





A Snapshot of Violence and Criminalization Against Journalists in Indonesia: Enhancing the Safety of Journalists

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Abstract

The press and freedom of speech play crucial roles in advancing democracy, fostering good governance, and promoting human development globally. However, despite their critical importance, journalists in Indonesia and other nations face escalating violence. This violence encompasses physical, psychological, and even sexual harm, compounded by the legal repercussions imposed by certain laws that potentially criminalize journalistic activities. This paper aims to explore incidents of violence against journalists and analyze specific provisions within Indonesia's existing Penal Code, the Information and Electronic Transactions Act (UU ITE), and the Personal Data Protection Act that could be utilized to criminalize journalists. The application of these laws poses significant threats to press freedom, media impartiality, and the integrity of information dissemination. Using a normative legal approach, this study draws on data derived from existing laws, online resources, research studies, and contemporary literature. Employing a descriptive-qualitative analysis, the findings underscore the prevalence of violence against journalists across Indonesia, with frequent violations of their rights to access information through intimidation, harassment, and various



forms of physical and psychological coercion. Furthermore, journalists face potential imprisonment under the provisions of Indonesian laws, exacerbating the climate of fear among media professionals. The implications of these threats include a chilling effect on media freedom, hindering the free flow of information, diverse opinions, and critical ideas essential for an informed citizenry. Addressing these challenges requires robust protections for journalists, stringent adherence to international standards of press freedom, and reforms to ensure that laws safeguard rather than restrict journalistic activities.

Keywords

Criminalization against Journalists; Press Freedom; Violence against Journalists

Introduction

The right to access information is part of fundamental human right. A key means of acquiring accurate, reliable, and objective information is through the exercise of press freedom and journalistic work. Unfortunately, despite being vital for the development of democracy, violence against journalists in Indonesia and other countries continues to rise. In addition to encountering physical, psychological, and sexual harm while fulfilling their journalistic responsibilities, journalists also confront the legal consequences imposed by provisions of some national laws that can potentially subject them to criminal charges. The imposition of these laws may significantly impact press freedom, impartiality, and information integrity, given that violence and the criminalization of journalists are inextricably linked to press freedom and media independence limitations.

Journalists play a very vital role in society. Witnessing war, investigating transnational crime, such as narcotics, human and firearm trafficking, investigating crime and corruption, and giving a voice to opposition groups and people seeking change are all journalist's roles if people want to take control of their lives and make decisions that may

affect their communities.¹ They are also essential in promoting and strengthening democracy.²

The rapid advancement of information technology over the past two decades has presented journalists with numerous challenges, particularly in fulfilling their professional responsibilities as nowadays, anyone can use the Internet to access information quickly and effortlessly. Despite the ease with which information can be shared and received through the Internet or social media, many still rely on journalism for accurate, reliable, and objective information. The proliferation and ease of manipulating disingenuous information in the digital age indeed underscore the need to source reliable data. Disinformation, which can be loosely described as deliberately incorrect information³, is now spread by both state and non-state actors and impacts communities across the globe⁴. The technological revolution has drastically changed how the public acquires news and information, breaking the mass media's monopoly and presenting numerous challenges. Journalism, which was once predominantly print-based when most people preferred reading newspapers, is now transitioning to the Internet. The steady decline in print newspaper sales indicates that print journalism is gradually becoming obsolete, with some even viewing it as a dying art.⁵ In addition to its benefits, the digital age has presented numerous challenges for all professions, including the work nature of journalism. The emergence of digital media and the Internet has led many traditional news outlets to downsize their staff, resulting in

¹ Michael Folley, Arthurs Clare, and Magda Abu-Fadil, *Model Course on Safety of Journalists* (Beirut, Libanon: UNESCO & the International Federation of Journalists, 2017), p. 13

² Frank Esser and Christoph Neuberger, "Realizing the Democratic Functions of Journalism in the Digital Age: New Alliances and a Return to Old Values," *Journalism* 20, no. 1 (2019): 194–97, <https://doi.org/10.1177/1464884918807067>.

³ Anonymous, "Law and Disinformation in the Digital Age" (Georgetown University Law Center, Washington, 2023).

⁴ Minna Aslama Horowitz, "Disinformation As Warfare in the Digital Age: Dimensions, Dilemmas, and Solutions," *Journal of Vicentian Social Action* 4, no. 2 (2019): 5–21.

⁵ Vinnet Kaul, "Journalism in the Age of Digital Technology," *Online Journal of Communication and Media Technologies* 3, no. 1 (2013): 125–43.

layoffs for journalists. Nowadays, most journalists can only expect part-time employment from such organizations. Furthermore, they must be mindful of the competition from other news providers and the vast array of online content available.⁶

Violence against journalists has long existed on a global scale. It has been around for a while in a number of forms. Apart from the economic pressures, layoffs, time constraints, and competitive tensions with other online material, journalists encounter violence on a regular basis, which further complicates their work. They are killed, kidnapped injured, threatened, assaulted, intimidated, harassed, and insulted for their work, investigations, political ideas, or just for being journalists.⁷ In certain nations, the violence has been expanding online and taking the form of censorship and state surveillance of journalists.⁸ Among the several ferociously autocratic countries where physical and internet monitoring of journalists is customary are China, Ethiopia, Iran, and Syria, with the aim of intimidating the media and suppress critical coverage.⁹ Today, anti-journalist and anti-media, hate speech, and online harassment are currently the most debated and widely mediatized issues.¹⁰ The scope of violence has expanded from direct physical harm to online trolling, computer hacking of journalism professionals, geo-tracking, and data leaks.¹¹ Cyberbullying of journalists is now also going very personal, and female or minority journalists are the likeliest to be targeted or

⁶ Phillip Rottwilm, “The Future of Journalistic Work: Its Changing Nature and Implications” (Oxford, 2014).

⁷ Florence Le Cam, Fábio Henrique Pereira, and Denis Ruellan, “Public Violence against Journalists and Media,” *Sur Le Journalisme, About Journalism, Sobre Jornalismo* 10, no. 1 (2021): 14–17, <https://doi.org/10.25200/slj.v10.n1.2021.434>.

