



Legal Analysis of Restorative Justice Implementation to Protect Press Freedom in Indonesia

Analisis Yuridis Atas Penerapan Restorative Justice dalam Melindungi Kebebasan Pers di Indonesia

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Abstract

This study provides a legal analysis of restorative justice as a mechanism to better safeguard press freedom from potential criminalization in Indonesia. The main issue examined is the growing use of retributive criminal law against journalistic activities, which threatens the democratic role of the press. This research uses a normative legal method with statutory and conceptual approaches. The findings show that penal mediation, as a form of restorative justice, offers an integrative model for resolving news-related disputes while maintaining the public's right to information. The application of the ultimum remedium principle through technical law-enforcement regulations can reduce the harmful impact of defamation provisions in the ITE Law on journalists. Restorative justice therefore becomes an urgent legal necessity to balance protection of journalists' dignity with the press's social control function. This study recommends regulatory harmonization by recognizing Press Council mediation outcomes as grounds for case dismissal in Indonesia's criminal justice system.

Abstrak

Penelitian ini bertujuan menganalisis secara yuridis atas penerapan keadilan restoratif (restorative justice) sebagai instrumen pelindung kebebasan pers dari potensi kriminalisasi pers di Indonesia. Masalah utama difokuskan pada meningkatnya penggunaan instrumen pidana retributif terhadap produk jurnalistik yang secara nyata mengancam eksistensi kemerdekaan pers. Metode penelitian yang digunakan adalah yuridis-normatif dengan pendekatan perundang-undangan dan pendekatan konseptual. Hasil penelitian menunjukkan bahwa mediasi penal sebagai manifestasi keadilan restoratif mampu menjadi solusi integratif untuk menyelesaikan sengketa pemberitaan tanpa mencederai hak publik atas informasi. Penerapan prinsip ultimum remedium melalui regulasi teknis penegak hukum terbukti efektif dalam memitigasi dampak negatif penggunaan pasal pencemaran nama baik dalam UU ITE terhadap jurnalis. Kesimpulannya, keadilan restoratif merupakan kebutuhan yuridis mendesak untuk menyeimbangkan perlindungan martabat individu pers dengan fungsi kontrol sosial pers. Implikasi dari penelitian ini menyarankan perlunya sinkronisasi regulasi yang menempatkan hasil mediasi Dewan Pers sebagai dasar penghentian perkara dalam sistem peradilan pidana nasional guna menjamin kepastian hukum bagi jurnalis.



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A. INTRODUCTION

1. Background

A significant normative tension exists within the Indonesian criminal justice system between the constitutional guarantee of press freedom under Law No. 40 of 1999 and the potential for retributive criminalization through the ITE Law.¹ This situation generates a conflict between the public's right to accurate information and the protection of individual dignity, frequently leading to defamation lawsuits.²

The safety of journalists in Indonesia is characterized by data that demands comprehensive legal scrutiny. The Press Legal Aid Institute reported at least 30 cases of threats against journalists in 2020, including 10 cases of criminalization, 19 arbitrary arrests, and one civil lawsuit. Additionally, 24% of journalists reported experiencing various forms of attacks, including physical, cyber, and legal threats.³ The Alliance of Independent Journalists of Indonesia corroborates these findings, documenting seven cases in 2019 and additional cases during 2020–2021.⁴ These circumstances demonstrate that existing protection mechanisms remain inadequate in preventing the criminalization of the press, particularly due to ambiguously interpreted cyber regulations. This situation highlights the need to integrate restorative justice as a solution to challenges in public law enforcement.

This study identifies the frequent reliance on criminal proceedings to resolve press-related disputes as a significant threat to press freedom. The death of journalist Muhammad Yusuf in 2018, following his detention for reporting on a land conflict, exemplifies the vulnerability of journalists in such contexts.⁵ The application of the ITE Law to prosecute journalists has produced a “chilling effect” that undermines the public information ecosystem. The Indonesian National Police issued Circular Letter No.

