



Analysis of Journalist Criminal Case Settlement from the Perspective of Progressive Legal Theory

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Received: 26-11-2024 Reviewed: 10-12-2024 Accepted: 26-12-2024

Abstract

This study aims to analyze the settlement of journalist criminal cases from a progressive legal perspective. The approach used is a literature study and analysis of related legal documents. This study identifies factors influencing the settlement of journalist criminal cases, including implementing progressive legal principles. From the results of the analysis, it was found that the application of progressive law can positively contribute to efforts to resolve journalist criminal cases more fairly and proportionally. The methodology that can be used includes data collection from various reliable sources, comprehensive analysis of relevant legal documents, and interviews with various related parties to obtain diverse perspectives. This study is expected to contribute to developing progressive legal theory and practice in resolving criminal cases for journalists in Indonesia.

Keywords: Analysis, Journalist Criminal Case, Progressive Legal Theory

Introduction

In the era of rapidly developing information, the role of journalists as supervisors of power and carriers of information is becoming increasingly important in maintaining freedom of opinion and the public's right to information. However, journalists often face various challenges in carrying out their duties, including legal issues related to implementing journalistic duties.

Based on data on news complaints in 2023 at the Press Council, it has recorded receiving 813 complaints of press cases in 2023, with 794 cases successfully resolved or 97.66 percent. Of the resolved cases, 45 cases were resolved through PPR (statement of assessment and opinion), while the rest were resolved through mediation and letters. Sadly, 60 percent of

complaints were dominated by unprofessional media companies with characteristics, namely the behaviour of journalists extorting, using non-governmental organizations (NGOs), collaborating with law enforcement officers, and intimidating for personal gain, both economic and social. (Victoria, 2024)

Meanwhile, data from the Southeast Asian Freedom of Expression Defenders Association (SAFEnet) shows the report's results on digital rights in Indonesia throughout 2019. Based on the report, documentation throughout 2019 shows that criminalization of expression is still rampant. The results were 24 criminalization cases with the Electronic Information and Transactions Law (ITE). Journalists or media were the most victims of this criminalization, with as many as 8 cases consisting of one media and seven journalists who were victims (Aditya & Krisiandi, 2020). It was different again in East Java, and there were three (3) journalists named Prayit from Sidoarjo, Dion, and Rangga from Surabaya on May 4, 2024, arrested by the Jember Selatan Resmob team, on suspicion of extortion at a gas station (gas station) in Ambulu District, Jember Regency, East Java Province. (Mahrus, 2024)

Previous data also emerged; between January and December 2010, the Press Council received 512 complaints: 144 direct complaints and 368 copies, 48 mediation cases, and four cases with Press Council decisions. The rest were through letters or direct communication with related parties. Apart from that, the Press Council also handled several press ethics cases without complaints from the public. The results of mediation and case handling were decisions or recommendations, with 80 percent stating that the media or journalists had violated the code of ethics in various forms. The sanctions imposed by the Press Council for violations of the code of ethics were the publication of the right of reply accompanied by an apology and the requirement to attend journalistic training for journalists or editors who violated the code of ethics. Of that number, 95 percent were complied with by the media or journalists concerned, and only a few media did not want to comply with the decisions or recommendations of the Press Council.

Meanwhile, the Press Council for the 2007-2010 period, through the Commission for Public Complaints and Press Ethics Enforcement, received a total of 1,185 complaints, most of which also concerned violations of the Journalistic Code of Ethics. Generally, Articles 1, 2, 3, and 4 are violated concerning imbalanced, unprofessional, and judgmental reporting, and some broadcast obscene news. Some others violate Articles 9, 10, and 11, including not respecting sources' rights (privacy), not immediately correcting their incorrect news, and not serving the public's Right to Reply proportionally.

In that dimension, Lilik Mulyadi argues that the existence of penal mediation can be studied from a philosophical, sociological, and legal perspective. From a philosophical perspective, the existence of penal mediation contains the principle of implementing a "win-win" solution and not ending in a "lose-lose" or "win-lose" situation, as the courts want to achieve by achieving formal justice through the litigation legal process (law enforcement process). The highest peak of justice is obtained through the penal mediation process because there is an agreement between the parties involved in the criminal case, namely between the perpetrator and the victim. It is hoped that both the victim and the perpetrator can seek and achieve the best solutions and alternatives to resolve the case. (Mulyadi, 2013)

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In this context, conducting an in-depth analysis of the settlement of journalists' criminal cases from a progressive legal perspective is essential. Settling criminal cases involving journalists protects press freedom and legal justice. From a progressive legal perspective, the settlement of criminal cases is not only viewed from the aspect of criminality but also from the perspective of human rights and freedom of expression. This shows the importance of integrating progressive values in handling cases involving journalists. (Nugroho & Fitriawan, 2024)

