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Analysis of the right to reply as case settlement in press release

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Abstract
Freedom of the press is a reflection of a country that adheres to a democratic system. The freedom of the press is based on the 1945 Constitution Article 28. During the reform period through Minister Yunus Yosfiah the legalization of Law No. 40 of 1999 concerning the Press replaces Law No. 21 of 1982 amendment to Law No. 11 of 1966 concerning the Principal Provisions of the Press. The right of reply is a form of press freedom which is the settlement of a case if there is a problem in press reporting. Problem Formulation 1) How is the application of the Right to Answer as a case resolution in press reporting? 2) Why is the Right of Reply as the settlement of the case in press reporting less effective? The research method used is a normative juridical method. The conclusion of this study is that the Right to Answer has been set since Law No. 11 of 1966 concerning the provisions of the Press to Law No. 40 of 1999 concerning the Press, the Right of Reply in more detail is regulated in Press Council Regulation No. 9/regulation-DP/X/2008 concerning Guidelines for the Right to Reply. In reality the Right of Reply is not effective as a settlement of a case in a press release due to lack of regulatory substance in the Right of Reply. Right of reply is only seen as a settlement of cases in the realm of Ethics.

Keywords: *freedom, press, Right, Case Settlement*

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1. Introduction

Freedom of the press is the most important thing in the sustainability of the press. Freedom of the press is an obligation that must be fulfilled to reflect the democracy of the country itself. Indonesia is the 4th most populous country in the world, one of the countries that adheres to a democratic system. Article 28 of the 1945 Constitution of the Republic of Indonesia (1945 Constitution) which guarantees freedom of association and assembly, expressing thoughts verbally and in writing forms the basis of press freedom so that press laws are formed so that the press functions optimally. Maximum function is needed because freedom of the press is one of the manifestations of people's sovereignty and is the most important element as upholding the truth and justice, advancing public welfare, and educating the national life of the national press (Rahman, 2017)

The definition of democracy itself can be viewed from two sides, namely terminologically and etymologically. Etymologically democracy comes from Greek consisting of two words namely "cretein/cratos" which means sovereignty/power and "demos" which means the population/people of a place (Poti, 2011). In terminology, democracy is a system of government of a country that is run by the government of that country as an effort to realize the sovereignty of the people.

Robert Dahl then explained that "the most decisive thing also for the democratic system is how the community implements the main rights such as freedom of expression,

association, communication, and organization needed for political debate and the implementation of election campaigns"(Poti, 2011).

During the reform period through the information minister Yunus Yosfiah approved Law No. 40 of 1999 concerning the press, which was considered to provide press freedom in lieu of Law No. 21 of 1982 amendment of Law No. 11 of 1966 Concerning the provisions of the Basic Press which at that time was considered not to give freedom and independence of the press.

Law No. 40 of 1999 concerning the Press is still in force today, but some members of the press still question the freedom and freedom of the press. There are still many criminal prosecutions of the press that occur in various regions of the country of Indonesia, especially regarding the news that is considered defamatory. Examples of cases that occurred were the case of Basri journalist, Mapikor Rayeuk, East Aceh, journalist and editorial director of Kungin Mutaqin Asqar, journalist and editor in chief of Southeast Sulawesi News Djery Lihawa and several other cases were convicted for defamation. Some cases that occur should press cases not be resolved through legal channels, press cases must be resolved first through the Right to Replay.

Settlement using the Right to Replay is one recognition of freedom and freedom of the press. The Right to Replay is recognized and regulated since Law No. 11 of 1966 concerning the provisions of the Press until Law No. 40 of 1999 concerning the Press, as well as the making of a Memorandum of Understanding between the Press Council and the Republic of Indonesia National Police Number 2/DP/Mou/2017, Number B/15/II/2017 Concerning Coordination of Press Freedom Protection and Law Enforcement Regarding the Misuse of Journalist Profession which contains Rights of Reply.

Referring to the explanation above, the writer will study and analyze the application of the Right to Replay which is a form of recognition of freedom and freedom of the press, therefore the author raises the title "Analysis Of The Right To Reply As Case Settlement In Press Release".