¹ Samuel Pratama Depari and Parlaungan Gabriel Siahaan, “Analisis Implementasi Pelindungan Hukum Jurnalis Lokal Di Media Digital: Studi Kasus Kabanjahe,” *Nomos: Jurnal Penelitian Ilmu Hukum* 5, no. 3 (2025): 552–62, <https://doi.org/10.56393/nomos.v5i3.3353>.

² Emaliawati Emaliawati, “Defamation in the Digital Age: An Analysis of the Application of Restorative Justice under Indonesian Criminal Law,” *Intellectual Law Review (ILRE)* 2 (April 15, 2024): 32–45, <https://doi.org/10.59108/ilre.v2i1.62>.

³ Oktavia Rahma Dzhnii Putri Lestari Ayu Putri Yana Dwi Putri Lestari, “Urgensi Perlindungan Hukum Terhadap Jurnalis dari Risiko Kriminalisasi Undang-Undang Informasi dan Transaksi Elektronik Di Indonesia” 15, no. 11 (2025), <https://doi.org/doi.org/10.3783/causa.v2i9.2461>.

⁴ Maria Yeti Andrias et al., “Perlindungan Hak Jurnalis Terkait Ujaran Kebencian Dalam Hukum Positif Indonesia,” *Al-Mizan* 19, no. 1 (2023): 79–104, <https://doi.org/10.30603/am.v19i1.3449>.

⁵ Suriyanto Suriyanto, “The Function of the Press Council in Supporting Legal Protection for Journalists to Actualise the Press Freedom,” *Journal of Politics and Law* 13 (February 29, 2020): 104, <https://doi.org/10.5539/jpl.v13n1p104>.

SE/2/II/2021, reaffirming the principle of ultimum remedium, which prioritizes restorative justice mechanisms in digital cases.⁶ However, in the absence of a clear legal foundation, the implementation of this policy remains inconsistent, highlighting the need for comprehensive legal analysis to ensure the consistent application of restorative justice in press disputes.

This study underscores the necessity of a paradigm shift in Indonesia's criminal justice system from a punitive (retributive) approach to one centered on restoration. The restorative justice paradigm offers a more humanistic framework, aiming to repair social relationships and achieve justice through reconciliation rather than solely imposing imprisonment.⁷ This approach aligns with the core values of Pancasila, which emphasize deliberation and consensus as means of conflict resolution to achieve social justice.⁸ In press disputes, restorative justice enables the recognition of the "right of reply" and the "right of correction" as mechanisms for restoring reputations without resorting to legal proceedings. Therefore, restorative justice not only enhances the efficiency of case resolution but also demonstrates the state's commitment to upholding democratic principles.

The legal foundation for implementing restorative justice at the prosecutor's office level is established by Regulation of the Attorney General's Office of the Republic of Indonesia No. 15 of 2020, which permits discontinuation of prosecution based on considerations of humanity, conscience, and a balance of interests between victim and perpetrator.⁹ This regulation specifies that prosecution may be discontinued if the suspect is a first-time offender and the potential penalty does not exceed five years. Decision of the Director General of Badilum No. 1691/DJU/SK/PS.00/12/2020 further instructs district court judges to apply restorative justice guidelines.¹⁰ The primary challenge is

⁶ Su'udi Su'udi, "Restorative Justice As A Reason For Termination Of Investigations On Criminal Acts Of Hurt Or Destruction In The Electronic Information And Transaction Law," *International Journal of Environmental, Sustainability, and Social Science* 3 (November 30, 2022): 598–605, <https://doi.org/10.38142/ijesss.v3i3.259>.

⁷ Moh Riziq, "A Critical Analysis of Restorative Justice in Indonesia's Criminal Justice System: From Punishment to Restoration," *International Journal of Law Dynamics Review* 3 (May 16, 2025), <https://doi.org/10.62039/ijldr.v3i1.82>.