It is clearly stated in the 1945 Constitution of the Republic of Indonesia, which guarantees the right to freedom of opinion and express opinions verbally or in writing. In addition, Law No. 40 of 1999 concerning the Press also guarantees freedom of the Press as part of human rights. In analyzing the settlement of journalists' criminal cases, it is important to consider the principles of progressive legal theory proposed by an Indonesian legal expert, Prof. Dr. Satjipto Rahardjo, S.H. Where progressive legal theory emphasizes justice, equality, and protection of human rights, this has an impact on a more holistic understanding of cases involving journalists, where the interests of press freedom are not only seen as individual rights but also as an important aspect in maintaining the sustainability of democracy and preventing abuse of power.

Thus, the analysis of the settlement of journalist criminal cases from a progressive legal perspective can provide a valuable contribution to strengthening the legal system with a foundation of justice, equal rights, and protection of press freedom (Díaz-Cerveró et al., 2024). Awareness of integrating progressive values in law enforcement is key to creating a balanced, fair, and sustainable legal environment for all parties involved.

Literature Review

The journal, written by the author, presents a careful and in-depth review of the resolution of criminal cases involving journalists. The approach used from the perspective of Progressive Legal Theory provides a more holistic understanding of this complex issue (Sitepu et al., 2024). In the journal, the author links the concepts in Progressive Legal Theory with confirmed cases of journalists, thus providing new and in-depth insights into resolving criminal cases involving journalists. Compared to the 3 (three) journals reviewed by the author below, of course, there are very prominent differences, starting from the discussion of the writing, the results, and the literature used (Buckel et al., 2024). However, the journal written by the author presents a more detailed and up-to-date analysis related to the application of Progressive Legal Theory in resolving journalist criminal cases. There is an additional deeper insight and a broader understanding of legal issues related to press freedom and journalist protection. (Khalid et al., 2024)

- 1) *Subheading one: Susanto, J., Rahma, D. L., & Ilmanta Rian, R. A. (2024). Analysis of Legal Responsibility of The Press in The Perspective of John Rawls' Theory of Justice. (Susanto et al., 2024)*

- 2) *Sub-heading two* : Mukhidin, (2024), *Hukum Progresif Sebagai Solusi Hukum yang Mensejahterakan Rakyat*. (Tegal, 2014)
- 3) *Sub-heading three* : Nariswara, Muhammad Ikbar and , Fahmi Fairuzzaman, (2024) *Kebebasan Pers Dalam Perspektif Hukum Progresif (Studi Putusan Nomor: 46/Pid.Sus/2021/ PN Plp)*. *Skripsi-Thesis, Universitas Muhammadiyah Surakarta*.

Research Method

This study focuses more on normative legal research, also known as library studies or document studies, because it is more often conducted on secondary data available in libraries. In normative research, secondary data can be used as a source of information or primary or secondary legal materials. Normative research also needs to be supported by empirical data so that researchers can achieve adequate results as scientific material.

The research materials used are primary legal materials and secondary legal materials. Primary legal materials are more identical when studying the legislation and regulations surrounding them. In contrast, secondary legal materials are additional legal materials that support and strengthen the primary legal materials, such as books and journals that study the object being studied and other data to enhance this research.

Result and Discussion

With these various bases, the author concludes that progressive legal theory views law as a tool to achieve positive social change and emphasizes the need to consider the social, political, and cultural context in upholding justice (Ermoshina, 2024). The analysis of this concept will include a review of various aspects, including the criminal justice process involving journalists, law enforcement in cases involving journalists, and challenges and opportunities in improving the protection of journalists' rights in the context of progressive law. Thus, the analysis of this article is expected to provide new insights and an in-depth understanding of the efforts to maintain press freedom and strengthen the legal protection of journalists. (Hungwe & Munoriyarwa, 2024)

By exploring key concepts from a progressive legal perspective and presenting in-depth original insights, this analysis is expected to contribute positively to enriching academic and practical discussions on resolving journalists' criminal cases. Thus, efforts to strengthen legal protection for journalists will increasingly be made to create an inclusive, just, and progressive legal system. (Cormier, 2024)

Analysis of Journalist Criminal Cases from a Legal Perspective

The concept of legal responsibility is related but not identical to legal obligation. An individual is legally required to behave in a certain way if their behaviour otherwise constitutes a condition for imposing coercive measures. However, this coercive measure does not have to be directed at the individual required to be the “*violator*”. *Still*, it can be directed at another individual related to the first individual in a manner determined by the legal order. The

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individual subject to sanctions is said to be “*responsible*” or legally responsible for the violation. (Slavko et al., 2023)

In Indonesia itself, there are also two systems of accountability according to positive law for journalists or the Press, namely Law No. 40 of 1999 concerning the Press and the Criminal Code (Staatsblad 1915 No. 732) as amended several times, and most recently by Law No. 1 of 1946 of the Republic of Indonesia, which is still in effect today, after Law No. 11 of 1966 concerning the Principles of the Press and Law No. 21 of 1982 concerning the Press has been revoked.

