

## Arrangements in the Field of Press in Indonesia

Mukhlis Muhammad Maududi<sup>1</sup>, Asmak Ul Hosnah<sup>2</sup>

<sup>1,2</sup>Universitas Muhammadiyah Jakarta Prof. Dr. Hamka, Indonesia  
[maoedoedi@gmail.com](mailto:maoedoedi@gmail.com)

### Abstract

*The development of media regulation in Indonesia follows the political rhythm. The rule of Government under President Sukarno (1959-1966) and President Suharto (1966-1998) put the press under rigorous control of the Government. The Government controls the media either through legislation or through licensing mechanisms. A media-stopped publisher is writing criticism, and then the Government will revoke its publishing license. The editor of a critical media will serve life in prison after its publication is eradicated. The revocation of the media licenses never went through a judicial process. The Government strictly restricts the right to free speech and information rights for citizens. Political reforms after Suharto's Government in 1998 brought a strengthening of press freedom*

### Keywords

*Media; freedom of the press; information rights; politics; permission issued.*



### I. Introduction

The press is one of the instruments for implementing independence of opinion as stipulated in the 1945 Constitution. The constitutional guarantee for freedom of view indicates that recognizing the independence of thought is fundamental for every citizen. The arrangement in the constitution hints at the importance of guaranteeing independence to issue opinions both orally and in writing. Freedom of thought itself has a broad aspect because it is not limited to giving ideas orally and in writing, but also to the right to communicate both accepting and conveying thoughts, criticisms, and dissent.

The critical role of the press is undeniable in realizing freedom of opinion and the right to communicate. The intense relationship between freedom of the media and the independence of thought described as the destruction of press independence also means the destruction of freedom of opinion. Freedom of the media itself means freedom of conveying information impartially. The impartiality of the press is essential because if the press takes sides, then the first victim is the community. Therefore, the freedom of the press was later limited by professional ethics and laws governing the press. This press arrangement is found in almost every country, including countries that glorify individual freedom, as in England. Press-related performances in the country are also held through laws that do not specifically regulate the press, for example, the Defamation Act of 1952.

Development is a systematic and continuous effort made to realize something that is aspired. Development is a change towards improvement. Changes towards improvement require the mobilization of all human resources and reason to realize what is aspired. In addition, development is also very dependent on the availability of natural resource wealth. The availability of natural resources is one of the keys to economic growth in an area. (Shah, M. et al. 2020)

Related to the function of instruments for the implementation of freedom of opinion, the role of the press becomes vital in the development of democracy. The importance of the role of the press then puts the media in a noble position that is the fourth pillar of democracy. The importance of the press illustrated that a journalist wrote that "Journalism

exists for democracy." The role of the press is shown through the function of the press to provide around government activities and thoughts that develop in the community about a policy or government activity that affects the field of public life in general. The role of the press was again described as "journalism exists to fulfill the rights of citizens." Economic actors, basically have very important functions. Because it has two functions at once, namely as a supplier of all the needs of the community, both primary, secondary and tertiary. At the same time, they also function as absorbers of community labor, which can economically increase purchasing power. (Ansari, T. 2019)

Press arrangements are conducted through professional and legal codes of ethics. The professional code of ethics is determined by the professional organization of the press, which can be both internal and external arrangements. The existence of external aspects of the press code of ethics is caused because press products intersect with the community's interests. It means that public space is open to making corrections to a report that is considered detrimental to a member of the public or parties outside the press. At the same time, the legal arrangements related to the media and press publishing institutions themselves are legal subjects with rights and responsibilities. This legal arrangement is both criminal and state administration. Criminal sequences are related to criminal decals that arise when a report is considered detrimental to other legal subjects, such as defamation. The legal side of ordinary state administration is related to publishing a press publishing business. The legal side of state administration and criminal law can be found in legal products that specifically regulate the press and general rules and regulations such as the Book of Criminal Law.

