

# Right of Reply and Correction of the Press Toward Reporting the Media

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## ABSTRACT

Law Number 40 of 1999 concerning the Press is a special provision that regulates the implementation of journalistic activities, starting from searching, sorting and reporting them to the mechanism for solving problems that arise as a result of press reporting. The universal principle applies, *Lex specialist de rogate legi generali*, special provisions override general provisions. Indonesian journalists serve the right of reply and right of correction proportionally. In order to resolve differences in perception between the press and those who are disadvantaged, the press provides resolution of press disputes by using the right of reply and correction. The purpose of this study was to determine and analyze the position of Law Number 40 of 1999 concerning the Press in terms of the perspective of the hierarchy theory and the existence and position of the right of reply and the right of correction based on Article 5 of Law Number 40 of 1999 concerning the press associated with Article 10 of the Council Regulation. Press Number: 6/Peraturan-DP/V/2008 concerning Ratification of Press Council Decree Number 03/SK-DP/III/2006 concerning Journalistic Code of Ethics as a Press Council Regulation. Normative juridical research used in this study. The position of Law Number 40 of 1999 concerning the Press from a Theoretical Perspective In seeking, processing and conveying press information, the provisions stipulated in the Press Law and the Journalistic Code of Ethics shall apply. the press to work based on journalistic principles, including the press, still obtain legal protection in carrying out their profession. Thus the press remains free to seek, obtain, possess, store, process and broadcast information.

Keywords: Right of Reply, Right of Press Correction.

## **A. Background of Problem**

Law Number 40 of 1999 concerning the Press is one of the most unique laws in Indonesian history. Against the backdrop of the spirit of reform, this law does not at all provide an opportunity for the government to interfere in matters relating to the management of press freedom. This is the only law that does not provide an opportunity for the emergence of "government regulations" as the position of implementing the law. In fact, almost all laws for their implementation are regulated by government regulations.

In Indonesia, the digital media phenomenon with its consequences in the press area has given rise to a number of new regulations. First, the ratification of the Cyber Media Guidelines which becomes a guideline for online media in carrying out their journalism activities. These guidelines are complementary to the Journalistic Code of Ethics and the Press Law. Second, the Law on Information and Electronic Transactions. This law is not explicitly intended for the press in the area of digital media. However, in some cases, journalists or even online media have been ensnared by this law. In this condition, it becomes important to put the press law and press freedom back in the context of the digital media ecosystem.

It is connected between Article 5 of Law Number 40 of 1999 concerning the Press and Article 10 of the Regulation of the Press Council Number 6/Peraturan-DPN/2008. Press freedom is a manifestation of popular sovereignty based on the principles of democracy, justice, the rule of law, and human rights. Press freedom needs to be utilized as much as possible for the benefit of the community, nation and state. The implementation of press freedom can be realized by an independent, professional press that adheres to the principles, functions, rights, obligations, and roles in accordance with Law Number 40 of 1999 concerning the Press, as well as the Journalistic Code of Ethics. In carrying out its roles and functions, the press is obliged to provide proportional access to the public to participate in maintaining press freedom and respecting the community's right of reply. For this reason, the Guidelines for the Right to Reply have been compiled. The Right to Reply is the right of a person, group of people, organization or legal entity to respond and refute reports or journalistic works that violate the Journalistic Code of Ethics, especially errors and inaccuracies in facts, which harm their good name to the press who publish them.

The issue of the media ecosystem is the point of view used in this research to see the relevance of the Press Law and the spirit of press freedom in various press activities in digital media. Normatively, the assumption is that the press law is the main and only law that regulates the press in Indonesia. Empirically, this assumption is also associated with various developments of digital media platforms which have wider consequences and sometimes cannot be accommodated in the press law alone. Therefore, the starting point to see this logical consequence will be departing from ecological media for journalism activities in digital media.