Based on Press Law Number 40 of 1999 Article 5 Paragraph (1), "The national press is obliged to provide events and opinions by respecting religious norms and public morality and the principle of presumption of innocence." In broadcasting information, this article explains that the national Press does not judge or draw conclusions about someone's guilt, especially for cases still in the trial process, and can accommodate all parties involved in the news. The accountability system of the Press Law can be imposed on press companies. (Surian et al., 2023)

As regulated in Article 18 Paragraph (2), press companies that violate the law shall be punished with a maximum fine of Rp. 500,000,000.00 (five hundred million rupiah). The explanation of Article 18 Paragraph (2) of Law Number 40 of 1999 concerning the Press states, *"In criminal violations committed by a press company, the company is represented by the person in charge as referred to in the explanation of Article 12"*.

The person in charge of the explanation of Article 12 is the person in charge of the company, including the business and editorial fields. In these fields, some people work in the press world, such as journalists, editors, publishers, printers, and distributors. Each person has a role or contribution related to their main tasks and functions. Journalists, as writers, are responsible for the content of the writing they create. Still, suppose they have entered the publishing process, especially in print media like newspapers. In that case, the role of the editor or person in charge of the editorial team becomes very important to determine whether the writing is worthy of publication or still needs to be edited first so that the editor can change the content of the writing and determine whether it will be published or not. (Gunawan et al., 2023)

Meanwhile, the editor is the person who handles the editorial field, and his job is to organize, correct, select, and determine the incoming writing, either from journalists or reader submissions, whether or not it is worthy of being published in a print media for publication. It is unlikely that an article will be published in print media without going through the editor's hands. This is the responsibility of the Press in every publication it makes. The editor is responsible for several columns in mass media, while the editor-in-chief is responsible for the entire editorial content.

Criminal liability due to press reporting is given to the press company, and the person responsible is the manager. The explanation of the Press Law Number 40 of 1999 Article 12 and Article 18 Paragraph (2) clearly shows that the legal subject of the Press Law is the press company represented by the business sector and editorial sector. The Press Law Number 40 of

1999 has regulated the criminal liability of press companies as an application of the theory of responsibility (*vicarious liability*).

Unlike publishers or printers whose legal standing and criminal liability are contained in Title V of the Criminal Code (Staatsblad 1915 No. 732) as amended several times, and most recently by Law No. 1 of 1946 of the Republic of Indonesia), entitled participation, then in that title, there is not a single word about an editor. In that title, there is a guarantee for the publisher or printer, but no editor exists. This means that, unlike publishers or printers, an editor's legal standing and criminal liability follow the normal teachings of participation. Therefore, it is not mentioned, while what is mentioned is only the deviation.

Participation occurs when more than one person is involved in a crime. In writing that has a criminal nature, at least five people are involved, namely the editor, writer, publisher, printer, distributor, or verspreider. For an editor, there are several possibilities in committing an act related to his work, including the possibility that he wrote the composition (*which has a criminal nature*); his actions can be qualified as plegen. The editor receives the writing from someone else and then makes changes so that the writing can be seen as his work (*werstuk*). His actions can be considered a pledge, but if the editor receives the writing from someone else and publishes it, it is not supposed to be his work. (Alvirnia Nurimani Andraputri & Ruhaeni, 2023)

Here, the question arises of whether his actions are seen as those of a medepleger (participating in doing) or a medeplichtige (*ordinary help*). Regarding this matter, there are two opinions, namely the opinion of Van Hattum, who considers the action to be the action of a medepleger; on the other hand, Simons, Van Hammel, and also jurisprudence (*court*) are of the opinion that the action is the action of a *medeplichtige*.

Meanwhile, Oemar Seno Adji argues that the editor's actions above are those of a medeplichtige because the initiative came from someone else. Regardless of whether the action is the action of a medepleger or a medeplichtige, to be held criminally responsible, the editor must meet two requirements, namely: that the editor must know the contents of the writing in question and the editor must be aware of the criminal nature (*strafbaar karakter*) of the writing in question. The editor can only be held criminally responsible if they meet the two requirements above.

