

Effectiveness of Forms of Legal Protection for Journalists in carrying out their journalistic duties

Syahril Abdullah

¹Faculty of Law, Universitas Negeri Gorontalo, Indonesia. E-mail: syahrilabdullah48@gmail.com

ARTICLE INFO	ABSTRACT
<p>Keywords : Legal Protection, Journalist, Journalistic Duties.</p> <p>How To Cite : Syahril. A. (2019). Effectiveness of Forms of Legal Protection for Journalists in carrying out their journalistic duties <i>Estudiante Law Journal</i>. Vol. 1 (3): 754-765</p> <p>DOI :</p>	<p>The series of cases that attack journalists in carrying out their duties shows that the journalist profession is vulnerable to actions that will harm and threaten the life of every journalist in carrying out their journalistic duties. Protection measures for every citizen are the responsibility of the state. Once the importance of the benefits that will be felt by the public from the work of journalists is inversely proportional to efforts to protect journalists. Based on this, the purpose of this study is to examine the forms of legal protection and the inhibiting factors in protecting journalists who are carrying out their duties. This study examines the subject matter in a juridical-empirical way using a legal approach and a sociological approach by conducting direct interviews with parties related to the subject matter. The results of the research authors obtain answers to existing problems, that the forms of protection that are carried out are utilizing regulatory protection regulated in Indonesian legislation and international agreements, as well as the forms of protection provided by professional journalists' organizations based on journalistic ethics guidelines and journalist professional organization guidelines. This form of protection is experiencing obstacles, namely obstacles in the law enforcement process against legal processes carried out against journalists, obstacles that are focused on individual journalists related to the professionalism of the press personnel, as well as obstacles experienced by professional organizations that cannot reach the increasing number of journalists. and growing in number.</p>

@2019 Syahril. A.
Under the license CC BY-SA 4.0

1. Introduction

In essence, the spread of news that is happening will certainly not have many implications and will help the public in getting the available information. However, if there is news that is still just conjecture and is targeted at certain parties, then this will cause inconvenience to the parties being reported on.

Such conditions will open up space for resistance actions from parties whose information is reported or published on a news topic. The action of resistance in question can be in the form of legal action, administrative action, physical activity that results in pressure, intimidation, to injuries that can be felt by journalists who report the news. This kind of action will harm both materially and immaterially for a journalist.

Several cases against journalists occurred in 2021 and captured public attention on a national scale. One of the causes of violence that occurred was the case experienced by a Tempo journalist named Nurhadi in Surabaya. The journalist/journalist who was temporarily carrying out the assignment was subjected to acts of confinement and persecution in a hotel. This incident began when a bodyguard from the party who would be asked for confirmation regarding a problem accused Nurhadi of entering the event venue which was attended by that party without permission. Nurhadi only carries out journalistic duties by asking for confirmation of the truth of an event that is currently happening, namely related to the handling of corruption cases.¹

A similar and more pathetic case was experienced by one of the online media journalists in North Sumatra. A journalist named Marasalem Harahap who served as a journalist in Simalungun district was found dead after being shot by an unknown person in a car near where he lived. The discovery of Marasalem's body occurred after residents heard the sound of the victim's car alarm ringing and the victim was found dead.²

¹ Tempo.com, *Kekerasan Terhadap Wartawan, Maret 2021 Sudah 3 Kasus, Aji: Terbanyak Tahun 2020*, <https://nasional.tempo.co/read/1447023/kekerasan-terhadap-wartawan-maret-2021-sudah-3-kasus-aji-terbanyak-tahun-2020>, accessed, June 05 2021.

² Reza Kurnia Darmawan, *Penembakan Wartawan Media Online di Sumut, Jenazah Ditemukan 300*

Meter dari Rumahnya, <https://regional.kompas.com/read/2021/06/20/150000978/penembakan-wartawan-media-online-di-sumut-jenazah-ditemukan-300-meter-dari?page=all>, diakses tanggal 05 Juni 2021.

Most recently, a stabbing case was experienced by an online media journalist in Gorontalo, whose name was Jefry Rucapable. The victim, who was riding a motorcycle and riding with his wife, was stabbed in the right hand from behind and injured the victim and his wife suffered a miscarriage. According to the victim's narrative, a few days before the assault case occurred, the victim received intimidation and threats from parties who felt disturbed by the news made by the victim.³

The series of cases that occurred only at the beginning of the year until the middle of 2021 shows that the journalist profession is vulnerable to actions that will harm and cause injury to every journalist in carrying out their journalistic duties. Once the importance of the benefits that will be felt by the public from the work of journalists is inversely proportional to efforts to protect journalists.