⁸ Yaris Fajrin and Ach Triwijaya, "The Concept of Penal Mediation For Defamation Delict in The Indonesia Ite Law as A Manifestation of Restorative Justice," *Yustisia Jurnal Hukum* 9 (December 31, 2020): 363, <https://doi.org/10.20961/yustisia.v9i3.36167>.

⁹ Glery Lazuardi, "Pendekatan Restorative Justice Dalam Tindak Pelaku Penyebaran Hoaks," *Jurnal Kertha Semaya* 8, no. 9 (2020): 1301–12.

¹⁰ Saepul Rochman, Haerul Akmal, and Yaffi Andriansyah, "Pencemaran Nama Baik melalui Media Sosial: Perbandingan Hukum Pidana Positif dan Pidana Islam," *Diktum: Jurnal Syariah Dan Hukum* 19 (July 31, 2021): 32–42, <https://doi.org/10.35905/diktum.v19i1.2080>.

synchronizing these internal regulations with the Press Council's mediation mechanisms. Frequently, police procedures operate independently of, or disregard, the Press Council's recommendations, resulting in dualism in law enforcement and undermining legal certainty for journalists.

Penal mediation, as an element of restorative justice, has demonstrated effectiveness in bypassing rigid judicial bureaucracy and expediting the resolution of disputes outside the litigation process.¹¹ Recent studies suggest that applying restorative justice during the investigative stage of criminal defamation cases involving electronic media is effective, as evidenced by increased awareness among law enforcement officials and the fulfillment of victims' sense of justice through settlement agreements.¹² In the media sector, such mediation supports professional integrity and educates the public on responsible freedom of expression. Nevertheless, the lack of explicit legal mandates for restorative approaches in press disputes underscores the urgent need for stronger regulations.¹³ In the absence of binding regulations, the protection of press freedom remains contingent on the discretionary policies of law enforcement leaders.

Although restorative justice in criminal law has been extensively studied, the literature remains fragmented. Andriyanti's research contends that the formal criminal justice system frequently fails to provide solutions that restore both victims and perpetrators equally. However, this study is general in scope and does not address the application of restorative justice in cases involving journalistic activities.¹⁴ Prayoga's research demonstrates that prosecutors possess the authority to discontinue prosecution if the case satisfies the requirements for restorative justice, yet it does not connect this authority to press-related cases. A key unresolved issue is whether the Press Council's mediation outcomes can serve as a basis for prosecutors to discontinue criminal proceedings.¹⁵ Putra and Soediro argue that protecting journalists is essential not only for

¹¹ Emmanuel Adi, "Penal Mediation as the Concept of Restorative Justice in the Draft Criminal Procedure Code," *Lex Scientia Law Review* 5 (May 30, 2021), <https://doi.org/10.15294/lesrev.v5i1.46704>.

¹² Heriyanto Heriyanto et al., "The Effectiveness of The Settlement of Alleged Criminal Offences of Insult or Defamation Through Electronic Media with Restorative Justice at The Investigation Stage," *International Journal of Business, Law, and Education* 3, no. 2 (2024): 212–20, <https://doi.org/10.56442/ijble.v3i2.474>.

¹³ Bambang Bawono and Henning Glaser, "The Urgency of Restorative Justice Regulation on Hate Speech," *Bestuur* 11 (December 19, 2024): 364, <https://doi.org/10.20961/bestuur.v11i2.82508>.

¹⁴ Eka Fitri Andriyanti, "Urgensitas Implementasi Restorative Justice Dalam Hukum Pidana Indonesia," *Jurnal Education and Development* 8, no. 4 (2020): 326–31, <https://garuda.kemdikbud.go.id/documents/detail/2042447>.

