

## Digital Press In The Era Of Disruption: Reconstructing The Legal Framework Toward Responsible Freedom Of Information In Indonesia

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### Abstract

The era of digital technological disruption has structurally altered the press ecosystem in Indonesia. The presence of media entities operating online without established institutional infrastructure — academically termed "homeless media" — raises fundamental legal issues not yet adequately accommodated by Law Number 40 of 1999 on the Press. This research aims to analyze the legal framework for the digital press in Indonesia in the context of technological disruption, identify existing normative gaps, and formulate a legal framework reconstruction capable of realizing responsible freedom of information. This research employs a normative juridical method with four approaches: statutory, conceptual, historical, and comparative law. Comparative studies were conducted on the digital press regulatory systems of South Korea, the United Kingdom, Australia, and Germany. The findings identify five main normative gaps: (1) the absence of an inclusive definition of digital press legal subjects; (2) the inadequacy of online media verification mechanisms; (3) the weakness of digital journalist protection; (4) ambiguity in liability regimes; and (5) normative disharmony between the Press Law and the Electronic Information and Transactions Law (EIT Law). Legal reconstruction is required through a progressive legal paradigm that prioritizes the social function of the press over institutional formalism.

Keywords: digital press; technological disruption; homeless media; legal framework; progressive law; freedom of information

### Abstrak

*Era disrupsi teknologi digital telah mengubah secara struktural ekosistem pers di Indonesia. Kehadiran entitas media yang beroperasi secara daring tanpa infrastruktur kelembagaan yang mapan — yang dalam kajian akademis disebut sebagai "homeless media" — menghadirkan persoalan hukum mendasar yang belum terakomodasi secara memadai oleh Undang-Undang Nomor 40 Tahun 1999 tentang Pers. Penelitian ini bertujuan menganalisis kerangka hukum pers digital di Indonesia dalam konteks disrupsi teknologi, mengidentifikasi kesenjangan normatif yang ada, serta merumuskan rekonstruksi kerangka hukum yang mampu mewujudkan kemerdekaan informasi yang bertanggung jawab. Metode penelitian yang digunakan adalah yuridis normatif dengan empat pendekatan: perundang-undangan, konseptual, historis, dan perbandingan hukum. Kajian komparatif dilakukan terhadap sistem regulasi pers digital Korea Selatan, Inggris, Australia, dan Jerman. Hasil penelitian menemukan lima kesenjangan normatif utama: (1) ketiadaan definisi subjek hukum pers digital yang inklusif; (2) ketidakmemadaiannya mekanisme verifikasi media daring; (3) kelemahan perlindungan jurnalis digital; (4) ambiguitas rezim pertanggungjawaban; dan (5) disharmoni normatif antara UU Pers dan UU ITE. Rekonstruksi hukum diperlukan melalui paradigma hukum progresif yang mengutamakan fungsi sosial pers atas formalisme kelembagaan.*

*Kata Kunci: pers digital; disrupsi teknologi; homeless media; kerangka hukum; hukum progresif; kemerdekaan informasi*

### A. Introduction

The massive digital technology revolution since the early 21st century has shaken the foundations of the press industry globally, including in Indonesia. Data from the Indonesian Internet Service Providers Association (APJII) in 2024 recorded that Indonesian internet users had surpassed 221 million, with a penetration rate of 79.5 percent of the total population.<sup>1</sup> This condition has given rise to a radically new media landscape: thousands of online news portals have grown at a pace unmatched by existing regulations, while conventional media struggle to maintain their relevance and

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<sup>1</sup> Asosiasi Penyelenggara Jasa Internet Indonesia (APJII), Laporan Survei Penetrasi dan Perilaku Pengguna Internet Indonesia 2024 (Jakarta: APJII, 2024), hlm. 14-16.