This section will be discussed press arrangements in three eras of government, namely the Old Order Era under President Sukarno, the New Order Era under the government of President Suharto, and in the post-government period of President Suharto or the Reform Era. This section is essential to critically examine how far the legal arrangements help nourish the freedom of the press or otherwise shackle press freedom. The press regulation is vital because the rule will give a legal framework for recognizing and protecting the press and the public interest. The external relations of the press are also related to the government and the public. This legal arrangement of the press is a universal phenomenon and an inevitability.

## **II. Research Method**

Research is conducted through a multidisciplinary approach with sociological normative research methods. The interdisciplinary approach, i.e., law, economics, and politics, is intended to get a comprehensive picture of the object. The issues studied are based on formal juridical and political foundations on press arrangements.

Legal research methods are normatively sociologically intended to know about legal rules and social phenomena. Such research is intended to test the effectiveness of legal arrangements and find problems that need to get legal structures immediately.

With this method, researchers examine the juridical standards in the law and court decisions. Furthermore, library research is conducted to obtain data from primary, secondary, and tertiary legal materials, such as concepts, legal methods, and legislation. There are two broad categories of legal literature:

- a). primary sources and,
- b). secondary materials.

The primary sources of the law are the recorded rules imposed by the state; these sources can be found in the decisions of appeals courts, laws passed by legislators, executive decisions, and the rules and decisions of administrative institutions.

Secondary sources in legal research include treaties, Lacson books, practice manuals, and legal writing in legal journals. Secondary sources can help analyze problems and provide research references for primary and secondary materials.

### **III. Result and Discussion**

In Guided Democracy, Sukarno (1959-1966) ended Law No. 11 of 1966 on The Basic Provisions on the Press. The law was initially considered an important milestone for the life of the national Press. This law is the first umbrella rule for the Press. However, then this law not only provides the press with a function of illumination, but the press also assumes a political role.

In the Sukarno era, the press also became the revolutionary guard. The press organizes Pancasila Democracy actively and creatively. Pers has a role as "a tool of revolution, a social tool of control, a tool of educators, a tool of channeling and forming of public opinion as well as a tool of mass mobilization." Law No. 11 of 1966 defines the function of the press as "an active, dynamic, creative, educative and informative mass media and as a driver and nurturing critical and progressive mind throughout the lives of Indonesian society."

Law No. 11 of 1966 cannot be separated from criticism because there is a contradiction between the guarantee of press freedom on the one hand and the issue of licensing for press publication. This law does guarantee freedom of the press as part of the human rights of citizens. It also ensures that there will be no censorship and closing against the national media. But the implementation of the guarantee of press freedom seems to be reflected in connection with the necessity of the press as also a tool of revolution.

The necessity to obtain a License (SIT) for the press was the target of criticism for Law No. 11 of 1966. In the future, the need to get SIT and its revocation process without judicial process becomes an obstacle to press freedom. The necessity to have SIT for the press is then reinforced again through the Regulation of the Minister of Information No. 03 of 1969.

The Press Council was introduced Law No. 11 of 1966. This institution is given the function to assist the government in fostering the growth and development of the national press. By looking at the management structure of this institution, it is proven that this institution is not independent because the Minister of Information leads this institution. The position of the Minister of Information as Chairman of the Press Council is not through an election as befits an organization, but direct appointment through this law.

Law No. 11 of 1966 had anticipated that the Minister of Information would not concentrate on his position as Chairman of the Press Council, therefore required the Daily Chairman of the Press Council. The membership of the Press Council consists of representatives of press organizations and experts in the field of the press. This law does not regulate the requirements and number of members of the Press Council as well as the duties and mechanisms of work and organization of the Press Council, as it shall further be regulated in a Government Regulation.

Law No. 11 of 1966 guarantees government assistance to the press's survival. Government assistance will be in the form of press publishing facilities. The explanation of Article 12 of this law states that government assistance is provided in the event of an economic condition that does not allow the press company to be able to meet its own needs

Without government assistance. The assistance is an emergency only because the publication of the press in principle must strive for the efforts of the press itself.