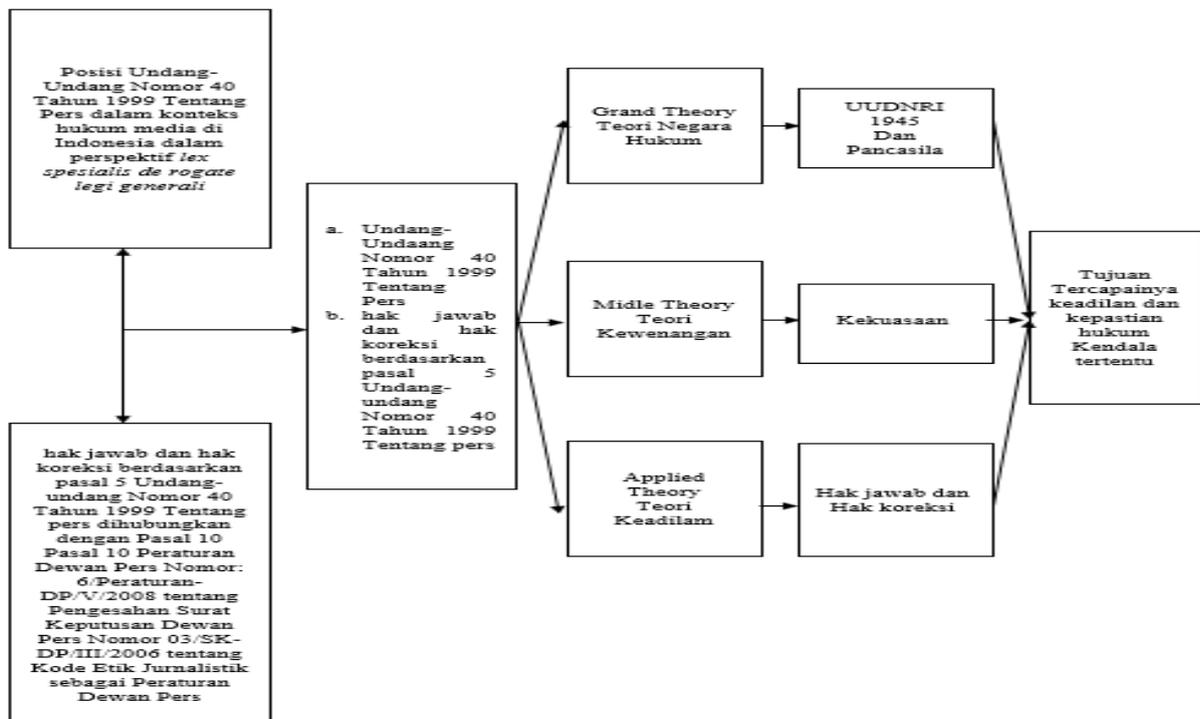
Based on the description above, the researcher is interested in conducting research and examining the Right of Answer and Right of Correction of the Press Against Digital Media on Reporting In terms of Article 5 of Law Number 40 of 1999 concerning the Press linked to Article 10 of the Regulation of the Press Council Number: 6/Peraturan-DP/V/2008 concerning the Ratification of the Decree of the Press Council Number 03/SK-DP/III/2006 concerning the Journalistic Code of Ethics as a Regulation of the Press Council.

## B. Focus of Problem

From the description in the background, the problem is formulated as follows:

1. How is the position of Law Number 40 of 1999 concerning the Press viewed from a hierarchical theory perspective?
2. How is the existence and position of the right of reply and right of correction based on Article 5 of Law Number 40 of 1999 concerning the press in connection with Article 10 of the Regulation of the Press Council Number: 6/Peraturan-DP/V/2008 concerning Ratification of the Decree of the Press Council Number 03/ SK-DP/III/2006 concerning Journalistic Code of Ethics as a Press Council Regulation?

## C. Structure of Thinking



### **C. Research Method**

1. Writing this thesis is essentially a research in the field of law, the method used in this research is library research.