⁸ Christof Heyns and Sharath Srinivasan, “Protecting the Right to Life of Journalists: The Need for a Higher Level of Engagement,” *Human Rights Quarterly* 35, no. 2 (2013): 304–32, <https://doi.org/10.1353/hrq.2013.0030>.

⁹ Jennifer Dunham, “Global Findings: Press Freedom’s Dark Horizon,” in *Press Freedom’s Dark Horizon: Freedom of the Press 2017* (Washington: Freedom House, 2017), 10.

¹⁰ Le Cam, Pereira, and Ruellan, “Public Violence against Journalists and Media.”

¹¹ Jennifer R Henrichsen, Michelle Betz, and Joanne M Lisosky, *Building Digital Safety for Journalism: A Survey of Selected Issues, Unesco Series on Internet Freedom* (France: UNESCO, 2015).

victimized.^{12,13} UNESCO found that nearly three of four women journalist respondents had been subjected to online violence.¹⁴ UNESCO reported that more than 1,200 journalists have been killed worldwide between 2006 and 2020, with nearly nine out of ten of these murders remaining unresolved in a court of law.¹⁵ As of the date of the Committee to Protect Journalists' annual prison census on December 1, 2022, 363 journalists were imprisoned for their work, setting a new global high and surpassing the 2021 record by 20%. Additionally, 67 journalists and media workers were killed throughout the year.¹⁶

Violence and the criminalization of journalists are inextricably intertwined with the suppression of press freedom and media independence. Similar to incidents in other regions, journalists in Indonesia have also faced significant violence. In Indonesia, journalists have been jailed and imprisoned under existing laws related to insults, defamation, hate speech, and articles promoting hostility.

Based on the situation, this paper tries to explain and record several instances of violence against journalists, as well as some articles in the existing Indonesian Penal Code, the New Penal Code, the Information and Electronic Transaction Act (ITE Law), and the Personal Data Protection Act that could be employed to criminalize journalists. Besides violence against journalists, the author will address the importance of legal safeguards for journalists, taking into account their imperative role in providing the public with reliable, accurate, and objective data and

¹² Julie Posetti and Hannah Storm, "Violence Against Women Journalists – Online and Offline," in *Setting the Gender Agenda for Communication Policy: New Proposals from the Global Alliance on Media and Gender*, ed. Aimée Vega Montiel and Sarah Macharia (France: UNESCO and GAMAG, 2018), 75–92.

¹³ Silvio Waisbord, "Mob Censorship: Online Harassment of US Journalists in Times of Digital Hate and Populism," *Digital Journalism* 8, no. 8 (2020): 1030–46, <https://doi.org/10.1080/21670811.2020.1818111>.

¹⁴ António Guterres, "UN Secretary-General on World Press Freedom Day," *United Nation*, last modified 2022, accessed August 5, 2023, <https://media.un.org/en/asset/k1r/k1rk07jo52>.

¹⁵ UNESCO, "Countering Threats of Violence and Crimes against Journalists to Protect Freedom of Expression for All on the Occasion of the International Day to End Impunity for Crimes against Journalists" (Paris, 2021).

¹⁶ "Attacks on the Press in 2022," Committee to Protect Journalists, 2022.

information and also their essential part in promoting and strengthening democracy. In order to exhibit the reality of the problems, the author will provide research findings titled “A Snapshot of Violence and Criminalization Against Journalists in Indonesia: Enhancing the Safety of Journalists.”

Method

This study employed a normative legal approach. Data on violence against journalists was collected and compiled through research and report studies, internet data sources, as well as contemporary scholarly journal publications, and e-books. The data underwent analysis using the relevant national legislation, with particular emphasis on existing and newly enacted Indonesian Penal Codes, Information and Electronic Transaction Law (ITE Law), and Personal Data Protection Law. The research used a descriptive-qualitative analytic approach.

Result and Discussion

The number of scholarly papers addressing the issue of violence and criminalization encountered by journalists in Indonesia is somewhat limited. However, several reports or documents about particular cases of violence committed against journalists persist. These investigations have been primarily documented by respected press organizations such as the Alliance of Independent Journalists, the Press Legal Aid Institute (LBH Pers), the Indonesian Journalists Association (PWI), and reports from various online media platforms.

Scholarly publications, for example, include Nuraryo's (2020) paper, “Intimidation of Regional Journalists: A Driving Factor and Psychological Implications.” This article discusses the effects of intimidation directed toward journalists, including how it may result in psychological trauma, resentment, and fear as they go about their work.¹⁷ The title of another academic paper by Tawulo et al. (2018) is “Symbolic Violence Against Local Media Journalists in Kendari City.” This research

¹⁷ Imam Nuraryo, “Intimidasi terhadap Jurnalis Daerah Ditinjau dari Faktor Pendorong dan Implikasi Psikologis,” *Jurnal Kajian Jurnalisme* 4, no. 1 (2020): 18, <https://doi.org/10.24198/jkj.v4i1.24134>.

elucidates the use of non-physical forms of violence to instill fear in journalists, employing methods beyond linguistic means. These methods encompass non-verbal communication methods, including gestures, physical proximity, facial expressions, body positioning, and linguistic means involving spoken words or talk. According to Tawulo et al., while speech may not directly cause physical injury to others, it is regarded as an effective means of expressing symbolic violence. The manifestation of verbal violence in this context takes the form of employing emphasis, pauses, and intonation to cause emotional harm and exert psychological effects on journalists.¹⁸ Another publication titled “Independent Journalists Alliances’ Advocacy for Journalists Victims of Violence in Malang” was written by Suhardi (2019). This article explores the AJI’s efforts to advocate for cases of violence against journalists. In this study, Suhardi’s findings indicated that many journalists needed a better understanding of the code of ethics. Furthermore, it was observed that these journalists tend to discontinue cases involving violence prematurely. The press companies should also demonstrate more proactivity in monitoring the advocacy activities undertaken by journalists’ peer groups.¹⁹

Compared to prior publications, the present article highlights the topic of violence and criminalization encountered by journalists in Indonesia, underscoring the imperative requirement for enhanced legal safeguards to be extended to this professional group. In addition to elucidating the prevailing conditions of violence and criminal charges in Indonesia, the author will also address some noteworthy aspects of the global phenomenon of violence against journalists. Furthermore, this study will review the articles within Indonesian laws and regulations that can potentially bring criminal charges against journalists and highlight the necessity of providing legal safeguards to journalists in performing their journalistic roles.