¹⁵ Arman prayoga, "Penerapan Peraturan Kejaksaan Republik Indonesia Nomor 15 Tahun 2020 Tentang Penghentian Penuntutan Berdasarkan Keadilan Restoratif," *Meukuta Alam : Jurnal Ilmiah Mahasiswa* 7, no. 1 (June 14, 2025): 137–45, <https://doi.org/10.33059/majim.v7i1.11164>.

the press profession but also for safeguarding the public's right to information. Their research is notable for framing press freedom as a constitutional right, but it lacks a technical model linking legal protections for journalists to restorative justice mechanisms. Thus, while the study explains the necessity of protecting journalists, it does not address the practical application of such protection when journalists encounter criminal complaints.¹⁶

Unlike previous studies that primarily examined the implementation of restorative justice, this research introduces an integrated model termed the 'Restorative Press Shield.' In this model, the outcomes of Press Council mediation are formally recognized as the basis for terminating criminal cases.

This article contends that restorative justice should be regarded not only as an alternative dispute resolution mechanism, but as a constitutional imperative that balances the protection of individual dignity with the press's social control function. Accordingly, the study recommends harmonizing regulations to give Press Council recommendations legal force within the national criminal justice system, thereby preventing a chilling effect on journalists.

2. Research Questions

Based on the contextual background, this study addresses two fundamental legal issues.

First, how can regulatory alignment between the Press Law and law enforcement discretion regarding restorative justice be constructed without compromising the constitutional rights of victims to redress?

Second, to what extent can the paradigm shift toward penal mediation—specifically through the formal recognition of the Press Council's mediation outcomes—be institutionalized to guarantee legal certainty and prevent the criminalization of journalists in Indonesia? These core issues serve as the analytical framework for the subsequent discussion.

3. Research Methods

A normative legal research method is employed, utilizing statutory, conceptual, and case-based approaches. This methodological framework is appropriate for the research,

¹⁶ Soediro Tegar Kusuma Putra, "Perlindungan Hukum Terhadap Jurnalis Dalam Mewujudkan Independensi Pers Di Indonesia," *Journal Presumption of Law* 7, no. 1 (2025): 48–58, <https://doi.org/DOI:10.31949/jpl.v7i1.12567>.

which aims to analyze the legal norms governing the application of restorative justice in the context of press freedom protection in Indonesia, rather than measuring community behavior. The statutory approach examines Law Number 40 of 1999 concerning the Press, Law Number 1 of 2024 concerning the second amendment to the ITE Law, the Criminal Code, Prosecutor's Regulation Number 15 of 2020, and Police Regulation Number 8 of 2021. The conceptual approach clarifies the concepts of restorative justice, press freedom, the criminalization of journalists, ultimum remedium, and legal protection. The case-based approach analyzes patterns of dispute resolution related to news reporting involving journalists, media organizations, the Press Council, and law enforcement officials.¹⁷

This study uses secondary data, including primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution, the Press Law, the ITE Law, the Criminal Code, the Prosecutor's Office Regulations on restorative justice, and the Police Regulations on the handling of criminal acts based on restorative justice. Secondary legal materials comprise academic journal articles, law books, research findings, Press Council reports, and scientific studies addressing restorative justice, press freedom, and the criminalization of journalists. Tertiary legal materials include legal dictionaries, legal encyclopedias, and regulatory indexes. Data collection is performed through a structured literature review, involving the identification of legal issues, tracing of legal materials, selection of relevant sources, recording of legal norms, classification of themes, and compilation of an analysis matrix.

The research instruments consist of a legal material inventory sheet and a normative analysis matrix. These instruments include columns for the type of legal material, source, year, main norms, key concepts, relevance to the research issue, and analysis notes. Validation is achieved through triangulation of legal sources by comparing regulations, doctrines, academic articles, and institutional practices. Reliability is ensured by maintaining consistent analysis categories, systematically recording sources, and re-examining the alignment between problem formulation, legal materials, and conclusions.¹⁸

¹⁷ Audina Sukmawan and Yulia Damayanti, "Metode Penelitian Hukum Normatif Dan Empiris Sebagai Strategi Penguatan Perspektif Kajian Ilmu Hukum," *Master of Notary, Faculty of Law, Lambung Mangkurat University* 4, no. 01 (2025): 114–28.