Law No. 11 of 1966 also regulates, in general, the standards of the profession for journalists. The standardization of the journalistic career is submitted further to the organization of the press profession and mass media where journalists work. The standardization of the journalistic career is also related to educational institutions where to print prospective journalists before they start journalistic work.

An important aspect also regulated in Law No. 11 of 1966 is press accountability, which consists of editorial responsibility and legal responsibility. The editor-in-chief shoulders editorial responsibility. The editor-in-chief, therefore, must exercise the right of answer and right of correction to news that is considered detrimental to a third party or proven wrong. The general leader has a broader responsibility than the editor-in-chief, responsible for the entire issuance both in and out of press publishing. However, this legal liability coverage is like a waterfall because it can be moved tiered down.

The general leader can transfer legal liability coverage to the editor-in-chief regarding the content of the news (editorial). The editor-in-chief can share legal responsibility with the managing editor. The managing editor can transfer responsibility to the editor of the news field in question. Eventually, the editor can also share his legal duties with the reporter. Because the transfer of legal obligation is declining downwards, this legal liability coverage system is called the waterfall liability coverage system. However, this law does not explain the extent to which this decrease in responsibility can be lowered at what level in the organizational structure of press publishing.

This downward-tiered legal liability system (waterfall) is considered unfair because the work of the press is collective through correction mechanisms and decision-making to bring down a news story. If only the waterfall answer coverage system is used for all cases, then press workers at the bottom position will bear the most responsibility, even though these workers have the least authority in the structure of media organizations. Thus, there is an injustice and imbalance between rights and obligations in the mechanism of accountability in the waterfall system.

In the context of corporate issues, general leaders can also transfer legal liability coverage to company leaders. This aspect of liability coverage is also unfair because, in the working mechanism of the press company, the final decision-making is on the general leader. Company decisions are also taken collectively through the company's leadership meeting. That is, the legal responsibility remains on the collective responsibility system.

Suharto's era (1996-1998) gave birth to Law No. 4 of 1967, which did little to bring about changes to Law No. 11 of 1966 because it only added one new paragraph in Article 21 of Law No. 11 of 1966. The addition of the new provisions signals relatively greater press freedom due to restrictions on the circulation of the national press in the form of bulletins, newspapers, and periodical publications.

Law No. 4 of 1967 explicitly does not repeal Law No. 11 of 1966. The political policy of press law still refers to Law No. 11 of 1966. The fundamental change to the new press regulation occurred when law No. 21 of 1982 on Amendments to Law No. 11 of 1966 on the Press as amended by Law No. 4 of 1967. This change in press law was initially greeted with enthusiasm in line with expectations of increased press freedom. But that hope ends with the provision of the regulation of obligations to have a Press Issuance Business License (SIUPP) instead of the responsibility to own a License Issue (SIT) as stipulated in Law No. 11 of 1966. Article Provision 13 paragraph (5) of Law No. 21 of 1982 requires every legal entity must first have a SIUPP to publish media. Article

provision 13 section (5) is slashed a contrario can be interpreted that if the government cancels the SIUPP of a press, then the media must stop its publishing business activities.

The shackles of press freedom are the obligation to have a SIUPP and its cancellation mechanism that is never transparent. In addition to the mechanism of control through the Press Council or "telephone agency," the press has its tool for self-control (self-imposed censorship). Self-censorship is mainly against news stories containing SARA elements (likes, between groups, races, and religions) and alludes to government policies. This phenomenon of self-censorship has resulted in the emergence of alternative mass media, namely a form of publishing without SIUPP managed by pro-democracy groups led by students and independent journalist organizations.