2. Methodology

This writing uses the normative legal research method (normative legal research) which is a research method that views the law as a binding regulation, referring to legal norms as outlined in the law, legal principles, legal history, and jurisprudence (Jayadi Paputungan, 2019). The approach in normative juridical research methods is to use a case approach, statutory approach, historical approach, and conceptual approach. Normative legal research is conducted to produce theories, arguments, and new concepts as a description in solving problems (Marzuki, 2011). According to Mamudji and Soekanto, normative juridical research consists of several parts, namely First; research on legal principles, Second; research on legal systematics, Third; research on vertical and horizontal synchronization levels, Fourth; comparative law, and Fifth: the history of law (Janpatar Simamora, 2013).

3. Problem Formulation

Based on the background description above, the formulation of the problems in this paper are: 1) How is the application of the Right to Replay as a case resolution in press reporting? 2) Why is the right to reply as case resolution in press reporting less effective?

3.1. Application of The Right to Replay as case resolution in press reporting

News is one of the necessities of human life today, both direct and indirect news relating to the interests of many people. News from the press is not uncommon to get problems caused by the contents of the news which are considered defamatory, so that if there is a news that is considered committing defamation then as a professional must be willing to account for these actions. In the provisions of the Press Law, a recommendation has been provided for anyone who feels aggrieved over the contents of the news, namely through the right of reply (Retnowati, 2000)

The right of reply is one of the process of resolving press cases if there is a problem with a news presentation that is considered harmful to good name. Experts and press activists basically expect that the resolution taken to resolve disputes prioritizes using the right of reply, but with a note that if it is an ethical violation. Right of reply is appropriate before taking formal legal remedy either through civil court or through criminal court.

The Right to Replay has always been regulated in Law No. 11 of 1996 concerning Principal Provisions to Article 15 paragraph (3) which states "The Editor in Chief is responsible for the implementation of the Editorial and is obliged to serve the Right to Replay and right of correction". The Right to Replay is also regulated in Law No. 21 of 1982 amending Law No. 11 of 1966 Concerning Principal Provisions to Article 15 Article 15a was made into 3 (three) verses stating "(1) The Right to Replay is the right of a person, organization or legal entity who feels disadvantaged by writing in one or several press publications, to request to the press publisher concerned so that the explanation and response to the article published or published, published in the press publication, (2) within reasonable limits press issuance must meet the demands of the reading public who will use the Right to Replay, (3) more provisions continued the Right to Replay will be regulated by the government after hearing the consideration of the Press Council ".

Law No. 21 of 1982 concerning Basic Provisions Press was changed to Law No. 40 of 1999 concerning the Press which then contained the Right to Replay contained in Article 5 paragraph (2) stating "the press is obliged to serve the Right to Replay" and the definition of the Right to Replay is explained in Article 1 point 11 which states that "The Right to Replay is the right of a person or group of people to respond or refutation of reporting in the form of facts which are detrimental to their good name. "Law No. 40 of 1999 concerning the Press also includes criminal provisions concerning the Right to Replay in Article 18 paragraph (2) which states that "press companies that violate the provisions of Article 5 paragraph (1) and paragraph (2), as well as Article 13 are liable to a maximum fine of Rp. 500,000,000 (five hundred million rupiah) ".

At the police stage the Right to Replay is also one of the remedies that are expected to be used first, it can be seen from the memorandum of understanding between the Press Council and the Indonesian National Police Number 2/DP/Mou/2017, Number B/15/II/2017 Concerning Coordination Protection of Press Freedom and Law Enforcement Regarding the Misuse of Professional Journalists in Article 4 paragraph (2) which states "SECOND PARTY, when receiving complaints of alleged disputes / disputes including reader letters or opinions / columns between journalists / media and the public, will direct disputes / disputes and / or complainants to carry out steps in stages and starting from using the Right to Replay, right of correction, complaints to the FIRST PARTY and the civil process ".