In the definition of Criminal Responsibility in foreign languages, criminal responsibility is referred to as '*toerekenbaarheid*', 'criminal responsibility', or 'criminal liability'. That criminal responsibility is intended to determine whether a suspect/defendant is held responsible for a crime that occurs or not. In other words, whether the defendant will be punished or acquitted. If he is convicted, it must be clear that the action taken was unlawful and the defendant can be responsible. This ability shows the perpetrator's fault in the form of intent or negligence. This means that the action is reprehensible; the accused is aware of the action he has taken.

Criminal responsibility is an act that is reprehensible by society and must be accounted for by the perpetrator for the act committed. By holding the perpetrator responsible for the reprehensible act, is the perpetrator also reprehensible or not reprehensible? In the first case,

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the perpetrator is certainly punished, while in the second case, the perpetrator is undoubtedly not punished. Mistakes in the broadest sense can be equated with understanding responsibility in criminal law. It contains the meaning that the perpetrator can be reprehensible for his actions. So, if it is said that a person is guilty of committing a crime, then he can be objectionable for his actions.

According to Roeslan Saleh, he said that: *"In the sense of criminal acts, it does not include responsibility. Criminal acts only refer to the prohibition of acts. Whether the person committed the act is punished depends on whether he did something wrong. If the person who committed the criminal act did something wrong, he will be punished"*.

In the Criminal Code (Staatsblad 1915 No. 732), as amended several times, and most recently by Law No. 1 of 1946 of the Republic of Indonesia, some articles regulate violations committed by print media, including offenses of insult, extortion, defamation, and slander which are qualified as press offenses. All violations are clearly stated and regulated in specific markets in the Criminal Code. In the Criminal Code system, there is no sequential responsibility (successive) or fiction in criminal law. This system does not follow the sequential responsibility system in Belgium. It also does not follow the fictitious system (sometimes the editor is responsible, sometimes someone else). On the contrary, the Criminal Code system is based on the "theory of activity" (whether they have a role in the writing), meaning only those involved in press crimes, such as editors, writers, publishers, printers, and distributors. In addition, according to the Criminal Code system, a person can be held responsible for a writing in court if he meets two conditions: the editor must know the contents of the writing in question and be aware of the criminal nature of the writing.

In the articles of the Criminal Code (Staatsblad 1915 No. 732) as amended several times, and most recently by Law No. 1 of 1946 of the Republic of Indonesia, the elements of the crime and the elements of criminal responsibility are mixed up in books I, II and III, so that in distinguishing them an expert is needed to determine the aspects of both. According to the makers of the Criminal Code, the requirements for punishment are the same as for crimes; therefore, in the loading of elements of crimes in the prosecution, they must also be proven in court. (Criminal) responsibility leads to the punishment of the perpetrator if he has committed a crime and meets the elements that have been determined in the law. Viewed from the perspective of the occurrence of a prohibited (required) act, a person will be held responsible for these criminal acts if the act is unlawful (and there is no elimination of the unlawful nature or *rechtsvaardigingsgrond* or justification) for it. Viewed from the perspective of the ability to be responsible, then only a person who is "capable of being responsible can be held responsible.

The limits of a news report in the print media can be categorized as a defamation offense viewed from a legal perspective; the defamation offense through the suffering of the print media needs to be done selectively so as not to conflict with press freedom. Therefore, there needs to be a limitation criterion in a print media government. The most appropriate criteria for limiting a news report in the print media so that it can be categorized as a defamation offense is from a normative perspective. When viewed from a normative perspective (KUHP), the

limits of a news report in the print media can be categorized as defamation if, in the news report of the fixed mass media, there is an element of error (*schuld*) and an element of intent (*opzet*).

Criminal liability for defamation committed by the Press is regulated in several laws and regulations such as the Criminal Code (Staatsblad 1915 No. 732) as amended several times, and most recently by Law No. 1 of 1946 of the Republic of Indonesia, Law Number 40 of 1999 concerning the Press, Law Number 32 of 2002 concerning Broadcasting and Law No. 11 of 2008 concerning Information and Electronic Transactions (ITE).

Meanwhile, from a civil law perspective, a person is responsible for unlawful acts. Unlawful acts have a broader scope compared to criminal acts. Illegal acts include acts contrary to criminal law, other laws, and unwritten legal provisions. The statutory provisions of unlawful acts aim to protect and compensate the injured party.

Unlawful acts are not only contrary to the law but also actions or omissions that violate the rights of others contrary to morality or the nature of caution, decency, and propriety in public traffic. Unlawful acts can also be interpreted as a collection of legal principles that aim to control or regulate dangerous behaviour, to provide responsibility for losses arising from social interaction, and to compensate victims with an appropriate lawsuit. Unlawful acts (*onrechtmatige daad*) are regulated in Articles 1365 to 1380 of the Civil Code. Generally, the principles of responsibility in law can be distinguished as follows: a). liability based on fault; b). presumption of liability; c). presumption of nonliability; d). strict liability; dan d). limitation of liability.