¹⁸ Kornelius Benuf and Muhamad Azhar, "Metodologi Penelitian Hukum Sebagai Instrumen Mengurai Permasalahan Hukum Kontemporer" 7 (April 1, 2020): 20–33, <https://doi.org/10.14710/gk.7.1.20-33>.

A juridical-qualitative analysis was employed, using legal interpretation and prescriptive reasoning. The analysis proceeded through several stages. Initially, legal materials were classified into themes including restorative justice, press freedom, the criminalization of journalists, the authority of the Press Council, and the principle of *ultimum remedium*. Subsequently, each norm was examined through grammatical, systematic, and teleological interpretations to clarify its meaning, the relationships among rules, and the objectives underlying their formation. The study then compared norms in press law and criminal law to identify potential inconsistencies. The findings were used to develop prescriptive arguments for a restorative justice model that safeguards press freedom while preserving individuals' right to redress for harm caused by news reporting. This technique enhances replicability by clearly outlining legal sources, selection criteria, recording instruments, and analytical procedures. The analysis aligns with the objectives of normative legal research, which seeks to provide legal arguments regarding appropriate regulatory and law enforcement practices.¹⁹

B. DISCUSSION

1. Harmonization of Press Law Regulations and Law Enforcement Discretion

a. The relationship between press freedom and the public interest

The criminal law paradigm in Indonesia is experiencing a significant transition from a retributive model, which emphasizes punitive measures, to a restorative model that prioritizes the restoration of social relationships and justice for all parties involved in legal conflicts. Restorative justice in national legal development represents not only an alternative mechanism but also the embodiment of the core values of Pancasila, which emphasize deliberation and consensus in dispute resolution.²⁰ This approach conceptualizes crime as a barrier to community relations and individual rights, necessitating a legal process that removes these barriers through participatory dialogue.²¹ Within the context of the Press Law, restorative justice is particularly pertinent, as press freedom constitutes a fundamental pillar of democracy that requires robust protection to

¹⁹ Ahamad Rosidi, M Zainuddin, and Ismi Arifiana, "Metode Dalam Penelitian Hukum Normatif Dan Sosiologis (Field Research)," *Journal Law and Government* 2, no. 1 (February 27, 2024): 46, <https://doi.org/10.31764/jlag.v2i1.21606>.

²⁰ Supriansa et al., "The Essence of Restorative Justice in the Development of Indonesian Law," *Revista de Gestão Social e Ambiental* 18 (April 17, 2024): e05780, <https://doi.org/10.24857/rgsa.v18n8-025>.

²¹ Riziq, "A Critical Analysis of Restorative Justice in Indonesia's Criminal Justice System: From Punishment to Restoration."

prevent erosion by repressive judicial actions that prioritize formal legal certainty over the broader public interest in access to accurate information.²²

Press freedom is a constitutionally protected fundamental right and is specifically regulated under Law No. 40 of 1999 on the Press. Disputes regarding journalistic content must be addressed through internal press mechanisms, such as the Right of Reply and the Right of Correction, before initiating formal legal proceedings.²³ Nevertheless, challenges persist when journalists encounter provisions in the Law on Information and Electronic Transactions, which are frequently subject to multiple interpretations and thereby pose a tangible risk of criminalization.²⁴ Empirical data demonstrate that this risk is substantial, as documented increases in cases in which journalists face defamation or hate-speech accusations while fulfilling their social oversight functions.²⁵ Accordingly, a comprehensive review of legal protections for journalists necessitates an in-depth understanding of the intersection between press freedom as a public interest and the safeguarding of individual dignity through restorative mechanisms that reduce the chilling effect on freedom of expression.

b. Legal frameworks supporting the implementation of restorative justice

The Press Council, as an independent institution mandated by law, plays a central role in safeguarding the quality and freedom of the national press through mediation and oversight of the code of ethics. Within the framework of restorative justice, the Press Council functions as a facilitator, bridging the interests of the public who feel wronged by news coverage with journalists' professional responsibilities.²⁶ Through cooperation with law enforcement institutions such as the National Police, the Press Council is authorized to provide technical recommendations on whether a complaint constitutes a journalistic product or a pure criminal offense under the ITE Law.