The Right to Replay is more clearly explained in Press Council Regulation No.9/ regulation-DP/X/2008 concerning Guidelines for the Right to Reply. In the press

regulation regarding the right to reply guidelines in point 3 states that "the press is obliged to serve every Right to Replay". The guideline of the Right to Replay also explains the function and purpose of the Right to Replay. The Right to Replay function is located in point 4, namely "a. Fulfill the right of the public to obtain accurate information, b. Respect the dignity and honor of people who feel disadvantaged due to press reporting, c. Prevent or reduce the emergence of greater losses for the community and the press, d. The form of public oversight of the press ", while the purpose of the right of the reply lies in point 5, namely" a. Fulfilling fair and balanced reporting or journalistic work, b. Carry out press responsibilities to the community, c. Resolving disputes over press coverage, d. Realizing the good faith of the press ". Regarding the person in charge of the content of the said Right to Replay regulated in point 15 states that "responsibility for the content of the Right of Responsibility rests with the person in charge of the press who published it".

The exercise of the Right to Replay must be carried out proportionally, this is by the provisions of point 13 of the Press Council Regulation Number 9/regulation-DP/X/2008 concerning Guidelines for the Right to Reply which states as follows:

a. "The Right to Replay to inaccurate or inaccurate reporting or journalistic work is done well on a part by section basis or as a whole of the information in question;
b. The Right to Replay is served in the same place or program as the reporting or journalistic work in question unless agreed by the parties;
c. The Right to Replay with the agreement of the parties can be served in interviews, errata formats, features, profiles, cyber media comments, coverage, talk shows, running messages, or other formats but not in ad formats;
d. The exercise of the Right to Replay must be carried out in the shortest possible time, or at the first opportunity according to the nature of the press in question;
    1. "For print press, it is obligatory to include the Right to Replay in the next edition or no later than two editions since the Right to Replay is received by the editor.
    2. For television and radio press contains the Right to Reply in the next program".
e. The loading of the Right to Replay is carried out once for each report;
f. If there are errors and inaccuracies in the facts which are judging, lying and/or slander, the press must apologize".

The application of the Right to Replay cannot always be carried out, this can be seen in point 12 of the Right to Reply Manual which states that "the press can reject the contents of the Right to Replay if a. The length/duration/number of characters of the Right to Replay material exceeds the reporting or journalistic work in question, b. It contains facts not related to the news or journalistic work in question, c. Its loading can lead to violations of the law, d. contrary to the interests of third parties which must be protected by law ".

Right to Replay has a deadline for submission since the news was published. The time limit is only given for two months since the news was published, if after two months the Right to Reply is not submitted then the Right to Reply is considered no longer valid, but there is an exception that the Right to Replay can apply if there is another agreement from the parties, this is in accordance with point 16 of the Right to Reply Manual.

3.2.Right to Replay as case resolution in press reporting is less effective.

The real Right to Replay is expected to be a solution to the case resolution if there is a problem with the news presentation made by the press editor. The Right to Replay should be able to resolve and correct problems between people or groups of people who do not accept or feel incorrect about the contents of the news. Until now the Right to Replay is only an ineffective step, this is because people or groups of people who feel defamed may choose criminal law or civil law to resolve the case. The criminal law channel is most often seen as an effective and fair solution.

Many press members have been reported to the police for alleged defamation and not a few of the press have been sentenced to prison or fines as a result of the news they made, this has happened almost throughout Indonesia. Some examples of press cases sentenced by a criminal are:

- Basri, Mapikor tabloid reporter through Decision No.87/Pid.B/2011/PN-IDI was found guilty by the East Aceh Rayeuk District Court and sentenced to 6 months in prison.
- Djery Lihawa, journalist and chief editor of Sultra News through Decision No. 158/Pid.B/2017/PN Bau was found guilty and sentenced to 3 (three) months in prison and a fine of Rp. 5,000,000 (five million rupiah).
- Kinkin Mutaqin Asqar, journalist and Chief Editor of Murung Raya through Court Decision No. 208/Pid.B/2015/PN Mtw was sentenced to prison for 2 (two) years.