sustainability.<sup>2</sup> In the Indonesian context, this transformation is not merely a change in media, but a structural shift in how society produces, consumes, and verifies information. Journalism, which was originally carried out by formally organized press institutions, is now also conducted by individuals armed with smartphones and social media platforms.<sup>3</sup>

This phenomenon creates a troubling paradox: on the one hand, public access to information is becoming broader and more democratic; on the other, the information ecosystem is marred by disinformation, unverified content, and media entities lacking measurable journalistic standards.<sup>4</sup> The most fundamental legal issue arises when a press regulatory system designed for the context of conventional media confronts the reality of a digital press that far exceeds the imagination of lawmakers. Law Number 40 of 1999 on the Press (hereinafter the "Press Law") defines the press as "a social institution and vehicle for mass communication that carries out journalistic activities."<sup>5</sup>

This definition frames the press as an entity that is institutionally organized — an assumption that becomes problematic when confronted with the reality of homeless media, namely digital media entities that factually perform journalistic functions but lack the institutional infrastructure required by law.<sup>6</sup> This issue gains constitutional urgency when linked to Article 28F of the 1945 Constitution of the Republic of Indonesia (UUD NRI 1945), which guarantees every citizen's right to "seek, obtain, possess, store, process, and convey information using all available channels."<sup>7</sup>

This constitutional guarantee should serve as the foundation for an inclusive legal framework responsive to technological dynamics. In practice, however, there is a significant gap between this constitutional ideal and the positive legal framework in force.<sup>8</sup> The Press Law provision requiring press companies to be legal entities creates a legal dualism that is detrimental: media that meet formal requirements receive protection under the Press Law, while thousands of digital media outlets operating without legal entity status — regardless of the quality of the journalistic work they produce — exist in a legal gray zone highly vulnerable to the misuse of legal processes to control press freedom. Based on the above problems, this research formulates three research questions: (1) How does the applicable legal framework accommodate the reality of the digital press in Indonesia? (2) What normative gaps are identified in the regulation of the digital press concerning homeless media? And (3) What reconstruction of the legal framework is needed to realize responsible freedom of information in the era of digital disruption?

## Theoretical Framework

### Press Freedom Theory in the Digital Ecosystem

Press freedom theory in media law studies has evolved from a long-standing debate about the relationship between the state, the press, and the public. Severin and Tankard map a typology of press systems from the most authoritarian to the most libertarian, with social responsibility as the normative position most widely adopted by modern democratic states.<sup>9</sup> This social responsibility position assumes that press freedom is not absolute but must be accompanied by a commitment to accuracy, balance, and the public interest. Denis McQuail further developed a normative framework for the press by introducing the concept of "democratic responsibility," which positions the press as an actor within the broader democratic system.<sup>10</sup>

<sup>2</sup> Pew Research Center, *Journalism, Media, and Technology Trends and Predictions 2024* (Washington D.C.: Pew Research Center, 2024), hlm. 8.

<sup>3</sup> Nuraini Juliastuti, "Dari Ruang Publik ke Ruang Digital: Transformasi Jurnalisme Indonesia di Era Platform," *Jurnal Komunikasi Indonesia* 10, No. 2 (2022), hlm. 112

<sup>4</sup> Dewan Pers, *Indeks Kemerdekaan Pers Indonesia 2024* (Jakarta: Dewan Pers, 2024), hlm. 7-9

<sup>5</sup> Pasal 1 angka 1 Undang-Undang Nomor 40 Tahun 1999 tentang Pers (Lembaran Negara Republik Indonesia Tahun 1999 Nomor 166, Tambahan Lembaran Negara Republik Indonesia Nomor 3887)

<sup>6</sup> Wahyudi Djafar, *Hukum Media di Indonesia: Sebuah Pengantar* (Jakarta: Yayasan Obor Indonesia, 2021), hlm. 34

<sup>7</sup> Pasal 28F Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (hasil amandemen kedua tahun 2000).