On the other hand, the Draft Criminal Code (RKUHP), which has been jointly approved by the House of Representatives of the Republic of Indonesia and the Government of the Republic of Indonesia, has been ratified as Law of the Republic of Indonesia Number 1 of 2023 concerning the Criminal Code (KUHP). This ratification was done in a plenary session of the House of Representatives of the Republic of Indonesia in Jakarta on December 6, 2022. Unfortunately, the ratification ignores the contribution and participation of the community, including the press community. Because there are still important articles that threaten the media and journalists. Several articles of the Criminal Code Law endanger Indonesian democracy. Currently, freedom of expression and freedom of the Press are under threat.

The Press, a pillar of democracy that protects the public's right to information, will be paralyzed because the articles of the Criminal Code require them to be criminalized. In a democracy, press freedom must be protected by ensuring journalists are not criminalized. Protection is needed so journalists can supervise (social control), criticize, correct, and suggest important things to prevent abuse of power. Press freedom is threatened because the Criminal Code can ensnare journalists and press companies as perpetrators of criminal acts in journalistic work.

As an independent institution, the Press Council previously created a List of Problem Inventories (DIM) of important articles that threaten the Press and journalists while ratifying the Criminal Code. In addition, the Press Council suggested that the RKUHP be reformulated to avoid criminalizing press freedom, including 11 groups and 17 articles. However, the government and the DPR did not receive a response to the input given. The Press Council also suggested that case simulations be carried out to create norms. The Criminal Code's criminal provisions for the Press violate Law No. 40 of 1999 concerning the Press.

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The Press Council noted several articles in the Criminal Code that could criminalize journalists and threaten freedom of the Press, opinion, and expression, as follows:

- a. Article 188 regulates the crime of spreading or developing the ideology of Communism/Marxism-Leninism.
- b. Articles 218, 219, and 220 regulate crimes that attack the President's and Vice President's honour or dignity.
- c. Articles 240 and 241 regulate the crime of insulting the government;
- d. Article 263 regulates the crime of broadcasting or disseminating false news or information;
- e. Article 264 regulates criminal acts for anyone who broadcasts news that is uncertain, excessive, or incomplete;
- f. Article 280 regulates disruption and misleading of the judicial process;
- g. Articles 300, 301, and 302 regulate crimes against religion and belief;
- h. Article 436 regulates minor insults;
- i. Article 433 regulates defamation;
- j. Article 439 regulates defamation of the dead; and
- k. Articles 594 and 595 regulate publishing and printing.

In this case, a deep understanding of the law and freedom of speech is key to evaluating cases involving journalists. As a profession at the forefront of providing information to the public, journalists have a moral and legal responsibility to present news accurately, objectively, and responsibly. This aligns with Article 4 of the Press Law, which emphasizes that journalists have the right to carry out their duties and functions in providing correct information in line with the public interest. However, press freedom must also be in line with applicable criminal law. As information agents, journalists must respect the journalistic code of ethics and comply with legal restrictions governing defamation, slander, and spreading false information. Journalists who violate criminal law must be prepared to accept the legal consequences stipulated in the criminal justice system.

It should also be understood that the legal process must be carried out fairly and transparently when dealing with criminal cases involving journalists. Protection of press freedom must also be balanced with strict law enforcement against law violations committed by journalists. The court must be able to assess each case objectively based on the available evidence without any political interference or specific interests that could interfere with the legal process. Thus, the author concludes that analyzing journalist criminal cases from a legal perspective demands a balance between press freedom and law enforcement. Journalists, as the fourth pillar of democracy, must carry out their duties by complying with the journalistic code of ethics and legal provisions while still acting as a vehicle for social control and public policy oversight. Meanwhile, the judicial institution must also carry out its functions fairly and transparently to uphold justice and maintain legal integrity in cases involving journalists.

Settlement of Journalist Criminal Cases from the Perspective of Progressive Legal Theory

To develop press freedom and improve the life of the national Press, the Press Council carries out functions including determining and supervising the implementation of the Journalistic Code of Ethics, providing considerations, and seeking to resolve public complaints regarding cases related to press reporting.