¹⁸ Megawati Asrul Tawulo, Sarpin, and Harnina Ridwan, “Kekerasan Simbolik Terhadap Wartawan Media Lokal Di Kota Kendari,” *Jurnal Ilmu Komunikasi* 8, no. 3 (2018): 319–27.

¹⁹ Suhardi and Fathul Qorib, “Advokasi Wartawan Korban Kekerasan di Aliansi Jurnalis Independen Malang,” *Jurnal Komunikasi Nusantara* 1, no. 1 (2019): 11–17, <https://doi.org/10.33366/jkn.v1i1.4>.

A. International and National Law Concerning Freedom of Expression and Press

Freedom of expression and thought is a fundamental right for every individual, and freedom of the press is integral part to it. In his speech on world press freedom day 2022, Secretary General of the UN António Guterres stated “Without freedom of the press, there are no real democratic societies. Without freedom of the press, there is no freedom.”²⁰

Press freedom contributes to the dissemination of information and the establishment of a democratic, transparent, and open society. Oemar Seno Adji stated that the rule of law views human rights as essential, where the right or freedom to think and speak is a vital and indispensable element that will ensure freedom of the press as a democratic right, as a ‘central meaning,’ and as a right that drives other human rights issues²¹. According to Wahyu Wibowo, the most fundamental human right in upholding justice and truth, promoting public welfare, and educating the nation’s life is the right to freely express one’s thoughts and opinions.²² Ali Moertopo also emphasized that press freedom is a manifestation of human rights, specifically the freedom of written expression.²³

Freedom of opinion and expression is protected by International Human Rights Law under the Article 19 of the Universal Declaration of Human Rights (UDHR), which was adopted and proclaimed by the General Assembly of the United Nations (UN) on 10 December 1948. The Article 19 of UDHR states: “Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.”²⁴ Article 19 (2) of the

²⁰ Maya O Leary-cyr, “Press Freedom under Threat in Europe : A Case Study Analysis of the Increasing Threat to Press Freedom in Greece , Italy , and Hungary University of San Francisco Press Freedom under Threat in Europe : A Case Study Analysis of The” (University of San Fransisco, 2022).

²¹ Oemar Senoadji, *Mass Media dan Hukum*, Cetakan-2. (Jakarta: Erlangga, 1977).

²² Wahyu Wibowo, *Menuju Jurnalisme Beretika* (Jakarta: Kompas, 2009).

²³ Samsul Wahidin, *Hukum Pers* (Yogyakarta: Pustaka Pelajar, 2011).

²⁴ United Nation, “Universal Declaration of Human Rights Preamble, General Assembly Resolution 217 A,” 1948.

International Covenant on Civil and Political Rights (ICCPR) strengthens the article by saying: “Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any other media of his choice.”²⁵ This ICCPR article is indeed restricted by several significant principles outlined in paragraph 3: The exercise of the rights carries with it special duties and responsibilities. It may therefore be subject to certain restrictions, but these shall only be such as are provided by law and are necessary: (a) For respect of the rights or reputations of others; (b) For the protection of national security or of public order, or public health or morals.²⁶ In addition to the Universal Declaration of Human Rights and the ICCPR, the international community has issued several publications, handbooks, and special instruments to protect journalists, including global and regional declarations, resolutions, guidelines, executive board decisions, regional measures, and periodic information.²⁷

In Indonesia, Article 28E paragraph 3 of the 1945 Constitution of the Republic of Indonesia (1945 Constitution) states that “everyone has the right to freedom of association, assembly, and expression of opinion.”²⁸ Freedom of expression is the central pillar of democracy that needs to be upheld and is necessary for individual freedom, societal transformation or social change, community development, and government policy-making. Moreover, according to Article 28F of the 1945 Constitution, “everyone has the right to communicate and obtain information, to develop his personality and social environment, and to seek, obtain, possess, store, process, and convey information through all types of available channels.”²⁹

²⁵ United Nations, “International Covenant on Civil and Political Rights,” OHCHR § (1966).

²⁶ United Nations.

²⁷ UNESCO, “Countering Threats of Violence and Crimes against Journalists to Protect Freedom of Expression for All on the Occasion of the International Day to End Impunity for Crimes against Journalists.”

²⁸ Republic of Indonesia, “Undang-Undang Dasar Negara Republik Indonesia Tahun 1945”.

²⁹ Republic of Indonesia, “Undang-Undang Dasar Negara Republik Indonesia Tahun 1945”.

Freedom of expression of thoughts and opinions in Indonesia has also been regulated and protected by Law Number 9 of 1998 on Freedom of Expression in Public Space³⁰ and Law Number 39 of 1999 on Human Rights.³¹ In addition, to protect everyone's right to information, the Indonesian government stipulated Law Number 40 of 1999 on the Press³² and Law Number 14 of 2008 on Public Information Disclosure.³³

Law Number 9 of 1998 was promulgated immediately after the fall or collapse of the 'New Order' authoritarian regime, which had been in power for more than 30 years and was highly restrictive concerning freedom of expression and press. Although not explicitly regulating journalists' rights, this law has ensured that anybody can freely express their opinions and thoughts as long as they respect the rights and freedoms of others, public morality and order, and the welfare of society.

Article 14, paragraphs (1) and (2), of Law No. 39 of 1999 emphasizes and safeguards the right to obtain and disseminate information. Article 14 states: (1) Everyone has the right to communicate and obtain the information needed to develop his/her personality and social environment; (2) Everyone has the right to seek out, obtain, possess, store, process, and convey information using any available means.

Moreover, Article 4, paragraph (1) of Law No. 40 of 1999 on the Press recognizes freedom of the press as a human right. Protection of press freedom is also regulated in Article 4, paragraphs (2) and (3), which state that the National Press is not subject to censorship, banning, or broadcasting bans and has the right to seek, obtain, and disseminate ideas

³⁰ Republic of Indonesia, "Undang-Undang Nomor 9 Tahun 1998 Tentang Kemerdekaan Menyampaikan Pendapat Di Muka Umum," <https://www.bphn.go.id/data/documents/98uu009.pdf>.