<sup>8</sup> Pasal 28E ayat (3) Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 menegaskan, "Setiap orang berhak atas kebebasan berserikat, berkumpul, dan mengeluarkan pendapat." Lihat juga Jimly Asshiddiqie, *Hak Konstitusional Warga Negara* (Jakarta: Bhuana Ilmu Populer, 2022), hlm. 143

<sup>9</sup> Werner J. Severin, *Communication Theories: Origins, Method and Uses in the mass Media*, 9th ed (New York: Longman, 2001) hlm. 329

<sup>10</sup> Denis McQuail, *McQuail's Mass Communication Theory*, 6th ed. (London: SAGE Publication, 2010) hlm. 172

In this perspective, press freedom is not merely an institutional right inherent in media institutions, but a social function inherent in the process of disseminating public information. This formulation is highly relevant in the context of the digital press, where journalistic actors are no longer limited to formal press institutions. Jenkins, through the concept of "convergence culture," illustrates how the boundaries between media producers and consumers are increasingly blurred in the digital era.<sup>11</sup> Meanwhile, Castells conceptualizes this phenomenon as "mass self-communication," a condition in which every individual can produce and distribute messages to a global audience without requiring conventional media infrastructure.<sup>12</sup> From this perspective, homeless media should be understood not as an anomaly, but as a logical expression of the evolution of the digital communication ecosystem.

Habermas, in his post-classical work, provides an important nuance: the digital public sphere is not necessarily more democratic than the conventional public sphere. Information fragmentation, algorithmic polarization, and the dominance of corporate platforms have the potential to distort the quality of public deliberation, which should be the main function of the public sphere.<sup>13</sup> Deliberation is a deep process of discussion, consultation, and careful, rational consideration of choices, usually conducted before making a decision. The deliberative method is often associated with a democratic process in which public policy is not only decided by the majority but is also influenced by free discourse and public dialogue. The implication for press law is that good regulation is not one that merely protects freedom but also promotes accountability and the quality of public information.

### **Progressive Law as a Reconstruction**

Paradigm Satjipto Rahardjo introduced the concept of progressive law as a critical response to the limitations of legal positivism in responding to rapid social change. For Rahardjo, "law is for humans, not humans for law" a proclamation that places human welfare and justice as the highest goal of law, not formal compliance with normative texts.<sup>14</sup> This paradigm demands that law continuously move, change, and perfect itself in accordance with social and technological dynamics, rather than remain silent behind the grandeur of rigid texts.<sup>15</sup> Moh. Mahfud MD, in his study of Indonesian legal politics, emphasizes that responsive legal development requires the courage to transcend outdated statutory texts to realize substantive justice.<sup>16</sup> In the context of the digital press, this means the courage to acknowledge that entities that factually perform journalistic functions regardless of their formal status are entitled to legal protection commensurate with their social contribution.

### **Legal Certainty Theory in Digital Press**

Regulation Bagir Manan asserts that press freedom is a freedom inherent in function, not merely in institution.<sup>17</sup> This formulation provides a conceptual foundation for a functional rather than formal-institutional definition of the press.

In line with Fuller's principles of legal certainty, a good press legal framework should be: understandable to all press actors (including digital media), consistent in its application, and not demand the impossible from press entities with diverse capacities.<sup>18</sup> The disharmony between the Press Law and the EIT Law is the most concrete example of a legal certainty crisis in Indonesia's digital press regulation.<sup>19</sup> When two legal regimes that potentially apply to the same act impose vastly

<sup>11</sup> Hendry Jenkin, *Convergence Culture: Where Old and New Media Collide* (New York: New York University Press, 2006), hlm. 2

<sup>12</sup> Manuel Castells, *Communication Power*, 2<sup>nd</sup> ed. (Oxford: Oxford University Press, 2013) hlm. 53

<sup>13</sup> Jurgen Habermas, *Between Fact and Norms: Contribution to a Discourse Theory of law and Democracy*, terjemahan Wiliam Rehg, cetakan ke-4 (Cambridge: MIT Press, 2001) hlm. 359