2. Sources of data used for analysis in this study are:

Normative juridical research is research conducted based on the main legal material by examining theories, concepts, legal principles and laws and regulations related to this research. This approach is also known as the library approach, namely by studying books, laws and regulations and other documents related to this research.

3. Research Approach

a. Statute/Legislation Approach (Statute Approach).

This research is a research by collecting data and researching through reading sources, analyzing legislation and other documentation such as scientific papers, newspapers, internet and other sources related to the title of this thesis.

b. Conceptual Approach (Conceptual Approach).

This approach departs from the views and doctrines that develop in the science of law. This approach is important because an understanding of the views/doctrines that develop in legal science can be the basis for building legal arguments when solving legal issues at hand..

4. Research Data

a. Primary Research Data

Primary legal data, namely binding legal data, in the form of national legal sources obtained from the State Gazette of the Republic of Indonesia which contains laws and regulations relating to the writing of this thesis, namely::

- 1) the 1945 Constitution as amended IV
- 2) Law Number 40 of 1999 concerning the Press.
- 3) Press Council Regulation Number 6/Peraturan-DPN/2008 concerning Ratification of Press Council Decree Number 03/SK-SP/III/2006 concerning Journalistic Code of Ethics as a Press Council Regulation

b. Secondary Research Data

Secondary research data, namely legal data that explains primary legal data, such as opinions and theories as well as research results. Sources of research

data obtained through intermediary media in the form of books, journals, articles.

#### 5. Technique Data Collection

Data collection techniques carried out by the author is data collection by library research (Library Research).

#### 6. Data analysis

##### a. Interpretation and Legal Regulation

Legal research conducted by the author uses the technique of analyzing legal materials using the interpretation method.

##### b. Legal Hermeneutics.

This type of research is descriptive qualitative research using hermeneutic analysis method. This study uses a qualitative approach because the priority is the quality of the analysis

### **D. Finding & Discussion**

#### **1. The Position of Law Number 40 of 1999 Concerning the Press From the Perspective of Hierarchical Theory**

The Press Law which was ratified and promulgated on September 23, 1999, and published in the State Gazette of the Republic of Indonesia Year 1999 Number 166, consists of 10 chapters and 21 articles.

- a. Chapter I Article 1 regulates general provisions.
- b. Chapter II Articles 2, 3, 4, 5, and 6 concerning the principles, functions, rights, obligations and roles of the press.
- c. Chapter III articles 7, 8, concerning journalists.
- d. Chapter IV Articles 9, 10, 11, 12, 13, and 14 concerning press companies.
- e. Chapter V Article 15 concerning the press council.
- f. Chapter VI Article 16 concerning foreign press.
- g. Chapter VII Article 17 regarding community participation.
- h. Chapter VIII Article 18 regarding criminal provisions.
- i. Chapter IX Article 19 regarding transitional provisions.
- j. Chapter X Articles 20 and 21 regarding closing provisions

If grouped, broadly speaking, there are five main things regulated in the Press Law. The first is regarding press institutions or companies, including the roles and functions of press institutions, and the obligations of press institutions. The second

is matters relating to the implementation of journalists' duties. The third is the regulation of the signs that journalists must obey. The fourth concerns the supervision of journalists. Fifth is the provision regarding sanctions for violations that can be subject to criminal sanctions. Whereas in a democratic country, freedom of the press is a prerequisite for upholding people's sovereignty, because the existence of the press is actually a representation of the existence and social role of the nation's society. A democratic country will lose its democratic predicate without freedom of the press”<sup>1</sup>

One of the human rights contained in the provisions of The Universal Declaration of Human Rights is the freedom to express thoughts and feelings. As stated in Article 19 of the UN Declaration of Human Rights, "Everyone has the right to freedom of opinion and expression". One of the manifestations of freedom of expression is through press freedom. Furthermore, the relationship between human rights and press freedom can also be seen from Article 4 point 1 of the Press Law which states, "Freedom of the press is guaranteed as a human right of citizens".