³¹ Republic of Indonesia, "Undang-Undang No. 39 Tahun 1999 Tentang Hak Asasi Manusia," <https://www.komnasham.go.id/files/1475231474-uu-nomor-39-tahun-1999-tentang-%24H9FVDS.pdf>.

³² Republic of Indonesia, "Undang-Undang Republik Indonesia Nomor 40 Tahun 1999 Tentang Pers", <https://peraturan.bpk.go.id/Details/45370/uu-no-40-tahun-1999>.

³³ Republic of Indonesia, "Undang-Undang Nomor 14 Tahun 2008 Tentang Keterbukaan Informasi Publik", <https://peraturan.bpk.go.id/Details/39047/uu-no-14-tahun-2008>.

and information to guarantee press freedom. In paragraph (4), journalists have the right to refuse or disclose news sources' names or other identities.

Following Article 4, journalists also have several obligations outlined in Article 5, i.e., reporting events and opinions that comply with religious norms, societal decency, and the presumption of innocence, and serving and upholding someone's right to reply and correct any news. Briefly, under the Press Law, a journalist is obliged to correct or rectify any incorrect information, data, facts, or opinions reported by them. The distinction between the right to reply and the right to rectify journalistic work is the authority of the party requesting it. The right to reply is given to the party disadvantaged by news reporting; meanwhile, the right to correction is given to everyone. The right to reply includes someone's response to any news directly harmed by or affected by the information. Vice versa, the right to rectify or correct encompasses corrections from any individual regarding inaccurate data, particularly regarding facts and technical details.

Finally, concerning the right to information, Law No. 14 of 2008 explicitly states that the right to access information is a human right and that public information disclosure is a means of optimizing public oversight of the administration of the state and other public bodies, as well as everything that impacts the public interest. Consequently, according to this legislation, journalists can acquire any necessary public information that does not contravene any relevant legal provisions.

B. Global Situation Regarding Press Freedom and Violence Against Journalists

Even though the law regarding the rights and freedoms to information and the safety of journalists has been developed internationally and nationally, these issues still need to be addressed continuously.

According to Freedom House, in 2016, press freedom worldwide took a step backward due to new threats to journalists and media outlets in major democracies. In 2016, only around 13% of the global population resided in a country with solid press freedom, journalists' safety was ensured, state interference in media affairs was minimal, and the press was

not subject to legal or economic pressures.³⁴ In 2016, the situation reached its lowest point in 13 years. A dreadful track record might be directed toward Russia and China, which repeatedly threaten journalists and restrict media freedom.³⁵

The robust findings received from South Asian countries reported by the International Federation of Journalists (IFJ) suggest that freedom of the press and expression is being restricted in many countries in this region. Contradictory laws aimed at suppressing dissenting voices or viewpoints interpreted as threatening or undermining state security continue to erode constitutional protections for independent media.³⁶ Reporters Without Borders ranked Indonesia's press freedom as 124th out of 180 nations in 2018 and 2019, 119th in 2020, 113th in 2021, 117th in 2022, and 108th in 2023, indicating that it remains at a poor level.³⁷ Despite falling to 117th place in 2022, Indonesia's status in the press freedom index is improving, and in 2023, Indonesia is ranked 108th out of 180 nations surveyed.³⁸

In African nations, safety conditions for journalists are identical to those in other regions. According to IPI's Death Watch, 25 journalists have been killed in targeted attacks in sub-Saharan Africa between 2016 and 2021, including seven in the last eight months of 2021. In the vast majority of cases, no arrests have been made as of yet.³⁹ It has been difficult for journalistic organizations, press freedom groups, and civil society organizations to persuade policymakers to prioritize journalist safety and press freedom. Governments elsewhere have passed new laws and

³⁴ Dunham, "Global Findings: Press Freedom's Dark Horizon."

³⁵ Michael J. Abramowitz, "Key Global Findings & Hobbling a Champion of Global Press Freedom," freedomhouse.org, 2017.

³⁶ Jane Worthington, *The Freedom Frontier*, ed. Laxmi Murthy (Brussels: the International Federation of Journalists (IFJ) on behalf of the South Asia Media Solidarity Network (SAMSN), 2014).

³⁷ Reporters without Borders (RSF), "The World Press Freedom Index Annual Report," 2023.

³⁸ Reporters without Borders (RSF).

³⁹ Ravi Prasad, *Press Freedom and Safety of Journalists in Africa: Challenges* (Vienna: International Press Institute (IPI), 2021).

regulations to stifle independent media while ignoring demands to end impunity for crimes committed against journalists.

In reality, the threats against journalists are not limited to those in authoritarian, developing, and former communist countries. Instead, comparable incidents also take place in various democratic countries and regions, such as Australia, the United States, and European countries. In Australia, whistleblowers and journalists are being investigated for exposing classified information in the public interest. Several of these investigations have resulted in major criminal charges.⁴⁰ Even being recognized as a press-friendly country, the United States also experienced a minor decline in press freedom.⁴¹ In European countries, journalists' hardships in the last decade also demonstrate that their societal function is not valued or respected.⁴² The International Federation of Journalists claimed 68 deaths of journalists and media personnel in 2022, while Reporter Without Borders, a media monitoring organization based in Paris, recorded 12 murders and 556 journalist detentions in 2023. In addition to death, journalists continue to face various forms of violence, including harassment, terror, computer attacks, and even sexual assault.⁴³

The issue of protecting journalists extends beyond normal circumstances. They also face significant dangers and require protection in specific situations such as war or armed conflict. Various factors increase the risks associated with reporting on these war/conflicts. During the military operations i.e., in Iraq, 42 journalists died in 2003; 69 died in 2006 with a total loss of 170 since April 2003. The proportion of journalist casualties was higher than that of coalition armed forces,⁴⁴ with hundreds

⁴⁰ Keiran Hardy and George Williams, "Press Freedom in Australia's Constitutional System," *The Canadian Journal of Comparative and Contemporary Law* 7 (2021): 222–55.

⁴¹ Abramowitz, "Key Global Findings & Hobbling a Champion of Global Press Freedom."

⁴² Leary-cyr, "Press Freedom under Threat in Europe: A Case Study Analysis of the Increasing Threat to Press Freedom in Greece, Italy, and Hungary."