When referring to Law Number 40 of 1999 concerning the Press, there have been efforts to provide guarantees and protection for journalistic workers. Everyone who is carrying out journalistic work or who carries out his profession as a journalist gets legal protection.⁴ This form of protection is provided by the government and the community while carrying out their functions, rights, obligations, and roles. Based on these provisions, the protection measures are further explained in the criminal provisions which regulate legal consequences for anyone who acts against the law, where through this action will result in journalistic work being hampered or hindered, will be subject to imprisonment for two years. years or a fine of five hundred million rupiah.⁵

Departing from the description of the background above, the author is interested in studying and analyzing in more depth what are the inhibiting factors in the legal protection of journalists in carrying out the duties of the journalistic profession.

2. Research Method

³This was conveyed by the victim in an interview on the program Apa Kabar Indonesia Malam on TV One on June 26, 2021.

⁴ Article 8 UU pers

⁵ Article 18 Clause (1) UU Pers

Referring to the formulation of the problem and the assigned title, this research will examine the subject matter in a juridical-empirical way, or this case, this research is categorized as field research or sociological research or also known as primary data research in the community. This is because this analysis will conduct a document study on written regulations that are supported by the issue of the effectiveness of the forms of legal protection regulated in written regulations. According to Bambang Waluyo, the empirical legal research method is research conducted on the actual situation or real conditions that occur in the community to know and find the facts and data collected, after the data needed to be collected moves to problem identification and then finally leads to problem-solving.⁶

In this study, to solve and formulate the results of the two problems posed by the author, several approaches were used, namely the statutory approach through the Press Law and other related written regulations and a sociological approach by emphasizing the aim of obtaining answers to the problems raised. studied by going directly to the relevant agencies, in this case, the Indonesian Journalists Association (Persatuan Wartawan Indonesia or PWI).

3. Inhibiting Factors In Legal Protection Of Journalists In Carrying Out The Duties Of The Journalistic Profession.

Various efforts that have been described by the author in the previous section show that efforts to protect the law against press workers/journalists are important. however, when referring to the practice in the field, there are still various obstacles that interfere with efforts to provide legal protection to every individual press/journalist who is carrying out their duties. The various obstacles are as follows:

4.2.1 Law Enforcement Factors

The law enforcement process carried out by disclosing a criminal case has the same goal, namely finding the material truth. Law enforcement by law enforcement officers, such as the police, prosecutors, and judges with various steps in finding material truth is a form of action taken to avoid mistakes in imposing a crime on a criminal act.⁷

⁶ Bambang waluyo, *Penelitian Hukum Dalam Praktek*, Jakarta: Sinar Grafika, 2002. p. 16.

⁷ Kebenaran materiil ialah kebenaran yang selengkap-lengkapnya pada sebuah perkara pidana dengan menerapkan hukum acara pidana secara jujur dan tepat yang bermaksud untuk

The essence and meaning of law enforcement lie in the activity of harmonizing the values that are spelled out in solid and embodied rules and attitudes of action as a series of final stage value elaborations, to create, maintain and maintain a peaceful social life. Law enforcement cannot be separated from human rights.⁸

Law enforcement should ideally be done through a legal system approach. In this case, according to Lawrence M. Friedman, three things affect the law enforcement process, namely the legal substance sub-system, the legal structure sub-system, and the legal culture sub-system.⁹

Law enforcement, according to Mardjono Reksodipuro, is defined in terms of three concepts, namely as follows: (a) The concept of total law enforcement (total enforcement concept) which demands that all values behind these legal norms be enforced without exception; (b) The concept of full enforcement of the law (full enforcement concept) which realizes that the total concept needs to be limited by procedural law and so on for the protection of individual interests.; (c) The concept of actual law enforcement (actual enforcement concept) that emerged after it was believed that there was discretion in law enforcement because of limitations, both related to infrastructure, quality of human resources, quality of legislation and lack of community participation.¹⁰

Law enforcement can only be implemented if the various dimensions of legal life always maintain harmonization (balance) between social morality, institutional morality, and civil morality of citizens based on actual values in society. Thus, togetherness is very much needed not only to make national association signs but also to enforce them.¹¹

mencari siapakah pelaku yang akan didakwakan melakukan suatu pelanggaran hukum, untuk selanjutnya meminta pemeriksaan dan putusan dari pengadilan guna menemukan apakah terbukti bahwa suatu tindak pidana telah dilakukan dan apakah orang yang didakwa itu dapat dipersalahkan. Lihat Roka Rindo, "Kedudukan Kedokteran Forensik Dalam Penyidikan Tindak Pidana Di Direktorat Reserse Kriminal Umum Kepolisian Daerah Riau", *JOM Fakultas Hukum*, Vol. 2, No. 2, 2015, p. 6.