<sup>14</sup> Satjipto Rahardjo, *Hukum Progresif: Sebuah Sintesa Hukum Indonesia* (Yogyakarta: Genta Publishing, 2009), hlm. 1-5

<sup>15</sup> Satjipto Rahardjo, *Membedah Hukum Progresif* (Jakarta: Kompas, 2006), hlm. 9-12

<sup>16</sup> Moh. Mahfud MD, *Membangun Politik Hukum, Menegakkan Konstitusi*, Cetakan ke-3 (Jakarta: RajaGrafindo Persada, 2012), hlm. 23

<sup>17</sup> Bagir Manan, *Pers, Hukum, dan Hak Asasi Manusia*, Cetakan ke-2 (Jakarta: Dewan Pers, 2012), hlm. 12-15.

<sup>18</sup> Lon L. Fuller, *The Morality of Law*, Revised Edition (New Haven: Yale University Press, 2003), hlm. 39.

<sup>19</sup> Wahyudi Djafar, "Menakar Kepastian Hukum Regulasi Media Digital Indonesia," *Jurnal Konstitusi* 16, No. 2 (2019), hlm. 252-255

different legal consequences protection under the Press Law versus criminal threats under the EIT Law a condition of legal uncertainty arises that directly hinders freedom of expression and impacts the quality of democracy.<sup>20</sup>

## B. Research Method

This research uses a normative legal research method, which places legal norms as the primary object of study and relies on legal materials as the main data sources. In Indonesian legal scholarship, this is the most commonly used method in prescriptive doctrinal studies.<sup>21</sup> Four approaches are used complementarily: First, the statutory approach examines the hierarchy and substance of laws and regulations related to the press, media, and digital information in Indonesia. Second, the conceptual approach traces academic concepts concerning press freedom, digital information governance, and normative media frameworks. Third, the historical approach tracks the development of press regulation from the post-reform era to the era of media convergence. Fourth, the comparative law approach examines digital press regulations in South Korea, the United Kingdom, Australia, and Germany as comparative references.<sup>22</sup> Legal materials are grouped into three categories: primary legal materials include the 1945 Constitution, the Press Law, the EIT Law and its amendments, the Broadcasting Law, the Public Information Disclosure Law, court decisions, and Press Council regulations. Secondary legal materials include academic literature, legal journals, research reports, and policy documents. Tertiary legal materials include legal dictionaries and encyclopedias.<sup>23</sup> The analysis was conducted qualitatively using legal interpretation techniques, including grammatical, systematic, historical, and teleological interpretation.

## C. Results And Discussion

### Indonesia's Digital Press Legal Framework: Normative Inventory

A review of the positive legal framework reveals a fragmented and incohesive normative landscape. There are four main legal instruments that directly or indirectly regulate digital press activities: (1) Law Number 40 of 1999 on the Press; (2) Law Number 11 of 2008 in conjunction with Law Number 19 of 2016 on Electronic Information and Transactions (EIT Law); (3) Law Number 32 of 2002 in conjunction with Law Number 32 of 2022 on Broadcasting; and (4) Law Number 14 of 2008 on Public Information Disclosure. Each of these instruments was born from different policy logics, without an adequate integrative framework to respond to digital media convergence.<sup>24</sup>

The Press Law defines a press company as "an Indonesian legal entity that conducts press business, including print media companies, electronic media, and news agencies, as well as other media companies that specifically organize, broadcast, or distribute information."<sup>25</sup> The Press Council subsequently developed the Cyber Media News Guidelines in 2012, which define cyber media as "all forms of media that use the internet and carry out journalistic activities."<sup>26</sup> Although this guideline was a step forward, it lacks the normative force of a law and thus cannot change the applicable legal protection regime.