⁴³ Reporters without Borders (RSF), "The World Press Freedom Index Annual Report."

⁴⁴ Alexandre Balguy-gallois, "The Protection of Journalists and News Media Personnel in Armed Conflict," *Review Literature And Arts Of The Americas* 86, no. 853 (2004): 1–20. See also Matsuura, Koïchiro. (2007).

more being arrested, threatened, or attacked.⁴⁵ The unpredictable hazards of bombs, the deployment of increasingly sophisticated weapons, and belligerents that care more about winning the war than the safety of media personnel have been added to the conventional dangers of war and to journalists.⁴⁶

It is important to note that during the four years of the brutal bloodshed, only two journalists lost their lives while reporting the First World War. In Lebanon, two journalists were killed in 1979, and there were 63 deaths throughout the Vietnam War over two decades. In Syria's Islamic State, ISIS has incorporated the torture and execution of journalists into their public campaign plan, believing that such acts will attract media attention.⁴⁷ Additionally, journalists and their families often live in a climate of terror after receiving threats that they are targeted for murder.⁴⁸

In addition to male journalists, according to UNESCO, 73 percent of women journalists had been threatened, intimidated, and insulted online regarding their work. The neglect to conduct investigations frequently leads to tangible repercussions for female journalists, impacting their psychological and physiological well-being. Online threats have also the potential to escalate to acts of physical violence and even murder. On a global scale, journalists are tragically losing their lives at a rate of one every four days. According to a report by UNESCO, the number of journalists who lost their lives in 2020 due to their professional activities amounted to 62. From 2006 to 2020, more than 1,200 individuals

⁴⁵ Koïchiro Matsuura, "The Safety of Journalists Is an Issue That Affects Us All," in *Press Freedom: Safety of Journalists and Impunity*, ed. James Barry (Paris: UNESCO, 2007), 4, <https://unesdoc.unesco.org/ark:/48223/pf0000156773>

⁴⁶ Balguy-gallois, "The Protection of Journalists and News Media Personnel in Armed Conflict."

⁴⁷ Folley, Clare, and Abu-Fadil, *Model Course on Safety of Journalists: A Guide for Journalism Teachers in the Arab States*.

⁴⁸ James Barry, "States Turn a Blind Eye to Attacks in Journalists," in *Press Freedom: Safety of Journalists and Impunity*, ed. UNESCO (UNESCO, 2007), 7–10.

working in the media field were killed. In most cases, the perpetrators of crimes escape legal consequences or go unpunished.⁴⁹

Considering the situation, the global press freedom index has declined due to ongoing violence against journalists. In 2023, the situation of press freedom in 180 countries and territories, according to the World Press Freedom Index, is “dire” in 31 countries, “difficult” in 42, “problematic” in 55, and “good” or “satisfactory” in 52 countries. In other words, the environment for journalism is “bad” in seven out of ten countries and satisfactory in only three out of ten.⁵⁰ Seeing the situation, journalists worldwide are still facing high levels of disrespect and violence, which could have only been matched by the sheer bravery of courageous journalists who put their lives at risk to champion press freedom.⁵¹ Given the circumstances, there is an urgent need for journalist protection to establish press freedom as well as fulfill everyone’s right to information.

C. Journalist Violence and Criminalization Incidence in Indonesia

Comparable to what happened elsewhere, much violence has occurred against journalists in Indonesia. One of the most phenomenal cases and considered a dark history of the world of journalism in Indonesia is the death of Bernas Yogyakarta journalist ‘Udin’ or Fuad Muhammad Syafruddin on August 16, 1996. He died during the New Order authoritarian regime. He was allegedly murdered for his aggressive report of corruption, collusion, and nepotism, which were ‘taboo’ to discuss at that time. The legal apparatus never revealed the mastermind behind Udin’s death. Moreover, the essential evidence—his clothes containing

⁴⁹ UNESCO, 2023, access from <https://www.unesco.org/en/threats-freedom-press-violence-disinformation-censorship> on 23 May 2023.

⁵⁰ Reporters without Borders (RSF), “The World Press Freedom Index Annual Report.”

⁵¹ Beth Costa, “A Constant Struggle: A Testimonial from International Federation of Journalist (IFJ),” in *Pressing for Freedom: 20 Years of World Press Freedom Day*, ed. William Harsley, vol. 125 (France, 2013), 48–50.

blood samples and a personal journal—was thrown into the sea for unreasonable, ignorant reasons by the chief of police investigators.⁵²

According to the Alliance of Independent Journalists (AJI), there were 1,019 incidents of violence against journalists between 2006 to 13 of August 2023.⁵³ Violence against journalists, according to AJI, was committed by various community groups, including police officers, government officials/apparatus, presidential security forces, ministerial protocol staff, members of the military, mass organizations, political parties, lawyers, company staff, community groups, university bureaucrats, residents engaged in clashing, debt collectors, even football supporter, and some other subject who were not identifiable.⁵⁴ Physical violence, such as beatings and slappings, remained the most common types of violence. In 2018, there were two new types of cases of journalist violence in the form of tracing and dismantling journalists' identities on social media for negative purposes when journalists wrote news that did not match the perpetrator's political aspirations, which AJI classified as doxing or online persecution.⁵⁵ During a protest against the Omnibus Law in October 2020, AJI, for instance, documented 28 incidences of police violence against journalists in various parts of Indonesia.⁵⁶ The COVID-19 pandemic characterized the year 2020-2021. Despite the implementation of large-scale social restrictions nationwide, the number of incidents of violence against the press is still relatively high. Digital attacks are increasing due to media coverage, which fosters a sense of social control over government actions in response to the Pandemic in Indonesia.⁵⁷

Table 1 indicates the number of violence against journalists recorded by AJI between 2018 to June 2023:

⁵² Faisal Irfani, "Kematian Wartawan Udin Yang Kasusnya Tak Pernah Terungkap Tuntas," *Tirto.Id*, November 2021.

⁵³ AJI, "Kasus Kekerasan Terhadap Wartawan," Aliansi Jurnalis Independen, 2023, retrived on May 23 2023 from <https://advokasi.aji.or.id/>.

⁵⁴ AJI.