The presence of Law Number 21 of 1982 substantively means less to the progress of press independence compared to Law No. 11 of 1966. Changes to some provisions in Law No. 11 of 1966 are only adjustments to the times. For example, the change of some ideological meanings in which is insisted in Law No. 11 of 1966, for instance, among others "tools of revolution" become "guardians of Pancasila ideology" and "Pancasila Socialist Press."

Pancasila or Five Principles is the Indonesian state philosophy. Pancasila is stated in the Preamble of the 1945 Constitution. Then-President Sukarno formulated it during a speech on June 1, 1945. The Five Principles: the belief in one God, just and civilized humanity, Indonesian unity, democracy under the wise guidance of representative consultations, and social justice for all the peoples of Indonesia.

Fundamental changes to the equality relationship between the Government and the Press Council. The formulation in Law No. 11 of 1966, which reads "Government together with the Press Council," was changed to "Government after hearing the deliberations of the Press Council." With this change, the function of the Press Council is only limited to hearing its consideration of a pressing issue, no longer being a party that is with the Government to decide a problem.

The end of President Suharto's Government on May 21, 1998, brought hopes of change to the life of the press. President B.J. Habibie as Suharto's successor, immediately realized the hopes of press independence through Information Minister Muhammad Yunus Yosfiah and amendments to Law No. 21 of 1982. The policies made by Yosfiah are considered by many as the beginning of the return of press freedom. The minister of information facilitated the SIUPP licensing process and promised no more SIUPP cancellations.

A fundamental change to the life of the press in Indonesia in the reform era is the enactment of Law No. 40 of 1999. The reform movement that brought down the Suharto regime in 1998 has had a massive impact on the lives of the Indonesian press. In Habibie's time, through Yosfiah, he had given birth to a package of deregulation in the field of lighting. There is a policy, among others, to remove the single container of journalist organizations, which was initially in the hands of the Indonesian Journalists Association (PWI) as stated in Decree Ministry of Information Number 47 of 1975. After the repeal of this provision, there are now 32 professional press organizations.

In addition to removing a single container of journalists, there is also a policy that loosens the necessity of press issuance using Press Publishing Business Licenses. The Regulation of the Minister of Information No. 01 of 1984 was also finally revoked. Anyone can publish a press publication like a flood- at once - out of control. In that year also came the Decree of the People's Consultative Assembly No. 17, 1988 on human rights. Article 20 stipulates, "Everyone has the right to communicate and obtain information to develop his or her personal and social environment."

A year later was born Law No. 40 of 1999 concerning the Press. This law is considered very reformist because it has removed the issuance permit. That's when the press in Indonesia became free.

To show the progress of press regulation that gives space for great press freedom, the following will outline some of the main points of this law that are considered as strengthening press freedom, namely:

- 1) Article 2 of Law No. 40 of 1999, states that "the independence of the press is the embodiment of the sovereignty of the people based on the principles of democracy, justice and the rule of law.
- 2) Article 4 paragraph (1) of Law No. 40 of 1999, which states that "freedom of the press is the fundamental human right of citizens in order to uphold justice and truth and promote and educate the nation."

The two provisions in Law No. 40 of 1999 mentioned above have expanded the meaning of press freedom, which is related to the internal circles of the press and, more fundamentally, in the form of recognition of press freedom as an embodiment of people's sovereignty and the human rights of citizens.

The influence of press law reform also penetrated the field of publishing. The enactment of Law No. 40 of 1999 has opened a corridor of freedom for the press wide open. Freedom of the media in the form of freedom to publish media with the process of obtaining permits that are facilitated has increased the number of mass media sharply since 1999. According to the Union of Newspaper Publishers, there were 1687 publications in 1999 and 1935 in 2001.

#### **IV. Conclusion**

Regulation of the press follows the pattern of the political system of government. The legal product of the media is responsive and pro-open when the system of government practiced is democratic. Correlation is essential between politics and law. Laws and regulations are a product of politics because they are born through politics and institutions. The political situation dramatically affects the birth of law.