The most crucial normative issue occurs between the Press Law and the EIT Law. Article 45 paragraph (3) of the EIT Law threatens imprisonment for up to four years and/or a fine for content containing defamation or slander through electronic media.<sup>27</sup> If applied without considering the *lex specialis* principle of the Press Law, this provision has the potential to criminalize legitimate

<sup>20</sup> Ahmad Zaenal Fanani, "Berpikir Falsafati dalam Putusan Hakim," *Varia Peradilan* 26, No. 304 (2011), hlm. 15-17. Lihat juga Satjipto Rahardjo, *Ilmu Hukum*, Cetakan ke-8 (Bandung: Citra Aditya Bakti, 2014), hlm. 258-260.

<sup>21</sup> Soerjono Soekanto dan Sri Mamudji, *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*, Edisi Revisi (Jakarta: Raja Grafindo Persada, 2015) hlm. 13

<sup>22</sup> Philipus M. Hadjon dan Tatiek Sri Djamiati, *Argumentasi Hukum*, Ed.2 (Yogyakarta : Gajah Mada University Press, 2014), hlm. 22

<sup>23</sup> Johny Ibrahim, *Teori dan Metodologi Penelitian Hukum Normatif*, Ed. Revisi (malang: Bayumedia Publishing, 2011), hlm. 295

<sup>24</sup> Wahyudi Djafar, *Hukum Media di Indonesia: Sebuah Pengantar* (Jakarta: Yayasan Obor Indonesia, 2021), hlm. 78-80

<sup>25</sup> Pasal 1 angka 2 Undang-Undang Nomor 40 Tahun 1999 tentang Pers

<sup>26</sup> Dewan Pers, *Pedoman Pemberitaan Media Siber* (Jakarta: Dewan Pers, 2012), Butir 1 angka 1.

<sup>27</sup> Pasal 45 ayat (3) Undang-Undang Nomor 19 Tahun 2016 tentang Perubahan atas Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik

journalistic work. Data from LBH Pers (Legal Aid Institute for the Press) notes a significant increase in the use of the EIT Law to target journalists and online media, especially those operating without clear institutional status. The Supreme Court, in several decisions, has sought to harmonize the application of these two laws, but legal uncertainty persists at lower judicial levels.

### **Five Normative Gaps in Digital Press Regulation**

#### **Gap in the Definition of Digital Press Legal Subjects**

The Press Law was designed with the assumption that press actors are formally organized institutional entities. This assumption creates a serious normative void in accommodating the diversity of digital press actors. An independent journalist who manages an online news portal with hundreds of thousands of readers, a community media outlet run by a group of citizens, or a network of freelance journalists collaborating through digital platforms all of these functionally perform the role of the press, yet formally receive no recognition or protection as the press.

Legal protection for journalists as regulated in Article 8 of the Press Law and the right to refuse to disclose confidential sources as regulated in Article 4 paragraph (4) of the Press Law can, in practice, only be claimed by those who work for press companies verified by the Press Council.<sup>28</sup> Digital journalists not affiliated with legally incorporated media are in a vulnerable legal position, not only when facing legal threats but also when accessing public official sources who often require proof of affiliation with a verified media outlet.<sup>29</sup>

#### **Inadequacy of Online Media Verification Mechanisms**

The Press Council has established a press company verification mechanism as an effort to build journalistic quality standards. However, this mechanism was designed with conventional institutional assumptions that are unfriendly to digital media. Of approximately 5,614 online media outlets identified as actively operating, only 1,711 had completed the Press Council verification process as of December 2023.<sup>30</sup>

This means that more than 69 percent of actively operating online media are outside the formal recognition of the press legal system. Verification requirements that mandate a physical newsroom, a deed of incorporation as a legal entity, and a legally identifiable person in charge are disproportionate barriers for digital media that, by nature, operate in a virtual environment and often with limited resources. This condition is exacerbated by the absence of an effective and transparent appeal mechanism in the Press Council's verification process.