Given the role of the National Press as a media that carries out supervision, criticism, correction, and suggestions on matters related to the public interest, it is undeniable that there is the potential for disputes to arise between the Press and the parties who are the objects of the news. It is also indisputable that not all journalists can carry out journalistic work professionally and in accordance with the code of ethics. In general, cases relate to errors in citing news sources, inaccurate data, unbalanced coverage, tendentious news language, or a mixture of facts and opinions. These problems open up opportunities for criminalization using the Criminal Code against journalists. (Khalimy et al., 2023)

In this context, the function of the Press Council is not to be a defender of the media. The Press Council's task is to enforce the Journalistic Code of Ethics and protect press freedom. Although its name is the Press Council, this institution is not a council that always wins the Press under the pretext of upholding press freedom. Based on its function to enforce and supervise the Journalistic Code of Ethics, the Press Council is a press community council that ensures that the Press does not trample on the community's rights by hiding behind the concept of press freedom. So it is not surprising that in most of its decisions, the Press Council blames the media or journalists and, in many cases, requires the media concerned to include the complainant's Right of Reply accompanied by an apology to the relevant party and the community. The role of the national Press is to convey information to the public so that if there is incorrect information related to the news, the main obligation of the Press is to apologize to the public. The public is the party most harmed when the Press publishes incorrect information. As stated in a peace statement, the Press Council always seeks a resolution through deliberation for consensus. If the deliberation does not reach a consensus, the Press Council will continue the examination process to make a decision. The Press Council's decision is a Statement of Assessment and Recommendation (PPR) determined through a Plenary Meeting. Notification of the Decision of the Statement of Assessment and Recommendation from the Press Council is delivered to the disputing parties and is open.

From a legal perspective, the principle of using criminal law is as an ultimum remedial, namely the "last resort" if sanctions or efforts in other branches of law are ineffective or are considered ineffective. Criminal law deliberately imposes suffering in upholding norms recognized in law by applying sharp sanctions. Therefore, its use must be limited. (Yehezkiel et al., 2023)

A complaint implies that the complainant and the media can submit compensation offered, agreed upon, and negotiated between them, so the solution is "win-win". In addition, through this penal mediation, there will be positive implications where, philosophically, the case resolution is achieved quickly, simply, and at low cost because the parties involved are

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relatively fewer compared to the judicial process with components of the Criminal Justice System. (Leiter, 2023)

The Press Council tries to apply the principle of family and deliberation to reach a consensus in handling news cases. The complainant and the media being complained about are found in one forum. Then, as a mediator, the Press Council mediates the two disputing parties. If a consensus is reached, it is stated in the Peace Statement of both parties. In general, the closing of the Peace Statement adds a clause that the parties will not bring the case in question to the legal realm.

Journalists may be criminalized if the Press cannot comply with the Journalistic Code of Ethics. Because if criminalization occurs, the Press Council cannot do much. Article 1 Paragraph (2) of the Complaint Procedure to the Press Council stipulates that the Press Council does not examine complaints reported to the police or court. Although a memorandum of understanding (MoU) has been signed with the National Police, containing information about news cases that have been reported to the National Police that allow for mediation by the Press Council, the decision to continue or not to proceed with the legal process remains in the hands of the reporter.

Some people consider the Press to have gone too far in interpreting press freedom and choose to resolve it through criminal law as regulated in the Criminal Code. On the other hand, the Press, which does not object to resolution through legal channels, demands that the resolution mechanism be carried out per the Press Law through the Press Council as an institution that seeks to resolve press disputes.

The criminalization of press personnel is a serious threat to upholding press freedom. Although the code of ethics has been obeyed, it does not rule out the possibility that journalists can be subject to the elastic articles in the Criminal Code, often used as the legal basis for criminalization. The lack of awareness of the importance of press freedom has caused law enforcement officers to ignore the Press Law as the legal basis for resolving press reporting disputes. (Juanda et al., 2023)

The verdict for journalistic work using criminal articles in the Criminal Code is, indirectly, a form of denial of the principles of democracy and press freedom. In its advocacy, the Legal Aid Institute (LBH) for the Press stated that criminal sentences against journalists or media companies impact the press community. The criminalization of journalistic works undermines press freedom and silences the freedom and rights of the public to obtain information.

This is in line with the opinion of Progressive Legal Expert, Prof. Satjipto Rahardjo. He argues that since modern law was used, the court is no longer a place to seek justice but rather an institution focused on rules and procedures. Law is then understood solely as a product of the state through laws and regulations. Therefore, for Satjipto Rahardjo, the law is not a final scheme (*finite scheme*) but continues to change, following the dynamics of human life. Law must continue to be dissected and explored through progressive efforts to reach the light of truth in achieving justice.

Law is a rule and guideline that regulates society's life to create peace and order together. The idea of Progressive Law occupies a separate legal position. Various groups in handling a legal case, especially domestically, emphasize the preposition of the theory of Progressive Law. Especially the emphasis on the element of benefit in the form of human peace in society, nation, and state.