⁸ Ryanto Ulil Anshar¹ dan Joko Setiyono, "Tugas dan Fungsi Polisi Sebagai Penegak Hukum dalam Perspektif Pancasila", *Jurnal Pembangunan Hukum Indonesia*, Vol. 2, No. 3, Tahun 2020, p.

⁹ Lawrence M. Friedman, *Hukum Amerika: Sebuah Pengantar*, dikutip dalam Lutfil Ansori, "Reformasi Penegakan Hukum Perspektif Hukum Progresif", *Jurnal Yuridis*, Vol. 4, No. 2, Desember 2017, p. 150.

¹⁰ Sanyoto, "Penegakan Hukum Di Indonesia," *Jurnal Dinamika Hukum*, Vol. 8 No. 3 Tahun 2008, hlm. 4

¹¹ Kusnu Goesniadhie S., "Perspektif Moral Penegakan Hukum yang Baik," *Jurnal Hukum Ius Quia Iustum*, Vol. 17 No. 2 Tahun 2010, p. 196

In this case, the element of law enforcement carried out by law enforcement officers becomes the main and very important element that can affect legal protection efforts against journalists who are carrying out their duties. Journalists as part of people's lives are also bound by general norms. These general norms include civil law, criminal law, and/or other legal norms, which all citizens must obey. This is what opens up space for legal proceedings for journalists related to the news or information submitted. Moreover, for areas where law enforcement personnel still lack information on efforts to protect journalistic work, the legal process against journalists is increasingly open to being carried out.

especially for journalists in carrying out their profession, the general provisions are set aside, this is following the principle of "*lex specialist derogat lex generalis*", this means that special laws override general laws. However, the waiver of this can also occur with various pressures and threats in the law enforcement process. Pressure, threats, or intimidation against journalists are usually carried out by parties who feel disturbed or harmed by reporting a journalist. Even if they feel aggrieved, the source has the right to answer to straighten the news made by journalists.

4.2.2 Journalist Individual Factors

In obtaining any precise and accurate information, journalistic duties are assigned by the press company to each journalist. The implication is that a journalist is often required to collect information directly in the field as well as reveal the real facts. The implementation of this task is certainly not without risk. As mentioned in the previous section that journalists can become victims such as prisoners of war, the most important criteria of a journalist besides being able to gather information is having the courage to take action in risky situations that can threaten the life of a journalist.

Journalists as field workers have an important role in determining the weight of any information that will be reported by the company or the mass media. Therefore, the quality and credibility of mass media are determined by the quality and credibility of each journalist who carries out their duties. Observing the meaning of a journalist who acts as a party carrying out activities/businesses related to the collection, processing, and broadcasting in the form of news, opinions and proposals, pictures, and so on in the field of mass communication,¹²

¹² See Article 9 Peraturan Rumah Tangga Persatuan Wartawan Indonesia.

then the professionalism and credibility of every journalist in collecting and informing news will affect the place of work as well as affect him individually.

With the advancement of information technology in the current era, every person always needs information that is happening in various places and the most current situations. This condition makes mass media companies, both conventional media, and online media will give journalists the task to find the process of the problem as well as to provide quality information based on objective facts with news quality that is more interesting and faster to be conveyed to the public.¹³ The process of reporting on the occurrence of a case that is vulnerable to causing friction or new problems that will be experienced by a journalist.

In qualifying the professionalism of a journalist seen from several aspects, namely:¹⁴ the independence of journalists to be able to obtain and process information obtained from the field freely without anyone's intervention, commitment to focus on services and not on personal economic benefits, responsibility in fulfilling obligations or acting without the authority of prosecution from superiors, creation, and implementation the code of ethics, as well as the expertise possessed by journalists in the field of finding, processing, and presenting news that is ready to be disseminated to the public, and to get it not just like that but the effort of the journalist concerned so that he is proficient in his world.

Several qualifications for the professionalism of a journalist will greatly assist a journalist in carrying out his journalistic professional duties. However, this element of professionalism is also the cause of the factors that lead to a violation of the law against a journalist and can hinder efforts to protect the law for every journalist who is carrying out their duties.