#### **Weakness of Digital Press Protection The 2024**

Indonesian Press Freedom Index published by the Press Council places journalist protection as one of the dimensions most in need of improvement.<sup>31</sup> This weakness in protection hits hardest for digital journalists working for unverified media. They face the risk of criminalization through articles of the EIT Law but do not have access to protection mechanisms available to journalists working for verified media, including Press Council advocacy and legal aid from recognized press organizations.<sup>32</sup>

#### **Ambiguity in the Liability Regime**

When content produced by homeless media causes harm to other parties for example, through inaccurate reporting or content deemed defamatory the question of who is responsible becomes highly complex. Does responsibility lie with the individual author? With the platform

<sup>28</sup> Pasal 8 Undang-Undang Nomor 40 Tahun 1999 tentang Pers.

<sup>29</sup> Pasal 4 ayat (4) Undang-Undang Nomor 40 Tahun 1999 tentang Pers.

<sup>30</sup> Dewan Pers, Catatan Dewan Pers: Pengaduan Media Siber 2019-2023 (Jakarta: Dewan Pers, 2024), hlm. 11. Dari 5.614 media daring yang teridentifikasi aktif beroperasi, hanya 1.711 yang telah menyelesaikan proses verifikasi Dewan Pers per Desember 2023

<sup>31</sup> Reporters Without Borders (RSF), World Press Freedom Index 2024 (Paris: RSF, 2024), hlm. 5-7. Indonesia berada di peringkat 66 dari 180 negara, dengan catatan khusus atas meningkatnya kasus hukum yang menasar jurnalis digital.

<sup>32</sup> Pasal 27 ayat (3) jo. Pasal 45 ayat (3) Undang-Undang Nomor 19 Tahun 2016 tentang ITE. Lihat juga Edmon Makarim, Kompilasi Hukum Telematika, Edisi Kedua (Jakarta: RajaGrafindo Persada, 2004), hlm. 345.

manager? With the media entity as a whole? The applicable legal framework does not provide a clear answer, creating uncertainty that can be misused by interested parties to suppress press freedom.

### **Normative Disharmony between the Press Law and the EIT Law**

The problem of disharmony between the Press Law and the EIT Law is an issue that has been repeatedly identified in academic studies but has not received a comprehensive legislative solution. The principle of *lex specialis derogat legi generali* should position the Press Law as the specific regulation that overrides the EIT Law in regulating journalistic content. However, when the status of an entity as "the press" itself is legally unclear — as is the case with homeless media — this *lex specialis* principle cannot be automatically operationalized as a protection.

### **Comparative Study: Four Jurisdictions**

South Korea offers the most relevant model for Indonesia. The Act on the Promotion of Newspapers, Etc., revised in 2019, adopts a functional definition of "internet newspaper": media that periodically publishes journalistic content through information and communication networks, without requiring a specific legal entity form. The main criteria used are periodicity, editorial commitment, and public accessibility.<sup>33</sup>

The United Kingdom, post-Leveson Inquiry, developed a system of self-regulation with a "recognition panel" that accredits press self-regulatory bodies based on standards of independence, effectiveness, and accessibility. This framework inclusively covers digital media of any size and format — what is assessed is commitment to journalistic standards, not institutional scale.<sup>34</sup>

Australia, through the ACCC Digital Platforms Inquiry (2019) and the News Media Bargaining Code (2021), took a unique approach by focusing on the relationship between digital platforms and the media. Australian regulation not only governs media status but also obligates digital platforms like Google and Meta to negotiate fairly with media over the use of journalistic content.<sup>35</sup>

This approach provides lessons on the importance of comprehensively regulating the digital press ecosystem, not only from the perspective of media institutional status. Germany, through the *Telemediengesetz*\* (Telemedia Act), adopts an approach based on proportional editorial standards. The higher the editorial standards applied by a media entity, the stronger the legal protection granted. Grabenwarter, in his study of press freedom in comparative constitutional law, concludes that the German approach has succeeded in balancing the protection of press freedom with public accountability in the digital ecosystem. UNESCO, in its report on global freedom of expression trends, identifies three general principles adopted by jurisdictions that have successfully regulated the digital press effectively: (1) inclusivity of definitions based on function rather than institutional form; (2) proportionality of regulation based on scale of impact and editorial standards; and (3) a balance between protecting press freedom and effective accountability mechanisms. These three principles should serve as a reference for the reconstruction of Indonesia's digital press law.