Legal thinking must return to its basic philosophy: law for humans. With this philosophy, humans become the determinants and orientation points of law. The law is tasked with serving humans, not the other way around. Therefore, the law is not an institution free from human interests. The quality of law is determined by its ability to serve human welfare. This causes Progressive Law to adopt the "pro-justice law and pro-people law" ideology. With this ideology, the dedication of legal actors is the main place in carrying out recovery. Legal actors are required to prioritize honesty and sincerity in law enforcement. They must have four and concern for the suffering experienced by the people and this nation. The interests of the people (their welfare and happiness) must be the point of orientation and the ultimate goal of implementing the law. The assumptions underlying legal progressivism are: a). law is for humans and not for themselves; b). law is always in the status of law in the making and is not final; and c). law is an institution with human morals, not a technology with no conscience. (Roswandi et al., 2023)

The assumption underlying legal progressivism emphasizes that Progressive Law is liberating (Sadiani et al., 2023). "Law for humans" means that if there are obstacles to its achievement, then liberations are made in knowledge, theory, and practice. The Progressive Law perspective is not pragmatic and rigid, which works on law solely using "rule and logic" or *rechtdogmatigheid*, with a linear, marginal, and deterministic line of thought. The Progressive Law paradigm will always seek justice and the benefits of law and must dare to get out of the linear, marginal, and deterministic line and more towards the law that is always in the process (*law as process, law in the making*).

According to Satjipto Rahardjo, law enforcement always involves humans and human behavior. Law cannot stand by itself, meaning that law cannot realize the promises and desires contained in (legal regulations). The promise and will, for example, grants rights to someone, provides protection to someone, imposes a penalty on someone who meets certain requirements, and so on. Furthermore, Satjipto Rahardjo also stated that law enforcement is essentially an effort to realize abstract ideas and concepts into reality, including ideas about justice, truth, and legal certainty.

Law enforcement has begun when legal regulations are made or created. Formulating the lawmakers' thoughts, which are poured into legal regulations, will also determine how law enforcement is carried out. Law enforcement requires legal institutions such as judges, prosecutors, advocates, and police. Each institution works by influencing each other to realize the objectives of the law. Therefore, law enforcement does not work in a vacuum and is impervious to influence; instead, it constantly interacts with the larger social scope. Progressive efforts in law enforcement encouraged Satjipto Rahardjo to give birth to the concept of Progressive Law Enforcement. (Shevchuk, 2023)

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Progressive law enforcement is implementing the law according to the black-and-white words of the regulations (according to the letter) and the spirit and more profound meaning (to the very meaning) of the statute or law. Law enforcement is concerned not only with intellectual intelligence but also with spiritual intelligence. In other words, law enforcement is carried out with complete determination, empathy, dedication, and commitment to the nation's suffering and the courage to find another way than what is usually done. According to Satjipto Raharjo, thinking progressively means getting out of absolutist legal thinking and then placing the law in a relative position. In this case, the law must be placed on the whole issue of humanity. Towards a Progressive legal way is a willingness and readiness to free oneself from the legal-positivistic understanding. Self-liberation is closely related to the psychological factor in law enforcers: courage. This courage factor expands the legal way, prioritizing the story aspect (rule) and the band.

The study of the relationship between political configuration and the character of legal products produces the thesis that every legal product reflects the political configuration that gave birth to it. This means that the contents of every legal product will be greatly determined by the vision of the dominant group (the ruler). Therefore, every effort to give birth to laws that are responsive/populist must begin with an effort to democratize political life. The presence of progressive law is not coincidental, not something that is born without a cause, and also not something that falls from the sky. Progressive law is part of searching for the truth that never stops. Progressive law, which can be seen as a concept that is searching for its identity, is based on the empirical reality of how the law works in society, in the form of dissatisfaction and concern about the performance and quality of law enforcement in the setting of Indonesia at the end of the 20th century.

The big agenda of the progressive legal idea is to place humans as the primary centrality of all discussions about the law. With progressive legal wisdom, it invites more attention to human behavioural factors. Therefore, progressive law aims to place a combination of regulatory factors and the behaviour of law enforcers in society. This is where the importance of understanding progressive law lies, that the concept of "best law" must be placed in the context of holistic integration in understanding humanitarian problems. Thus, the idea of progressive law does not merely understand the legal system in a dogmatic nature but also the aspect of social behaviour in an empirical nature so that it is expected to see humanitarian problems as a whole oriented towards substantive justice.