⁵⁵ AJI, "Kondisi Kebebasan Pers 2020," Aliansi Jurnalis Independen, 2021, retrieved on 23 May 2023 from <https://advokasi.aji.or.id/highlight/3.html>.

⁵⁶ Asep Setiawan, "Cegah Kekerasan Terhadap Wartawan" (Jakarta, October 2020).

⁵⁷ AJI, "Kondisi Kebebasan Pers 2020."

TABEL 1. Recapitulation of Violence against Journalists 2018-2023

	VIOLENCE TYPE(S)	2018	2019	2020	2021	2022	Jan- June 2023
1	Physical abuse	16	22	15	7	16	8
2	Expulsion/prohibition of coverage	11	5	7	7	3	-
3	Threats of violence or terror	10	6	8	16	11	14
4	Destruction of equipment and/or reporting data	9	14	20	-	5	-
5	Prosecution/punishment/criminalization	7	7	5	4	3	1
6	Verbal intimidation by public officials/harassment	5	1	18	-	-	1
7	Censorship/prohibition of reporting/coverage	4	3	2	-	1	5
8	Mass mobilization/assault on the editorial office	2	-	1	-	-	-
9	Deletion of coverage results	-	-	5	3	4	4
10	Destruction or confiscation of tools	-	-	1	-	-	1
11	Civil action	-	-	1	-	-	-
12	Detention	-	-	2	1	2	-
13	Digital attack	-	-	-	5	15	7
14	Sexual/gender based violence	-	-	-	-	3	5
	TOTAL	64	53	84	43	63	46

Source: AJI's website Annual Report, 2023 (edited)

The data presented in Table 1 illustrates various forms of violence that journalists may encounter, including physical abuse, threats of violence or terror, restrictions on journalistic coverage, destruction of reporting data, verbal intimidation, censorship, assault, digital attacks, and sexual violence. These acts of violence have not only caused physical harm but also led to significant psychological consequences or trauma.

In addition to AJI's data above, according to the LBH-Pers, physical and non-physical violence against journalists is common and keeps on increasing. In 2014, there were 72 incidents of violence; in 2015, there

were 50 incidents; and in 2016, there were 83 incidents.⁵⁸ In 2022, LBH Pers recorded at least 51 incidents of violence against the press, both directed at the media, journalists, informants, press activists, and student journalists engaged in journalistic work at the campus. There were at least 113 individuals and organizations affected by the 2022 incidents. Seven of the 51 incidents at stake were attacks on student press activity, six targeted institutions, and one directly targeted nine college journalists who were members of the student press institute reporting student activists posting complaints about sexual harassment on their campus (LPM Lintas).⁵⁹

How about the deplorable condition of violence against female journalists? 82.6% (704) of female journalists, at the end of 2022, according to a survey of 852 female journalists conducted by AJI and PR2Media had been subjected to sexual violence or harassment at some point throughout their careers. They are offline and online body shaming, catcalling, sexually offensive or derogatory comments, receiving sexual and explicit text messages and audio-visuals, unwanted sexual or physical touch, being forced to touch parts of the body related to sexuality or serve the perpetrator's sexual desires, and being forced to have sexual intercourse. In addition, some female informants confessed to having experienced sexual harassment or assault at work, both inside and outside the office, including at the hands of their colleagues and superiors.⁶⁰

An attack on journalists is an assault on press freedom and the public's right to obtain information.⁶¹ According to Ade Wahyudi, the Director of the Indonesian Pers Legal Aid Institution, ten journalists were subjected to discrimination in 2020. Among them, two received prison sentences from the district courts of Buton and Kota Baru, while the cases against the other eight remain unresolved. The imprisonment of these two journalists sets a negative precedent for the development of press freedom

⁵⁸ LBH Pers Team, *Demokrasi Tenggalam Pers Dibungkam: Annual Report LBH Pers 2020*, ed. Sunundyantoro (Jakarta: LBH Pers, 2021).

⁵⁹ LBH Pers Team, *Annual Report LBH Pers Tahun 2022: Jurnalisme Dalam Kepungan Represi* (Jakarta: LBH Pers, 2022).

⁶⁰ Engelbertus Wendratama et al., "Laporan Riset: Kekerasan Seksual Terhadap Jurnalis Perempuan Indonesia" (Jakarta, 2023).

⁶¹ Tatang Mulyana Sinaga, "Jurnalis Di Bawah Bayang-Bayang Kriminalisasi," *kompas.id*, 2023.

in the country.⁶² Meanwhile, according to AJI, of all 61 documented attacks against journalists and the media in 2022, five were arrested and accused of crimes of insult and defamation.

Due to the development of online news, the cases mainly employed for criminalization against journalists were Article 27, paragraph (3) of Law Number 11 of 2008, juncto Law Number 19 of 2016, on Information and Electronic Transactions (ITE), regarding insults or defamation, and Article 28, paragraph (2), concerning hate speech or hostility.⁶³ Moreover, the threats of being criminalized (arrested and jailed) still haunt journalists in Indonesia using Article 65, juncto 67, Law Number 27 of 2022 on Personal Data Protection, the Existing Penal Code, and Law Number 1 of 2023 on the Indonesian New Penal Code (which will come into force in January 2026).

Table 2 includes some articles and laws that have the potential to bring criminal charges against journalists:

TABLE 2. Identification of Potential Articles Employed to Threaten and Criminalize Journalists in Different Legislative Products in Indonesia

Law/Act	Articles	Category of Crimes	Criminal Sanction/ Penalty
Law No. 27 of 2022 on Personal Data Protection	Article 65 paragraph (1), (2), (3)	Collect, disclose, and use Personal Data: (1) unlawfully collecting personal data that does not belong to him/her for someone's benefit, resulting in the loss of Personal Data subjects (2) unlawfully disclose Personal Data that does not belong to him/her (3) unlawfully use Personal Data that does not belong to him/her	Penalties are formulated in Article 67: (1) max of 5 years imprisonment and/or 5 Billion Rupiahs fine. (2) max of 4 years imprisonment and/or 4 Billion Rupiahs fine. (3) max of 5 years imprisonment and/or 5 Billion Rupiahs fine.

⁶² Yopi Makdori, "LBH Pers: 10 Jurnalis Dikriminalisasi Sepanjang 2020, 2 Divonis Penjara," liputan6.com, 2021.

