law and Rechtsdogmatik. https://doi.org/10.1093/oso/9780198885306.003.0010

Prasetyo., T. (n.d.). Keadilan Bermartabat Perspektif Teori Hukum.

Prasetyo, T. (2015). Keadilan Bermartabat, Perspektif Teori Hukum, Cetakan Pertama. Nusa Media.

Purwadi Wahyu Anggoro, Khudzaifah Dimyati, Absori, Kelik Wardiono, & Waljinah, S. (2023). The Judicial Reasoning Behind Decision No. 262/Pid.B/2018/Pn.Skt on a Case of Mass Violence: The Perspective of Human Aggressiveness and the Ashobiyah Terminology. Jurnal Jurisprudence, 12(2). https://doi.org/10.23917/jurisprudence.v12i2.1314

R. Salman, O. (1989). Beberapa Aspek Sosiologi Hukum. In Beberapa Aspek Sosiologi Hukum.

Rachmat, I., Sumartono, & Jemat, A. (2017). Penggunaan media sosial youtube sebagai audio - visual record document management: studi eksplorasi aplikasi petunjuk perilaku broadcastin, standar program broadcast (p3 and sps) antv di program televisi pesbukers. Record and Library Journal, 3(1).

Radbruch, G. (2002). Introducción a la filosofía del derecho. In Breviarios. Filosofía del derecho (Vol. 42).

Rahardjo, S. (2012). Ilmu Hukum. Citra Aditya Bakti.

Rahmi. (2019). Kebebasan Pers Dan Demokrasi Di Indonesia. Jurnal Komunikasi Dan Kebudayaan, 6(1).

Rea, H. E. (2023). Keadilan Menurut Axel Honneth. Dekonstruksi, 10(01). https://doi.org/10.54154/dekonstruksi.v10i01.210

Roky Huzaeni, M. (2022). Kedudukan Hukum Pancasila dan Konstitusi dalam Sistem Ketatanegaraan Indonesia. Pancasila: Jurnal Keindonesiaan. https://doi.org/10.52738/pjk.v2i1.83

Rosyadi, I. (2021). Rekonstruksi Putusan Hakim Atas Hukum Pidana Dalam Komodifikasi Travel Umrah Di Indonesia. In Disertasi.

Rozi, M. F., & Purwanto, R. H. (2018). Tindak Pidana Penghinaan Dan Pencemaran Nama Baik Atas Karya Jurnalistik Ditinjau Dari Pasal 27 Ayat (3) Undang-Undang Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik. Jurnal Pro Hukum : Jurnal Penelitian Bidang Hukum Universitas Gresik, 7(2). https://doi.org/10.55129/jph.v7i2.745

Rustandi, N. (2022). Keterbukaan Informasi Publik dan Kebebasan Pers dalam Konteks Reformasi Birokrasi. Jurnalika : Jurnal Ilmu Komunikasi, 6(2). https://doi.org/10.37949/jurnalika6235

Sahara, S., & Suriyani, M. (2018). Poverty effectiveness for the maisir (Contest) in the city of Indonesian Aceh province. In Emerald Reach Proceedings Series (Vol. 1). https://doi.org/10.1108/978-1-78756-793-1-00046

Saleh, R. (1978). Masalah Pidana Mati. In Masalah Pidana Mati.

Sandi, K., & Nuraeni, R. (2018). Motivasi Wartawan Menjadi Anggota Kelompok Kerja Pemerintah Provinsi Jawa Barat. PRofesi Humas : Jurnal Ilmiah Ilmu Hubungan Masyarakat, 2(2). https://doi.org/10.24198/prh.v2i2.12618

Santoso, G., Abdul Karim, A., Maftuh, B., Sapriya, & Murod, M. (2023). Kajian Dinamika Demokrasi di Indonesia untuk Menjadi Tokoh Pahlawan Daerah dan Nasional RI Abad 21. Jurnal Pendidikan Transformatif (Jupetra), Vol. 02 No(01).

Saputro, L. A., & Anwar, A. S. (2023). Menyoal Pasal Penghinaan Presiden Dalam Kuhp: Antara Proporsionalitas Prinsip Primus Interpares Atau Kemunduran Demokrasi. Wicarana, 2(1). https://doi.org/10.57123/wicarana.v2i1.32

Setiono. (2004). Rule of Law (Supremasi Hukum).

Sheila Maria Belgis Putri Affiza. (2022). Penerapan Nilai-Nilai Pancasila Dalam Kehidupan Bermasyarakat Indonesia Demi Membangun Peradaban Dunia. STKIP Widya Yuwana Madiun 2022, 8.5.2017.

Smith, R. K. M., Christian, N. H., Ranheim, C., Arinanto, S., Falaakh, F., Soeprapto, E., Kasim, I., Rizki, R. M., Marzuki, S., Agus, F., Yudhawiranata, A., Sudjatmoko, A., Pradjasto, A., Eddyono, S. W., & Riyadi, E. (2018). Hukum Hak Asasi Manusia Materi. Universitas Esa Unggul.

Soediro. (2018). Prinsip Keamanan, Privasi, dan Etika dalam Undang-undang Informasi dan Transaksi Elektronik dalam Perspektif Hukum Islam. Kosmik Hukum, 18(2), 95–112.

Surbakti, D. (2015). Undang-Undang Pers Tahun 1999 Serta Perkembangannya. Jurnal Hukum PRIORIS, 5(1).

Takalelumang, R., Senduk, J. J., & Harilama, S. H. (2019). Penerapan Kode Etik Jurnalistik Di Media Online Komunikasulut. Acta Diurna Komunikasi, 1(3).

Tan, K., & Disemadi, H. S. (2022). Politik Hukum Pembentukan Hukum Yang Responsif Dalam Mewujudkan Tujuan Negara Indonesia. Jurnal Meta-Yuridis, 5(1). https://doi.org/10.26877/m-y.v5i1.8803

Teguh Prasetya dan Abdul Halim Barkatullah. (2009). Ilmu Hukum dan Filsafat Hukum Studi Pemikiran Ahli Hukum Sepanjang Zaman,. Pustaka Pelajar.

Zandy, J. (2019). Universal declaration of human rights. Radical Teacher, 113. https://doi.org/10.5195/rt.2019.591