### **Reconstruction of Indonesia's Digital Press Legal Framework**

Based on the identification of normative gaps and comparative lessons, this research formulates six agendas for reconstructing Indonesia's digital press legal framework. First, expansion of the definition of press legal subjects based on function. The Press Law needs to be revised to adopt an inclusive definition that reaches the entire spectrum of digital press actors. The new definition should be based on functional criteria: whether an entity factually, regularly, and with certain ethical standards produces journalistic content for the public interest. This functional

<sup>33</sup> Korean Press Foundation, *Media Policy in Korea 2022* (Seoul: KPF, 2022), hlm. 34-36. Lihat juga Act on the Promotion of Newspapers, Etc. (Republic of Korea), Article 2, sebagaimana diubah tahun 2019

<sup>34</sup> Lord Justice Brian Leveson, *An Inquiry into the Culture, Practices and Ethics of the Press: Executive Summary* (London: The Stationery Office, 2012), hlm. 6-8

<sup>35</sup> Australian Competition and Consumer Commission (ACCC), *Digital Platforms Inquiry: Final Report* (Canberra: ACCC, 2019), hlm. 19-22. Lihat juga Treasury Laws Amendment (News Media and Digital Platforms Mandatory Bargaining Code) Act 2021 (Australia).

approach is consistent with Bagir Manan's idea that press freedom is inherent in function, not institution, and is in line with the model adopted by South Korea.<sup>36</sup>

Second, establishment of a tiered digital press registration system. The diversity of digital press entities demands a proportional regulatory framework. A tiered system can be built by accommodating: (a) national digital media with legal entity status and full institutional standards; (b) digital community media with proportional standards; (c) thematic or local digital media; and (d) individual digital journalists who meet certain competency standards. Each level receives rights of protection and obligations of accountability that are proportional.<sup>37</sup>

Third, modernization of the Press Council's verification and accreditation mechanisms. Verification should not require the physical presence of a newsroom, but can be based on editorial standards that are digitally measurable: the availability of published editorial policies, functional correction and complaint mechanisms, commitment to the Journalistic Code of Ethics that can be proven through digital footprints, and information on a person in charge who can be verified online.<sup>38</sup>

Fourth, special regulation for digital journalist protection. There needs to be a provision that explicitly extends journalistic protection to journalists working for registered digital media, freelance journalists who meet certain competency standards, and citizen journalists who regularly produce journalistic work that meets ethical standards. This protection includes the right to source confidentiality, immunity from criminal charges for journalistic work that meets ethical standards, and access to press dispute resolution mechanisms.<sup>39</sup>

Fifth, normative harmonization between the Press Law and the EIT Law. It must be explicitly affirmed — either in the revision of the Press Law or in law enforcement policy — that content produced by media registered in the press registration system and meeting journalistic ethical standards is subject to press dispute resolution mechanisms, not to the criminal provisions of the EIT Law. This mechanism must be accompanied by clear procedures on how judges determine the "press" status of an entity when a dispute arises.<sup>40</sup>

Sixth, institutional strengthening of the Press Council as an ecosystem regulator for the digital press. Institutional reconstruction of the Press Council includes: strengthening regulatory authority supported by a strong legal basis,<sup>41</sup> increasing representation of the digital press community in the Press Council's membership, developing technology-based monitoring systems, developing fast and accessible digital dispute resolution mechanisms, and strengthening capacity to provide media literacy education to the public. This reconstruction must be guided by a progressive legal paradigm that, as emphasized by Rahardjo, places human liberation as the highest goal of law.<sup>42</sup>