⁶³ See Adi Marsiela et al., *Attacks Increase, Authoritarianism Strengthens: Report on the Security Situation of Indonesian Journalists 2022*, ed. Ika Ningtyas (Jakarta: Alliance of Independent Journalists (AJI), 2022).

Law/Act	Articles	Category of Crimes	Criminal Sanction/ Penalty
Law No. 11 of 2008 jo. 19 of 2016 on Information and Electronic Transactions (ITE)	Article 27 Paragraph (3)	Insult/Defamation: (3) Distributing, transmitting, or otherwise making available electronic information and/or documents containing insult and/or defamatory content without authorization.	Penalties are formulated in Article 45 (3): max of 4 years imprisonment and/or 750 million Rupiahs fine.
	Article 28 Paragraph (2)	Hate speech and Hostility: (2) Without any right, distributing information with the intent to arouse feelings of individual and/or group hatred or resentment in communities based on ethnicity, religion, race, or intergroup differences	Penalties are formulated in Article 45A (2): max of 6 years imprisonment and/or a 1 Billion Rupiah fine.
Indonesian existing Criminal Code (<i>Wetboek van Strafrecht</i>)	Articles 134, 137, 142, 144, 154-157, 160-161, 207-208, 310, 315, and Articles 14-15 Act No. 1 Year 1946	Insulting the president, vice president, and heads of another state; crimes against public order; incitement; insulting the authorities or public official on duties; insulting, libeling, slandering against anybody and the dead; broadcasting fake news and causing societal chaos among society.	Penalties range from 9 months to 6 years of imprisonment or a fine; For articles 14-15 Act No. 1 Year 1946, penalties range from 2-10 years imprisonment.
Law No. 1 of 2023 on Criminal Code (New)	218,219, 226,227, 228, 240, 241, 242, 243, 263, 264, 433, 434, 436, 438, 439, 594, 595, 596	Insulting the president and vice president; insulting heads of another state; insulting the government and state institutions; insulting groups of the Indonesian population based on race, nationality, ethnicity, skin color, gender, mental disability, or physical disability;	Penalties range from 9 months to 6 years of imprisonment or a fine;

Law/Act	Articles	Category of Crimes	Criminal Sanction/ Penalty
		broadcasting or disseminating fake news or hoaxes; publishing or posting inadequate, exaggerated, or incomplete information/news that could or has the potential to result in societal unrest or riots; insult, defamation, and slander; written blasphemy or defamation of a dead person; disseminating or reproducing written texts or visual representations that, because to their inherent characteristics, are subject to legal penalties.	

Sources: Law No. 27 of 2022 on Personal Data Protection, Law No. 11 of 2008 jo. 19 of 2016 on Information and Electronic Transactions (ITE), Criminal Code, and Law No. 1 of 2023 on Criminal Code

One of Indonesia's newest laws, the Personal Data Protection Law, has a provision that can impede journalistic activity: Article 4, paragraph (2). This article covers seven forms of personal data, including 'criminal record' data. Since the law does not define 'criminal record,' this section may hinder the work of journalists who have frequently unearthed cases involving crimes or alleged crimes. This provision can be used to trap and punish journalists who investigate the track records of public officials suspected of corruption or money laundering, for example. The word 'unlawfully' or 'against the law' in Article 65, paragraph (2) of the Personal Data Protection Law is also prone to trapping activists and journalists as there is no explanation of the meaning of that phrase. Furthermore, subsequent to the enactment of the New Criminal Code, there has been a notable expansion in the range of provisions that might be employed to prosecute journalists. These newly included articles encompass offenses such as defamation of the government and state institutions, in addition to the preexisting offenses stipulated in the previous Criminal Code.

As mentioned above, some requirements for publishing journalistic work in Indonesia have been formulated in Article 5 Law No. 40 of 1999 on the Press. Journalists in Indonesia also already have a professional code of ethics. Therefore, there is no longer a justifiable rationale for suppressing the media due to defamation, slander, hate speech, or even hostility, provided journalistic activities have complied with the existing laws and ethical guidelines. Nevertheless, violence, intimidation, censorship, and imprisonment of journalists continue to be perpetrated by the state, legal apparatus, and other community members. In many cases, threats of violence and attacks against journalists are not properly investigated. The impunity will encourage the perpetrators of the crimes and simultaneously chill society, including journalists. Impunity by covering up information on serious human rights abuses, corruption, and crime will damage whole societies.⁶⁴ Even though the challenges and perils journalists face in various countries vary from region to region, one sad fact remains: Our freedom of expression is questioned and challenged from many angles. Some challenges are apparent, others are hidden, and some employ conventional methods to silence free speech and critical voices. Some use new technologies to stifle and restrict the free flow of information and media pluralism, and far too many result in the physical harassment and murder of journalists.⁶⁵ Both then and now, threats of confinement or physical harm are meant to prevent people from speaking up, organizing, or fighting for what's right, and these threats are only going to get worse.⁶⁶

D. Legal Protections for Journalists

Under international law, such as the International Covenant on Civil and Political Rights, the state, including Indonesia, has the

⁶⁴ Anonymous, "International Day to End Impunity for Crimes against Journalists, 2 November," United Nations, 2023.

⁶⁵ D. Mijatovic, "Protection of Journalists from Violence: Issue Discussion Paper" (Strasbourg, 2011).

⁶⁶ Ford Foundation, "With the Freedom from Fear, the Responsibility to Act," Ford Foundation, n.d.

obligation to respect, preserve, and fulfill human rights.⁶⁷ The responsibility to ensure protection necessitates that the state safeguard journalists from human rights violations. The violence against journalists' rights could manifest as substandard reactions, such as neglecting to commence comprehensive inquiries and taking legal action regarding incidents or mistreatment experienced by journalists. In addition, states are considered to violate journalists' rights when they fail to provide a safe and conducive environment to perform their professional responsibilities.