Regulation in the Era of Sukarno's Guided Democracy (1959-1966), the press not only became a tool of disseminating information in the general sense but also burdened as a "tool of revolution." Pers also had a role as the political mouthpiece of Sukarno's anti-western and anti-capitalism regime."

Law No. 11 of 1966 on the Press is ambiguous. On the one hand, it guarantees freedom of the press, but on the other hand, it requires a license for the publication of the media. The implementation of the guarantee of press freedom seems to be reflected in connection with the necessity of the press as a tool of revolution.

The beginning of Suharto's reign as Sukarno's replacement in 1966 brought a wind of hope for press freedom. But history records that Law No. 4 of 1967 did little to bring about changes to Law No. 11 of 1966.

Suharto's government restricted the circulation of the national press in the form of bulletins, newspapers, and periodical publications.

The government restricts the press with the obligation to have a publishing permit for media companies as stipulated in Law No. 21 of 1982. The responsibility to have a Press Issuance Business License (SIUPP) replaces the Issuance License (SIT) as specified in Law No. 11 of 1966. If the government cancels the SIUPP of a media, then the media must stop its publishing business activities.



In the post-Suharto era, on May 21, 1998, there was an essential change in the press. The fundamental shift for the life of the media in Indonesia in the reform era is the enactment of Law No. 40 of 1999 on the Press.

The government of BJ Habibie as Suharto's successor gave birth to a package of deregulation in lighting.

The government removed the single container of journalist organizations and relaxed the necessity of press issuance using Press Publishing Business Licenses (SIUPP). In 1999 through Law No. 40 of 1999 on the Press, this was a milestone of press freedom. However, the space in question is not as freely as possible but the responsible release a free and responsible press.

## References

- Abidin, Wikrama Iryans. (2005). *Politik Hukum Pers Indonesia*, [Indonesian Press Law Politics], Jakarta: Grasindo.
- Ansari, T. (2019) Reminding State Owned Enterprises (BUMN) Management Using the Principle of 'Business Judgment Rule': A Preliminary Note. *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)*. P. 27-38
- Armada, S.A., Wina. (1989). *Wajah Hukum Pidana Pers*, [The Face of the Press Criminal Law], Jakarta: Pustaka Kartini.
- De Tocqueville. (1994). *Alexis Democracy in America*, with introduction by Alan Ryan, London: Everyman's Library.
- Henkin, Louis. et. al. (1999). *Human Rights*, New York: Foundation Press.
- Kovach, Bill dan Tom Rosenstiel. (2004). *The Elements of Journalism, What Newspeople Should Know and the Public Should Expect*, Indonesian translation by Yusi A. Pareanom, second printing, Jakarta: Institute Studi Arus Informasi.
- Lembaga Kajian Hukum dan Teknologi Fakultas Hukum Universitas Indonesia. (2004). *Pengkajian terhadap Pelaksanaan Undang-undang Nomor 40 Tahun 1999 tentang Pers untuk Pengembangan Pers Indonesia*, [Institute of Legal and Technology Studies, Faculty of Law, University of Indonesia, Assessment of the Implementation of Undang Law No. 40 of 1999 on Press for The Development of The Indonesian Press], Jakarta: Research reports not published).
- Lubis, Todung Mulya. (1993). *In Search of Human Right, Legal-Political Dilemmas of Indonesia's New Order, 1966-1990*, Jakarta: Gramedia.
- Shah, M. et al. (2020). *The Development Impact of PT. Medco E & P Malaka on Economic Aspects in East Aceh Regency*. *Budapest International Research and Critics Institute-Journal (BIRCI-Journal)*. P. 276-286.
- Wade, E.C.S. dan G. Godfrey Phillips. (1957). *Constitutional Law, An Outline of the Law and Practice of the Constitution, Including Central and Local Government and the Constitutional Relations of the British Commonwealth*, fifth edition, London: Longmans, Green, and Co.