The implementation of restorative justice in press disputes is essentially an effort to operationalize penal mediation, where the ultimate goal is to reach a peaceful settlement that restores the victim's reputation without imprisoning the journalist, thereby ensuring

²² Supriansa et al., "The Essence of Restorative Justice in the Development of Indonesian Law."

²³ Abdul Rohman, "Implementasi Perlindungan Hukum Jurnalis dalam Menjalankan Profesinya Berdasarkan Undang-Undang Nomor. 40 Tahun 1999 Tentang Pers," *Aktualita (Jurnal Hukum)*, November 16, 2020, 58–80, <https://doi.org/10.29313/aktualita.v0i0.5957>.

²⁴ Yeti Andrias et al., "Perlindungan Hak Jurnalis Terkait Ujaran Kebencian Dalam Hukum Positif Indonesia."

²⁵ Lestari, "Urgensi Perlindungan Hukum Terhadap Jurnalis dari Risiko Kriminalisasi Undang-Undang Informasi dan Transaksi Elektronik Di Indonesia."

²⁶ Suriyanto, "The Function of the Press Council in Supporting Legal Protection for Journalists to Actualise the Press Freedom."

that the stability of public information is maintained in a sustainable and professional manner. An analysis of regulatory alignment in Indonesia reveals that the government has established several legal instruments to facilitate the application of restorative justice throughout the judicial process. Regulation of the Indonesian National Police No. 8 of 2021 and Regulation of the Indonesian Attorney General's Office No. 15 of 2020 provide the primary legal basis for dismissing cases in the public interest following reconciliation.²⁷ The findings of this study demonstrate a positive correlation between the implementation of the ultimum remedium principle and a reduction in the criminalization of journalists during police investigations. Nonetheless, significant challenges remain, as there is currently no standardized procedure that integrates the Press Council's recommendations with the substantive criteria for restorative justice applied by investigators across different regions in Indonesia.

To offer a comprehensive overview of the current regulatory framework, the findings of this study are presented in the following table :

Table 1. Regulatory Framework Matrix for Restorative Justice and Press Freedom

Institutions	Primary Regulation	Recovery Mechanism	Legal Status
Press Council	UU No. 40/1999 & Kode Etik	Right of Reply, Right of Correction, Ethical Mediation	Expert/Ethical Recommendations
Police	Perpol No. 8/2021	Restorative Justice, Case Review	Termination of Investigation
Prosecutor's Office	Perja No. 15/2020	Criminal Discontinuance of Prosecution	SKP2 Based on Justice
Courts	SK Dirjen Badilum 1691/2020	Diversion and RJ in Summary Proceedings	Substantive Justice/Leniency

The table above demonstrates that, despite the availability of resolution pathways, regulatory gaps persist and legal proceedings frequently continue alongside ongoing mediation at the Press Council. Data from multiple case studies conducted between 2020 and 2024 indicate that approximately 24% of journalists involved in press dispute cases

²⁷ Rochman, Akmal, and Andriansyah, "Pencemaran Nama Baik Melalui Media Sosial: Perbandingan Hukum Pidana Positif dan Pidana Islam."

brought to court experienced legal intimidation prior to the full implementation of restorative justice (RJ) mechanisms.²⁸ This finding underscores the need to strengthen the legal status of Press Council mediation outcomes so that they serve as an automatic basis for investigators to discontinue cases in accordance with restorative justice principles. While relevant policies are in place, their consistent implementation remains largely contingent upon the discretion of individual law enforcement officers, some of whom continue to interpret ITE-related criminal offenses from a retributive perspective.