In the publication titled "How international human rights standards and mechanisms help protect journalists," the OHCHR states that the ICCPR contains a number of other obligations relevant to the safety of journalists. They are the right to life (Article 6) and the freedom from torture (Article 7).⁶⁸ States are further required to secure the right to a fair trial (Article 14) and protect individuals from arbitrary detention (Article 9). Further, Article 17 of the ICCPR mandates that states protect individuals' privacy against "arbitrary or unlawful" intrusion; this provision is crucial for safeguarding the private communications of journalists, as well as their access to and utilization of encryption and anonymity tools.⁶⁹

In addition to the right to information and press freedom related to public rights, as stated in Article 27 paragraph (2) of the 1945 Constitution, every citizen, including journalists, has the right to work and a decent living for humanity. This right necessitates the participation and presence of the state in its realization. This recognition is founded on understanding the relationship between the right to work and other aspects of human rights, such as the right to life and the right to be free from fear (right to freedom from fear), which is a fundamental element of human rights.⁷⁰ The inclusion of the right to work in human rights legal

⁶⁷ Due to Indonesia's ratification of the Covenant on Civil and Political Rights through the adoption of Law Number 12 of 2005, the Indonesian government has to uphold and protect human rights as outlined in this Covenant's provisions.

⁶⁸ OHCHR, "How International Human Rights Standards and Mechanisms Help Protect Journalists" (Switzerland, n.d.).

⁶⁹ OHCHR.

⁷⁰ According to Roosevelt (1941), the fundamental freedoms is included by the concepts of 'freedom from fear' and 'freedom from want'. It possess significant

instruments encompasses not only a concept of philosophical relevance but also entails legal obligations that the state is obligated to respect, protect, and fulfill.⁷¹

No profession, according to Volker Turk, should carry the risk of being attacked, intimidated, or killed without appropriate resolution.⁷² Unfortunately, journalists encounter this on a regular basis. Concerning the issue of violence and the prosecution of journalists, it is essential to note that Article 28D paragraph (1) of the 1945 constitution also encompasses provisions on the rights of individuals to be recognized, guaranteed, and protected, as well as to get fair legal certainty and equal treatment under the law. Therefore, it is imperative for the state to safeguard the well-being of journalists, particularly in the context of violent acts, through comprehensive investigations into instances of violence perpetrated against them.

The assurance of press freedom is causally linked to the protection of journalists. There is no sense in having press freedom regulations if journalists are not free to conduct their journalistic work and activities according to their profession, as freedom of the press is essential to protecting all human rights and citizens' rights. In fact, due to the work of investigative journalists, numerous cases of misuse of power, corruption, discrimination, and even systemic torture have been exposed worldwide and in Indonesia. Publicizing the facts is often the first crucial step in redressing corruption or human rights violations and holding those in power accountable. Unquestionably, the primary objective of press freedom is to satisfy the public's entitlement to information.

Recalling the Secretary General of the UN, António Guterres, in his speech on World Press Freedom Day 2022, "Without freedom of the

importance to individual life, including journalists life. See Zi Han Wei et al., "Freedom from Fear and Want and Our Psychological Response to Environmental Changes," *Journal of Pacific Rim Psychology* 11 (2017): 1–10, <https://doi.org/10.1017/prp.2017.11>.

⁷¹ Syahwal Syahwal, "Dilema Hak atas Pekerjaan dalam Kebijakan Pasar Tenaga Kerja Fleksibel," *Jurnal HAM* 13, no. 2 (2022): 271, <https://doi.org/10.30641/ham.2022.13.271-286>.

⁷² OHCHR, "How International Human Rights Standards and Mechanisms Help Protect Journalists."

press, there are no real democratic societies. Without freedom of the press, there is no freedom.” Indeed, violence against journalists may impact press freedom, impartiality, and integrity. Threats against one journalist can have the devastating effect of silencing many others. Audrey Azoulay, the Director-General of the United Nations Educational, Scientific, and Cultural Organization (UNESCO), emphasized in 2022, on the occasion of the International Day to End Impunity for Crimes Against Journalists, that crimes committed against journalists have a significant impact on society because they prevent individuals from making decisions based on accurate and reliable information.⁷³ Threats of violence and attacks against journalists, in particular, create a fear climate for media professionals, impeding the free circulation of information, opinions, and ideas for all citizens. Indeed, violence against journalists is a crime against freedom and democracy.

Conclusion

The news generated by journalists remains among the most reliable sources for keeping up with current events and societal trends. Information serves as a key driver for vibrant societies and human keeping up with. However, the research revealed that incidents of violence against journalists persist both in Indonesia and worldwide. Such violence impedes the growth of democracy and violates the rights of citizens to access accurate, objective, and reliable information. The national constitution of the Republic of Indonesia ensures the right to information. Several laws in Indonesia have also secured everyone’s right to access information, including the right to seek out, acquire, possess, store, process, and convey information. Moreover, Indonesia has existing laws that grant journalists the necessary rights and protections to pursue and acquire information. However, in numerous instances, journalists’ rights to access information continues to be infringed upon by various forms of violence, such as beatings and slappings, intimidation, and sexual harassment, including the threats of detention, imprisonment, and even

⁷³ UNESCO, “Message from Ms Audrey Azoulay, Director-General of UNESCO, on the Occasion of the International Day to End Impunity for Crimes against Journalists,” *DG/ME/ID/2022/55*, DG/ME/ID/2022/55 (Paris, France, 2022).

murder. Previously, those arrested and imprisoned were simply subjected to the laws of Law Number 11 of 2008 juncto Law Number 19 of 2016 on Information and Electronic Transactions (ITE), specifically Article 27, paragraph (3) regarding insults or defamation, and Article 28, paragraph (2) regarding hate speech or hostility. When it comes to the possible criminalization, arrest, and imprisonment of journalists while doing their works, the newest article is likely to be based on sections 65–68 of Law Number 27 of 2022 on Personal Data Protection, as well as various provisions outlined in Law Number 1 of 2023, which constitutes the Indonesian New Penal Code.

The recent difficulties and violence the journalists have encountered, especially in the last decade, underscore the importance of respecting their societal role. Indeed, violations of press freedom not only jeopardize democracy but also undermine the fundamental right to access information, making the issue pertinent to all individuals. It is crucial to recognize that violence against journalists constitutes an assault on freedom and democracy. Enhancing literacy and empowering journalist groups are essential steps in preventing and addressing this violence.

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*When injustice becomes law,
resistance becomes duty*

Thomas Jefferson

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