The Press Law was issued in a reformed atmosphere. At that time the demand for press freedom was considered very urgent to be one of the reform agenda. This awareness arises because the press is the fourth pillar that must exist in a democratic country. They carry out social control functions in the course of government so that corruption, collusion and nepotism do not occur. The press during the New Order era was in an authoritarian press, namely a press system that placed the media as a government propaganda tool. The function of the press at that time was to justify the truth according to the state about various issues that arose in people's lives. The press may issue criticism as long as it does not conflict with the interests of the status quo. Media licensing authority is in the hands of the government. Permissions can be unilaterally revoked at any time, and press censorship is strictly enforced.

In legal study applies the adage *lex specialis derogat legi generalis* applies, laws that are specific in nature override general laws. This adage was put forward when in a number of cases, especially criminal offenses involving the press, the view emerged that the Press Law was *lex specialis* to the Criminal Code. This

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<sup>1</sup>Artidjo Alkostar, Kebebasan Pers Sebagai Manifestasi Hak Azasi Manusia, Jurnal Dewan Pers 12, no. 9 (2016), hlm. 23–31

assumption exists because the Press Law is intended only to regulate and resolve problems that arise as a result of the role and function of the press in carrying out journalistic activities..

“Toward this view, Tjipta Lesmana’s opinion that the Press Law cannot be enforced as a *lex specialis* because it does not meet the formal or material requirements regarding special legal doctrines..”<sup>2</sup>

Based on the description above, the writer is of the opinion regarding the position of Law Number 40 of 1999 concerning the Press from a Hierarchical Theory Perspective. 40 of 1999 *lex specialis* supported by the implementation of the Journalistic Code of Ethics. Although it is realized that the press itself is not a value-free or neutral institution, because the press has a tendency to make mistakes, among others in the form of: loading pornography, character assassination against someone, spreading fake and provocative news, serving misleading advertisements; and the involvement of unprofessional journalists.

## **2. The existence and position of the right of reply and the right of correction based on Article 5 of Law Number 40 of 1999. Linked to Article 10 of the Regulation of the Press Council. 6/Regulation-DPN/2008**

In this case, the Press Law Number 44 of 1999 has an important existence as the realization of responsible press freedom. A free press is one of the most essential components of a democratic society, as a prerequisite for good social and economic development. The press is often mentioned as the fourth pillar of a democratic system.

“Freedom of the press is a prerequisite for upholding people's sovereignty, because the existence of the press is actually a representation of the existence and social role of the nation's society. A democratic country will lose its democratic predicate without freedom of the press.”<sup>3</sup>

In simple terms, democracy can be defined as power in the hands of the people, or power by the people. Democracy has two aspects, namely procedural aspects and substantive aspects. Democracy in the procedural aspect tries to answer the problem of how the people can participate in governing and overseeing the government, such as choosing national leaders and people's representatives in

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<sup>2</sup>Tjipta Lesmana, *Pencemaran Nama Baik dan Kebebasan Pers: antara Indonesia dan Amerika*, (Jakarta: Penerbit Erwin-Rika Press, 2005), hlm. 194.

<sup>3</sup> Artidjo Alkostar, *Kebebasan Pers Sebagai Manifestasi Hak Azasi Manusia*, Jurnal Dewan Pers 12, no. 9 (2016): 23–31

general elections, decision-making processes in public policies, effective oversight mechanisms of the government, parliament, judiciary and so on. Democracy in the substantive aspect touches on any issues that can be regulated by the government.

In Article 5 paragraph (2) and paragraph (3) of Law Number 40 of 1999 concerning the Press there are rights of reply and rights of correction.