2. Institutionalizing Penal Mediation and the Restorative Press Shield Model

a. Integrated implementation of restorative justice

Analysis of case handling at the investigative stage demonstrates that penal mediation is highly effective in resolving subjective, complaint-based offenses such as defamation. The findings of this study fully support the hypothesis that the integrated application of restorative justice serves as an effective safeguard for press freedom. Specifically, cases resolved through penal mediation at the investigative stage exhibit a higher and more sustained success rate in restoring reputation compared to court rulings, which often result in lingering resentment between parties.²⁹ Consequently, restorative justice has proven an effective instrument for curbing the criminalization of journalists and promoting responsible media practices consistent with legal norms.

The application of restorative justice in press disputes exemplifies progressive law by prioritizing human dignity and justice over inflexible bureaucratic procedures. Drawing parallels with justice theories commonly applied in medical disputes, the presence of professional bodies as mediators with specialized expertise in assessing professional standards is essential.³⁰ In the context of press disputes, the Press Council's ethical expertise is necessary to determine whether a case is appropriate for resolution through restorative justice or requires criminal prosecution due to the exploitation of the press's name.³¹ A key distinction of this study is its emphasis on 'mediation independence,' highlighting that without robust independence, restorative justice mechanisms risk being

²⁸ Iestatika, "Urgensi Perlindungan Hukum Terhadap Jurnalis dari Risiko Kriminalisasi Undang-Undang Informasi dan Transaksi Elektronik Di Indonesia."

²⁹ Fajrin and Triwijaya, "The Concept of Penal Mediation for Defamation Delict in The Indonesia Law as A Manifestation of Restorative Justice."

³⁰ Ni Mustika et al., "Restorative Justice Settles Health Disputes Between Patients and Hospitals from an Inclusive Justice Perspective," *Jurnal IUS Kajian Hukum Dan Keadilan* 11 (December 26, 2023): 423–36, <https://doi.org/10.29303/ius.v11i3.1293>.

³¹ Suriyanto, "The Function of the Press Council in Supporting Legal Protection for Journalists to Actualise the Press Freedom."

misused to pressure journalists into compromising the factual truths uncovered during their reporting.

Comparison with previous research consistently supports the effectiveness of penal mediation, as reflected in the draft of the future Criminal Procedure Code, in addressing case backlogs.³² However, there is disagreement about the range of criminal offenses eligible for restorative justice; some researchers argue that press-related offenses involving national security or large-scale hate speech should be excluded from restorative justice mechanisms.³³ This divergence stems from differing priorities between safeguarding individual rights and protecting national security. This study contends that, provided a case involves a purely journalistic product created through a legitimate editorial process, the protection of freedom of information should remain paramount through restorative channels to prevent negative repercussions for democratic quality in Indonesia.

b. Effectiveness of protecting press freedom

Further analysis of regional disparities in implementation reveals significant variation in both the availability of human resources and law enforcement officials' understanding of the Press Law across different localities. In areas with robust public oversight, journalists are generally safer, as authorities exercise greater caution in employing criminal sanctions.³⁴ Conversely, in more isolated regions, journalists are frequently subjected to informal agreements outside official legal frameworks, which undermine the principles of transparent and honest restorative justice. These findings highlight that sociological and local legal cultural factors are as influential as written legal norms in determining the effectiveness of press freedom protection through restorative mechanisms.³⁵

These findings suggest the necessity for a more rigorous revision of the ITE Law to explicitly exempt press products from criminal defamation charges. Additionally, elevating the legal status of the Memorandum of Understanding between the Press Council and the National Police to a regulation with stronger binding authority, such as a

³² Adi, "Penal Mediation as the Concept of Restorative Justice in the Draft Criminal Procedure Code."

³³ Bawono and Glaser, "The Urgency of Restorative Justice Regulation on Hate Speech."

³⁴ Lestari, "Urgensi Perlindungan Hukum Terhadap Jurnalis dari Risiko Kriminalisasi Undang-Undang Informasi dan Transaksi Elektronik Di Indonesia."