In progressive law, humans are above the law; the law is only a means to guarantee and maintain various human needs. Law is no longer seen as an absolute document and exists autonomously. Departing from this thought, in law enforcement, law enforcers must not be trapped in the co-optation of rules over consciences that voice the truth. Progressive law, based on rules and behaviour, prevents humans from being bound by the absolute restraints of regulations. That is why, when changes occur in society, when legal texts experience delays in the values that develop in society, law enforcers must not just allow themselves to be bound by the reins of rules that are no longer relevant but must look out (out world), see the changing social context in making legal decisions. (Spindelman, 2023)

Progressive law, based on humans, brings significant consequences to Creativity. Creativity in the context of law enforcement, in addition to overcoming legal backwardness and legal inequality, is also intended to make legal breakthroughs. These legal breakthroughs are expected to realize humanitarian goals through the working of the law, which, according to Satjipto Rahardjo is termed a law that makes happy. The Creativity of law enforcers in interpreting the law will not stop at "spelling out the law"; instead, they will use it consciously to achieve humanitarian goals. Using the law consciously to achieve humanitarian goals means being sensitive and responsive to social demands. In addition to these basic assumptions, the face of progressive law can be identified as follows:

- a. Progressive legal studies try to shift the focus of legal studies that initially used legal optics toward behaviour;
- b. Progressive law consciously places its presence in a close relationship with humans and society, borrowing the term Nonet & Selznick, responsive type;
- c. Progressive law shares the same understanding with legal realism because the law is not viewed from the perspective of the law itself but is viewed and assessed from the social goals to be achieved and the consequences arising from the operation of the law;
- d. Progressive law is close to Roscoe Pound's sociological jurisprudence, which studies law not only limited to the study of regulations but also goes out and sees the effects of law and the operation of law;
- e. Progressive law is close to natural law theory because it cares about "metajuridical" matters;
- f. Progressive law is close to critical legal studies, but its scope is broader.

Judging from the background of its birth, as a form of dissatisfaction and concern over the quality of law enforcement in Indonesia, progressive law is the spirit of liberation. The liberation referred to here is a). liberation from the types, ways of thinking, principles, and theories used so far; dan b). liberation from the law enforcement culture (administration of justice), which has been in power and is felt to hinder legal efforts to resolve problems.

Linked to the spirit of progressive law, which is intended to liberate types, ways of thinking, principles, and theories as well as liberation from the implementation of the administration of justice, the character of progressive law, which is "progressive" in nature occupies an important position, because this liberation is impossible to occur, when we still view the law as something absolute, insensitive to change, and siding with the status quo.

Conclusion

Research on the analysis of the settlement of journalist criminal cases from a progressive legal perspective is important, especially amidst the dynamics of law, which continue to develop following the demands of the times. Through a progressive legal approach, the settlement of criminal cases involving journalists must be done by considering aspects of freedom of expression and protection of individual rights. In addition, there is a need for fair and just application of the law without discrimination or abuse of power.

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In the context of journalists, the need to maintain the independence and integrity of the profession is an important factor in resolving criminal cases. The law enforcement process must also be carried out transparently, accountably, and following democratic principles. Thus, a conducive legal environment can be created for journalists to carry out their journalistic duties without fear of pressure or intimidation from certain parties.

Progressive law and progressive legal science cannot be called a distinctive and complete type of law (distinct type and infinite scheme), but rather a flowing idea that does not want to be trapped in the status quo so that it becomes stagnant. Progressive law and progressive legal science always want to be loyal to the great principle that law is for humans because human life is full of dynamics and changes occasionally.

Therefore, it is appropriate to adopt progressive legal theory in resolving journalist criminal cases so that it does not only focus on punishment but also rehabilitation and prevention of future criminal acts. This conclusion provides a more comprehensive view of handling criminal cases involving journalists, aiming to maintain press freedom and create a more just and equitable legal environment for all parties involved. Law enforcement is limited to enforcing legal norms and the values of justice, which contain provisions on the rights and obligations of legal subjects in legal traffic.

Declaration of conflicting interest

This article is purely based on the author's academic work, citing books and journals from other authors according to academic ethics. The author ensures that there is no particular interest in the publication of this article because this article is purely a contribution of the author's views to contribute to the academic world.

Funding acknowledgement

The writing of this article was realized thanks to the contributions of the parties who provided motivation, advice, and support to the author. On this good occasion, allow the author to express his gratitude and highest appreciation to all parties who have contributed to the writing of this Article. First, to the academic world where the authors are located for their facilitation so that this article can be realized. The writing of this Article is the result of research that is independently funded without any donations from any party. Second, the author conveys the highest appreciation to the Press Council, which has provided many references on its various websites, the Journal of Progressive Law and Legal Studies, which contributed to publishing the results of this article. Third, all respondents and review teams and the community who provided support in this writing.

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