Chapter 5 is :

1. The national press is obliged to report events and opinions by respecting religious norms and the sense of public morality and the principle of presumption of innocence.
2. The press is obliged to serve the right of reply.
3. The press is obliged to serve the Right of Rejection.

The press is believed by some to be the fourth pillar of democracy (fourth estate) in addition to the other three pillars, namely the executive, legislature and judiciary. Because that's the press in the homeland independence must be guaranteed in carrying out its functions. However, the function of the press must be carried out in accordance with the applicable legal corridors“The press has a very big role in guaranteeing and actualizing democracy. In addition to carrying out the control function, the big role of the press in democracy is as a communicator of the people (the public) to state administrators in a democracy. This role is increasingly important in a democracy which is not only carried out by a small group of people, but also an increasingly elitist democracy.”<sup>4</sup>

History records, the first Press Law was issued in 1854. Miftahul Habib quoted Taufif Rahzen et al, mentioning:

“This chapter began with the emergence of the Press Law issued by the colonial government. The relaxation of press activities began to be enforced in this era. Indigenous people began to play a role in the world of the press at this time. A number of newspapers began to involve the natives in the production process even though ownership was still held by Europeans.”<sup>5</sup>

“The New Order government provided "fresh air" in the form of MPR Decree No. II and IV of 1978 regarding changes to the Basic Law on the Press and Guidelines for the Understanding and Practice of Pancasila to calm

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<sup>4</sup>Bagir Manan, *Kemerdekaan Pers! Mengapa Dan Untuk Apa*, Jurnal Dewan Pers 12, no. 9 (2016): 15-22

<sup>5</sup>Miftahul Habib F, *Pers Dan Bangkitnya Kesadaran Nasional Indonesia Pada Awal Abad XX*, ISTORIA Jurnal Pendidikan dan Ilmu Sejarah 13, no. 1 (2017): 21–32.

the national press which in 1978 experienced turmoil. Then the realization of Law No. 21 of 1982 concerning the enactment of the Pancasila press system and the abolition of the Publication Permit to convince press members of the New Order government and that the new press system is a press system free from censorship and restraint as expected by press publications..”<sup>6</sup>

Furthermore, Law No. 40 of 1999 concerning the Press was born as a response to the demands for reform that was pioneered by the student movement in 1998.

“Freedom of the press is seen as an important factor in controlling power, after the New Order regime was under restraint. However, Law No. 40 of 1999 only provides opportunities or opportunities for press freedom. Substantively, press freedom depends on the toughness of the press to always try to fill and maintain it.”<sup>7</sup>

So based on the above description, the existence of press law continues to experience dynamics and gives birth to various other legal products that specifically regulate the press. the law adopted into the law of the press to regulate the press in the country, can also provide a shield or protection for the press as long as it complies with the rules that have been set. A good protection system will certainly encourage creativity to work which in turn can improve and improve the welfare of the community.

Based on the author's opinion regarding the existence and position of the right of reply and the right of correction. 6/Peraturan-DPN/2008, in implementing the law of the press in reporting in the mass media, violations of the law that occur have consequences according to the law that is violated. If the news broadcast violates the Press Law Number 40 of 1999 and the Journalistic Code of Ethics, the consequences are in accordance with the legal rules of the Press Law and the Journalistic Code of Ethics, namely through the right of reply mechanism. In seeking, processing and conveying press information, the provisions stipulated in the Press Law and the Journalistic Code of Ethics shall apply. the press to work based on journalistic principles, including the press, still obtain legal protection in

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<sup>6</sup>Afandianto, *Pers Pancasila Kehidupan Pers Pada Masa Orde Baru (Tahun 1978 - Tahun 1993)*, Avantara, e-Journal Pendidikan Sejarah 3, no. 3 (2015): 554–561.

<sup>7</sup>Bagir Manan, *Pers Indonesia Dan Hari Kemerdekaan Pers Sedunia*, Jurnal Dewan Pers 13, no. 12 (2016): 13–16

carrying out their profession. Thus the press remains free to seek, obtain, possess, store, process and broadcast information.