From the example of this case, it can be concluded that the settlement using the Right to Replay is not effective. The Right to Replay is ineffective because efforts to resolve cases through criminal law and civil law are not wrong. Efforts to resolve cases using the Right to Replay are only a settlement in the realm of the code of ethics, even though the Right to Replay has been fulfilled, it does not rule out the possibility to proceed to the realm of civil or criminal law. The substance of Law No. 40 of 1999 concerning the Press does not explain in detail the Right to Replay, and the termination of the case is not arranged if the Right to Replay has been fulfilled.

The Right to Replay in the Memorandum of Understanding between the Press Council and the Indonesian National Police Number 2/DP/Mou/2017, Number B/15/ II /2017 Concerning the Coordination of the Protection of Press Freedom and Law Enforcement Regarding the Misuse of Professional Journalists is still ineffective because in Article 4 paragraph (3) explains "as referred to in paragraph (2), if the resolution of the steps of the FIRST PARTY cannot be accepted by the complainant and wishes to take other legal processes, then the complainant is asked to fill out a statement form on stamped paper". This explains that although prioritized to be resolved through the Right to Replay, the Complainant can expressly refuse to use the Right to Replay.

The Right to Replay is also less effective because the press is considered to be less professional, many press groups, especially the online media press, are not official media. In-Law No. 40 of 1999 concerning the Press through Article 9 paragraph (2) states that "every press company must be in the form of a legal entity", but in reality, many online media releases are not in the form of legal entities. Unofficial media can be considered as fake media, the settlement of press cases using the Right to Replay is considered unfair and does not give a sense of deterrence to the press. Distrust of the Press resulted in a person or group of people preferring to use legal channels rather than being resolved in the realm of ethics.

Another problem with the Right to Reply is that the Right to Replay is considered as a refuge for the Press seeking profit from untrue reporting. The main problem lies in the unprofessional press, preferring to take advantage of the facts of the truth of the news.

Here, a concept that often differs between the press and the community arises, so the role of government is needed to create a kind of bridge over the intended difference so that the public can be protected from the arrogance of the press while the press does not lose freedom in its performance (Wahidin, 2000).

4. Conclusion

Right to Replay as case resolution in press coverage is regulated since Law No. 11 of 1966 Concerning Press Principle Provisions In Article 15, then Article 15 was amended to Article 15a plus 3 (three) verses which are regulated in Law No.21 of 1982 amendment to Law No.11 of 1966 concerning Basic Press Provisions. Law No. 21 of 1982 concerning Principal Provisions of the Press was changed to Law No. 40 of 1999 concerning the Press, the Right to Replay is then regulated in Article 5 and Article 18. The Right to Replay is also preferred in the criminal law channel at the police stage stipulated in the Memorandum of Understanding between the Press Council and the Indonesian National Police Number 2/DP/Mou/2017, Number B/15/II/2017 Concerning Coordination of the Protection of Press Freedom and Law Enforcement Regarding the Misuse of Professional Journalists. The mechanism for implementing the Right to Replay is then explained in more detail through Press Council Regulation No. 9/regulation-DP/X/2008 concerning Guidelines for the Right to Reply.

The right to Reply as case settlements in press reporting is considered to be less effective, this is because the settlement of press cases does not only use the Right to Replay. The Right to Replay is only considered as a solution in the domain of the code of ethics. If there are problems in reporting the press, the settlement of the case can also be resolved using the criminal law channel or the civil law channel. Lack of substance Law No. 40 of 1999 concerning the press which regulates the Right to Replay makes the right to reply less effective. In the Memorandum of Understanding between the Press Council and the Indonesian National Police Number 2/DP/Mou/2017, Number B/15/II/2017 Concerning the Coordination of Press Freedom Protection and Law Enforcement Related to the Misuse of Journalist Profession in Article 4 paragraph (3) explains that the complainant can refuse to use the Right to Replay. The Right to Replay is also seen as a refuge for unprofessional press circles.

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