³⁵ Andi Pahare, Syamsuddin Muchtar, and Muhammad Basri, "Construction Analysis of Penal Mediation and Restorative Justice on Crime Settlement in the Indonesian Criminal Justice System," *Legal Brief* 12 (April 28, 2023): 77–86, <https://doi.org/10.35335/legal.v12i1.742>.

Presidential Regulation or an amendment to the Press Law, is recommended. This research advances legal theory by introducing the 'Restorative Press Shield' model, a legal framework that integrates the protection of journalists' rights with social responsibility through certified penal mediation. This model serves as both a practical dispute-resolution mechanism and a contribution to modern criminal legal thought by prioritizing reparation over elimination or incarceration for individuals performing public functions.

In addition to freedom of expression, this research identifies emerging concerns regarding the protection of journalists' personal data, which is increasingly vulnerable during digital investigations. Pursuant to Law No. 27 of 2022 on Personal Data Protection, law enforcement officials are required to ensure that, during restorative justice processes, the personal data of journalists and their sources is not misused.³⁶ Efforts by law enforcement to prevent the dissemination of journalists' personal data as a means of intimidation are integral to comprehensive restorative justice, which recognizes journalists not only as potential offenders but also as individuals whose privacy rights must be safeguarded throughout legal proceedings.³⁷ This development demonstrates that the scope of restorative justice in press disputes is evolving alongside technological advances and Indonesia's evolving digital legal landscape.

A significant limitation of this normative legal study is the challenge of obtaining accurate statistical data on case dismissals at the regional police level, as many are not reported to the central system. Numerous restorative justice processes occur informally and lack sufficient documentation, hindering comprehensive quantitative analysis of effectiveness, particularly in remote regions. Furthermore, the limited availability of references on restorative justice practices for press-related criminal offenses in countries with diverse legal systems complicates rigorous international comparisons. Future research should therefore include empirical field studies utilizing in-depth interviews with investigators, journalists, and victims across various regions to assess the effectiveness of penal mediation from sociological and legal-psychological perspectives.

In conclusion, the application of restorative justice to safeguard press freedom in Indonesia constitutes both a sociological and legal imperative for achieving a more

³⁶ Rochman, Akmal, and Andriansyah, "Pencemaran Nama Baik melalui Media Sosial: Perbandingan Hukum Pidana Positif dan Pidana Islam."

³⁷ Calizta Andraputri and Neni Ruhaeni, "Penegakan Hukum Terhadap Pelaku Penyalahgunaan Penyebaran Data Pribadi Jurnalis Di Indonesia Berdasarkan Undang-Undang Nomor 27 Tahun 2022 Tentang Perlindungan Data Pribadi," *Bandung Conference Series: Law Studies* 3 (January 25, 2023), <https://doi.org/10.29313/bcsls.v3i1.4960>.

civilized judicial system. Harmonizing the Press Law, the ITE Law, and related law enforcement regulations should ensure that the 'voice of truth' is not silenced by fear of imprisonment, while also guaranteeing fair redress for those who have been wronged. By reinforcing the Press Council's role as a central mediator and integrating its outcomes into the national criminal justice system, Indonesia has the potential to serve as a model for other democratic nations in balancing press freedom with the enforcement of criminal law amid the complexities of digital transformation.

C. CONCLUSIONS

This study concludes that restorative justice is an important and effective legal instrument to protect press freedom from criminalization in Indonesia, particularly in defamation and insult disputes related to the ITE Law. Criminal mediation facilitated by the Press Council can provide legal certainty for journalists while restoring victims' rights through the right to reply and the right to correction without having to resort to retributive criminal prosecution. This finding emphasizes the need to strengthen the legal standing of the Memorandum of Understanding between the Press Council and law enforcement agencies so that the Press Council's technical recommendations become a mandatory reference during the investigation and prosecution stages. However, this study is still limited by the lack of formal statistical data at the regional level, so further research is needed to examine the practices of law enforcement officers' discretion and standardize the competence of mediators in resolving press disputes fairly, transparently, and in accordance with the principles of responsible press freedom.

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