So the relationship between the legal products of the press that apply to the national press in the press law rules derived from the Press Law and the Journalistic Code of Ethics is:

1. Guidelines for the application of the right to refuse and legal accountability in journalistic cases;

Based on article 5 paragraph (3) it reads that the press is obliged to serve the right to refuse. Meanwhile, Article 7 of the Journalistic Code of Ethics reads that Indonesian journalists have the right to refuse to protect sources whose identity or whereabouts are not known, respect the provisions of the embargo, background information, and "off the record" in accordance with the agreement.

#### Interpretation

- a. The right to refuse is the right not to reveal the identity and whereabouts of the informant for the safety of the informant and his family.
- b. Embargo is a delay in loading or broadcasting news according to the request of the source.
- c. Background information is any information or data from a source that is broadcast or reported without mentioning the source.
- d. "Off the record" is any information or data from sources that should not be broadcast or reported.

#### Reply rights guidelines;

Based on article 5 paragraph (2) the press is obliged to serve the right of reply. Based on Article 10 and Article 11 of the Journalistic Code of Ethics, it reads Article 10 reads that Indonesian journalists immediately revoke, rectify, and correct false and inaccurate news accompanied by apologies to readers, listeners, and or viewers.

#### Interpretation

- a. Immediate means action in the quickest possible time, whether or not there is a warning from an outside party.
- b. The apology was delivered when the error associated with the main substance.

Article 11 reads that Indonesian journalists serve the right of reply and right of correction proportionally.

## Interpretation

- a. The right of reply is the right of a person or group of people to provide a response or rebuttal to the news in the form of facts that are detrimental to his good name.
- b. The right of correction is the right of every person to correct incorrect information reported by the press, both about himself and about other people.
- c. Proportional means equivalent to the news section that needs to be repaired.

## **E. Conclusion.**

1. The position of Law Number 40 of 1999 concerning the Press from a Hierarchical Theory Perspective is that in the end, the handling of press problems has now reached the point of implementing Law no. 40 of 1999 *lex specialis* supported by the implementation of the Journalistic Code of Ethics. In this principle, a series of norms contained in general legal rules remain valid, unless there are special provisions in the special legal rules. The *lex specialis* set of norms must exist at the same level of regulation as the *lex generalis*. The *lex specialis* set of norms must fall within the same legal scope as the *lex generalis*.
2. The existence and position of the right of reply and the right of correction based on Article 5 of Law Number 40 of 1999. Linked to Article 10 of the Regulation of the Press Council. 6/Peraturan-DPN/2008, in implementing the law of the press in reporting in the mass media, violations of the law that occur have consequences according to the law that is violated. If the news broadcast violates the Press Law Number 40 of 1999 and the Journalistic Code of Ethics, the consequences are in accordance with the legal rules of the Press Law and the Journalistic Code of Ethics, namely through the right of reply mechanism. In seeking, processing and conveying press information, the provisions stipulated in the Press Law and the Journalistic Code of Ethics shall apply. the press to work based on journalistic principles, including the press, still obtain legal protection in carrying out their profession. Thus the press remains free to seek, obtain, possess, store, process and broadcast information.

## **F. Recommendation**

1. For press companies: more supervision is needed in finding, acquiring, storing, processing and conveying information and in carrying out the activities of press companies, they must pay more attention to sticking to the journalistic code of ethics.
2. Quality Recruitment Presenting good quality press production and being able to compete in today's increasingly tight information and technology business world, press companies, both electronic, print and online media, must pay attention to the recruitment process for journalists' resources.

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Kitab Undang-Undang Hukum Pidana

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Keputusan Dewan Pers Nomor 03/SK-SP/III/2006 Tentang Kode Etik Jurnalistik  
Sebagai Peraturan Dewan Pers

### **Journal**

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