Associated with the independence of journalists who compose a report, opens a space for the subjectivity of a journalist which can happen with unbalanced reporting. This is of course closely related to the expertise of a journalist who is used for things of mere subjectivity. In addition, commitment and responsibility in carrying out their duties are also things that will have an effect when both of

¹³ Desia Rahma Banjarani, (*Et.al*), "Perlindungan Terhadap Wartawan Perang Di Daerah Konflik Bersenjata Menurut Hukum Internasional (Studi Kasus Daerah Konflik Dan Suriah)", *Jurnal Cepalo*, Volume 3, Nomor 1, Januari-Juni 2019, p. 12

¹⁴ Darajat Wibawa, "Meraih Profesionalisme Wartawan", *MIMBAR*, Vol. XXVIII, No. 1, Juni, 2012, p. 117-120.

these things are denied and only concerned with personal interests and certain groups in a report published by a journalist in the results of their coverage.

Observing the various elements of professionalism, as the chairman of PWI Gorontalo, he stated that all of these elements are a unit that must be owned by a journalist to demonstrate the professionalism of his work and the credibility of the media used in informing each report on an event/case.¹⁵

The existence of various cases that occurred as described by the author in the background section shows that the professionalism of journalists is an important thing that will have implications for various things, both positive and negative things. In this case, this is in line with what was conveyed by Bagir Manan that threats to journalists and the press do not only come from an authoritarian government but can also arise from the community.

The existence of a form of press freedom that is carried out by a journalist to distribute information can also clash with other issues, for example regarding personal rights not to be reported on. Likewise, the distribution of information, even though it is based on the intention of conveying information to the public, is open to the possibility of a conflict with the public interest. This position then becomes a dilemma and will hinder efforts to protect the law against a journalist because of his factors personally which provide news that is contrary to personal rights and disturbing the public interest.

4.3 Professional Organizational Factors

After the reform, the development of the press and news coverage in Indonesia underwent a fundamental and significant change. These changes and developments are not only quantitative but also qualitative or the substance of each news report. In this case, the development of mass media in Indonesia is characterized by three important things, namely:¹⁶

1. Business management in the mass media sector is no longer carried out in the form of a foundation and only prioritizes its ideal aspects but is in the form of a PT (limited company) supported by a professional management system and the use of various

¹⁵Results of an interview with H. Haris Zakaria as chairman of the Indonesian Journalists Association Gorontalo Region, 2 January 2022

¹⁶Juarsa S. Sendjaja, *Ekologi Media: Analisa dan Aplikasi Teori: niche dalam Penelitian Tentang Kompetisi antar Industri Media*, dalam Darajat Wibawa, *Op.cit*, p. 113.

products/technological tools that are sophisticated and lead to commercialism.

2. More and more national entrepreneurs or commonly called conglomerates are investing in the mass media business sector.
3. The existing mass media are increasingly diverse in form and lead to specialization.

The development of this information media also has implications for the increase in online media to more than 43 thousand. Chairman of the Press Council for the 2016-2019 period Yosef Adi Prasetyo and also the Director-General of Aptika at the Ministry of Communication and Information, Samuel Abrijani Pangerapan explained that there are more than 43 thousand online media in Indonesia today. The important thing to note is that some of them are fake media. The media are called fake because the products and journalists are not clear.¹⁷

This kind of online media does not have an address or office, legal entity, and management as the person in charge as stipulated in Article 12, Press Law Number 40 of 1999. His office is where they do the coverage. The administrators are those who join the media. There is no welfare issue as regulated by Article 10.¹⁸

This kind of problem also occurs in Gorontalo province. The number of online media is a good thing as a form of fulfilling information for the people who are getting more and more choices. However, if you look at the substance of the news that is conveyed which is also supported by the professionalism of every journalist and company that handles those who lack credibility, journalistic work will have negative implications in various ways.

The number of online media that also contains online media journalists is recognized as a discourse that currently exists in the press. The presence of the press, in this case, the online media, is not a problem in principle, but if you refer to the statement presented above, then the existence of various fake media is something that cannot be denied in practice in the field. The number of online media is also growing rapidly in Gorontalo as stated by who stated that the development of online media, both in terms of reporting and the number of resources (journalists) is also growing in Gorontalo.

¹⁷ Wahdaniah dan Prudensius Maring, "Dramatugri Profesi wartawan Dalam realita Kehidupan", *PARAHITA : Jurnal Pengabdian kepada Masyarakat*, Vol 1, No. 2, 2020, p. 32.

¹⁸ *Ibid.*

The massive development of media in Gorontalo also has implications for the legal protection that can be provided by professional organizations that oversee journalists. In this case, if the membership data collection is clear and every individual journalist joins a small professional organization, there may be a violation of the code of ethics and legal protection will be given to the journalist concerned for assistance if there is a case based on information submitted by a journalist. It is different if journalists who have received intimidation or violence are not registered or registered or even do not want to join professional journalists' organizations in Indonesia or specifically in Gorontalo Province.