#### D. Conclusion

Based on the analysis conducted, this research produces three main conclusions. First, the applicable press legal framework in Indonesia contains a significant normative void in accommodating the reality of the digital press. The Press Law, born in the context of post-Reform conventional media, lacks an adequate conceptual framework to reach the diversity of contemporary digital press entities. The requirement to be a legal entity as a prerequisite for recognition as a press company is a structural barrier that hinders the protection of thousands of digital media outlets that factually perform journalistic functions. Second, there are five main normative gaps requiring legislative attention: (1) the absence of an inclusive definition of digital press legal subjects; (2) the

<sup>36</sup> Naskah Akademik Rancangan Undang-Undang tentang Pers (Revisi), Dewan Perwakilan Rakyat Republik Indonesia, 2024, hlm. 34-38

<sup>37</sup> Agus Sudibyo, *Politik Media dan Pertarungan Wacana*, Cetakan ke-3 (Yogyakarta: LKiS, 2009), hlm. 88-90.

<sup>38</sup> Dian Rosita, "Formulasi Pengaturan Tanggung Jawab Platform Digital terhadap Konten Berita di Indonesia," *Jurnal Hukum Ius Quia Iustum* 29, No. 3 (2022), hlm. 490-493

<sup>39</sup> Edmon Makarim, *Tanggung Jawab Hukum Operator Sistem Elektronik*, Edisi Revisi (Jakarta: RajaGrafindo Persada, 2022), hlm. 115-118

<sup>40</sup> Dewan Pers, *Indeks Kemerdekaan Pers Indonesia 2024* (Jakarta: Dewan Pers, 2024), hlm. 22-24.

<sup>41</sup> Jimly Asshiddiqie, *Perihal Undang-Undang*, Cetakan ke-4 (Jakarta: RajaGrafindo Persada, 2014), hlm. 183-186. Lihat juga Maria Farida Indrati S., *Ilmu Perundang-Undangan: Jenis, Fungsi, dan Materi Muatan* (Yogyakarta: Kanisius, 2007), hlm. 95.

<sup>42</sup> Satjipto Rahardjo, *Hukum dan Perubahan Sosial: Suatu Tinjauan Teoretis serta Pengalaman-Pengalaman di Indonesia*, Cetakan ke-3 (Yogyakarta: Genta Publishing, 2010), hlm. 152-155.

inadequacy of online media verification mechanisms; (3) the weakness of digital journalist protection; (4) ambiguity in the liability regime; and (5) normative disharmony between the Press Law and the EIT Law. These gaps are not merely technical legislative issues, but constitutional issues that touch on the guarantee of freedom of information in Article 28F of the 1945 Constitution. Third, the reconstruction of Indonesia's digital press legal framework must be based on a progressive legal paradigm that places the social function of the press above institutional formalism. The experiences of South Korea, the United Kingdom, Australia, and Germany confirm that inclusive definitions, proportional regulation, and a balance between protection and accountability are the main pillars of an effective and democratic digital press regulation.

This research formulates four policy recommendations. First, the House of Representatives (DPR RI) and the Government need to immediately prioritize a comprehensive revision of the Press Law by including an inclusive digital media regulatory framework, including a function-oriented definition of legal subjects and a tiered registration system. Second, the Supreme Court needs to issue a Circular Letter or Supreme Court Regulation providing guidance for judges in determining the boundaries of application of the Press Law and the EIT Law to content produced by digital press entities. Third, the Press Council needs to immediately revise its verification mechanism to be friendly to digital media, including by developing a verification system based on editorial standards that can be conducted online. Fourth, the government needs to develop a media law literacy program for the digital journalism community so that digital press actors understand their legal rights and obligations in this transforming ecosystem.

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