This kind of problem was conveyed by Haris Zakaria, where there was a stabbing case experienced by a journalist in Gorontalo City as the author described in the background section, experiencing obstacles because the person concerned did not join the journalist professional organization in Gorontalo.¹⁹ The efforts that can be made by professional journalists' organizations are only limited to giving criticism and concerns as a form of solidarity between fellow journalistic workers in Gorontalo Province.

4. Conclusion

The practice of legal protection for journalists who are carrying out their duties in the field experiences various obstacles, namely obstacles in the law enforcement process against legal processes carried out against journalists, obstacles that are focused on individual journalists related to the professionalism of press personnel, as well as obstacles experienced by professional organizations that cannot reach the full number of journalists who are growing and growing in number

5. Recommendation

Efforts to synchronize and strengthen each regulation relating to the protection of journalists are important to do to seek a form of legal protection for every journalist who carries out their duties.

Reference

Books:

Bambang waluyo, (2012), *Penelitian Hukum Dalam Praktek*, Jakarta: Sinar Grafika.

¹⁹ Results of an interview with H. Haris Zakaria as chairman of the Indonesian Journalists Association Gorontalo Region, 2 January 2022.

Journal:

- Ahmad, Ahmad, and Novendri M. Nggilu. "Denyut Nadi Amandemen Kelima UUD 1945 melalui Pelibatan Mahkamah Konstitusi sebagai Prinsip the Guardian of the Constitution." *Jurnal Konstitusi* 16.4 (2020): 785-808.
- Ahmad, Ahmad. "Purifikasi Pemberian Amnesti Dan Abolisi: Suatu Ikhtiar Penyempurnaan Undang Undang Dasar 1945." *Ius Civile: Refleksi Penegakan Hukum dan Keadilan* 5.2 (2021).
- Darajat Wibawa, "Meraih Profesionalisme Wartawan", *MIMBAR*, Vol. XXVIII, No. 1, Juni, 2012.
- Desia Rahma Banjarani, (Et.al), "Perlindungan Terhadap Wartawan Perang Di Daerah Konflik Bersenjata Menurut Hukum Internasional (Studi Kasus Daerah Konflik Dan Suriah)", *Jurnal Cepalo*, Volume 3, Nomor 1, Januari-Juni 2019.
- Infra Wahdaniah dan Prudensius Maring, "Dramatugri Profesi wartawan Dalam realita Kehidupan", *PARAHITA : Jurnal Pengabdian kepada Masyarakat*, Vol 1, No. 2, 2020.
- Kusnu Goesniadhie S., "Perspektif Moral Penegakan Hukum yang Baik,", *Jurnal Hukum Ius Quia Iustum*, Vol. 17 No. 2 Tahun 2010.
- Lutfil Ansori, "Reformasi Penegakan Hukum Perspektif Hukum Progresif", *Jurnal Yuridis*, Vol. 4, No. 2, Desember 2017.
- Roka Rindo, "Kedudukan Kedokteran Forensik Dalam Penyidikan Tindak Pidana Di Direktorat Reserse Kriminal Umum Kepolisian Daerah Riau", *JOM Fakultas Hukum*, Vol. 2, No. 2, 2015.
- Ryanto Ulil Anshar¹ dan Joko Setiyono, "Tugas dan Fungsi Polisi Sebagai Penegak Hukum dalam Perspektif Pancasila", *Jurnal Pembangunan Hukum Indonesia*, Vol. 2, No. 3, Tahun 2020.
- Sanyoto, "Penegakan Hukum Di Indonesia," *Jurnal Dinamika Hukum*, Vol. 8 No. 3 Tahun 2008.
- Wantu, Fence M., and Dian Ekawaty Ismail. "Constitutional Dialogue In Judicial Review At The Indonesian Constitutional Court: The Future Prospects." *Journal of Legal, Ethical and Regulatory Issues* 25 (2022): 1-8.
- Wantu, Fence M., Novendri M. Nggilu, and Mellisa Towadi. "Indonesian Constitutional Interpretation: Constitutional Court Versus The People's

Consultative Assembly." *Journal of Legal, Ethical and Regulatory Issues* 24.6 (2021): 1-11.

Wijaya, Ahmad, and Nasran Nasran. "Comparison Of Judicial Review: A Critical Approach To The Model In Several Countries." *Jurnal Legalitas* 14.2 (2021): 85-106.

Interviews:

Results of an interview with H. Haris Zakaria as chairman of the Indonesian Journalists Association Gorontalo Region, 2 January 2022