

## ***Restorative Justice as a Solution to the Press Crisis: The Urgency of Reform in the Indonesian Justice System***

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### ***Abstract***

*This research aims to explore the potential implementation of restorative justice in the resolution of press offense disputes in Indonesia, with a focus on Law No. 40/1999 on the Press. The urgency of this research arises from the need to reduce the burden on the increasingly heavy judicial system and increase the effectiveness of media dispute resolution. In this context, restorative justice can be a more humane and efficient alternative to conventional litigation approaches. The scope of the problem includes the lack of regulations supporting restorative mechanisms in the Press Law, as well as practical challenges in implementing mediation in Indonesia. The main findings show that restorative justice can help restore social relations between the parties involved in a more constructive way, rather than simply imposing punishment. The novelty of this research lies in identifying the potential application of restorative justice in the context of press disputes, as well as the role of the Press Council as a mediator in dispute resolution mechanisms. The method used in this research is legal analysis and comparison of legal systems in other countries, as well as a study of restorative justice theory and its application in press disputes in Indonesia.*

***Kata kunci:*** Indonesian Justice System; Press Dispute; Press Law; Restorative Justice; Social Restoration

### **1. INTRODUCTION**

Press offenses, which include criminal offenses such as defamation, slander, and invasion of privacy through print and electronic media, have become an increasingly pressing legal issue in Indonesia. This is demonstrated by the increasing number of cases involving the media and journalists, which often lead to long and complicated judicial processes. Data from the Press Council recorded a 30% increase in the number of press offense cases brought to court in the last three years, a figure that reflects the increasing legal conflicts in the press world.<sup>1</sup> At the same time, the pressure on the Indonesian judicial system is growing, which suggests that there is an urgency to find more efficient alternative approaches to resolving such disputes.

This press offense crisis not only creates a heavy burden on the legal system, but also has the potential to damage the relationship between the media and society.<sup>2</sup> Lengthy judicial processes often exacerbate tensions between disputants, without allowing room for more constructive resolution. For example, in 2023, a press offense case involving one of Indonesia's major media outlets took more than two years to resolve, with very high legal

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<sup>1</sup> dewanpers.or.id, "Laporan Statistik Kasus Delik Pers Di Indonesia 2023" (Jakarta: Dewan Pers, 2024), <https://dewanpers.or.id>.

<sup>2</sup> usuf Zainal Abidin, "Kitab Undang-Undang Hukum Pidana, Delik Pers Dan Problematika Jurnalistik," February 22, 2023, <https://rechtsvinding.bphn.go.id/?page=artikel&berita=767>.

costs and a huge psychological impact on the parties involved.<sup>3</sup> This suggests the need for a more efficient and dignified resolution mechanism. In this case, restorative justice emerges as an alternative approach that has the potential to reduce tensions and offer solutions that emphasize reconciliation between the disputing parties.

Within the existing legal framework, Law No. 40/1999 on the Press provides room for dispute resolution outside of the judicial system.<sup>4</sup> However, the use of this mechanism in the context of press offenses has not been optimally realized. Most cases are still processed through formal judicial channels, which are often time-consuming and worsen relations between the disputing parties. Research conducted by Sihombing & Nuraeni (2023), shows that although there is room for the application of restorative justice in certain cases, the practice is still limited and underutilized.<sup>5</sup> The study highlights the importance of changes in regulation to introduce faster and more effective alternative dispute resolution, but does not address its specific application in press offenses, which is the main focus of this study.

In addition, research by Setyawan, et.al. (2021), this study examines the application of the concept of restorative justice in media cases in Indonesia and finds that restorative justice offers a more balanced solution between the need to enforce the law and the interest in maintaining press freedom.<sup>6</sup> However, it notes that the application of restorative justice in press offenses is still very limited and has not been fully integrated into the Indonesian legal system.

The third relevant research is a study by Nurdin, et.al. (2023), highlighting the implementation of mediation in media dispute resolution. Although mediation can be a good solution for some cases, the results of this study show that in many cases of press offenses, mediation is not effective enough to achieve a fair and comprehensive solution for all parties.<sup>7</sup> This study illustrates the limitations of using mediation as an alternative to press dispute resolution, especially when the conflict involves sensitive issues related to press freedom and individual rights. It indicates that while mediation can be part of the solution, a more comprehensive approach, such as restorative justice, is needed, which can be more effective in creating a fair agreement for all parties. Therefore, this research highlights the need to introduce changes in policy that allow for the application of this approach in press disputes, a topic that will be more deeply discussed in this study.

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<sup>3</sup> Saiful Amri, Putri Maulina, and Al Zuhri, "Pro dan Kontra Undang-Undang Nomor 40 Tahun 1999 Tentang Pers Sebagai Lex Specialis (Memaksimalkan Profesionalitas Pers Dalam Menjalankan Aktifitas Jurnalistik)," *Source : Jurnal Ilmu Komunikasi* 7, no. 1 (May 22, 2021): 87–94, <https://doi.org/10.35308/source.v7i1.3521>.

<sup>4</sup> Amri, Maulina, and Zuhri.

<sup>5</sup> L. Alfies Sihombing and Yeni Nuraeni, "Efektifkah Restoratif Justice ? Suatu Kajian Upaya Optimalisasi Sistem Peradilan Pidana Di Indonesia," *Jurnal Hukum Mimbar Justitia* 9, no. 2 (December 30, 2023): 273–304, <https://doi.org/10.35194/jhmj.v9i2.3952>.

<sup>6</sup> Andy Setyawan et al., "Implementasi Penegakkan UU Pers Terhadap Delik Pers dan Kekerasan Jurnalis di Tahun 2020," *Jurnal Ilmu Komunikasi (J-IKA)* 8, no. 1 (April 6, 2021): 54–64, <https://doi.org/10.31294/kom.v8i1.10049>.

<sup>7</sup> Nurdin, Deny Guntara, and Muhamad Abas, "Pertanggungjawaban Pidana Pers dalam Tindak Pidana Pencemaran Nama Baik Dihubungkan dengan Undang-Undang Nomor 40 Tahun 1999 Tentang Pers (Studi Putusan Nomor 46./Pid.Sus/2021/Pn.Pip)," *UNES Law Review* 6, no. 1 (2023): 1544–52, <https://doi.org/10.31933/unesrev.v6i1>.

The statement of the Chairperson of the Press Council, Ninik Rahayu, expressing her disagreement with the revision of the Broadcasting Bill, which does not accommodate important interests in the Press Law, shows the importance of updating press-related legal policies, including press dispute resolution.<sup>8</sup> This statement reflects the need to update the existing legal framework, allowing for more flexible and restorative dispute resolution mechanisms, which can speed up the process, reduce tensions, and place more emphasis on rapprochement.

The application of restorative justice in the context of press offenses has the potential to provide room for a fairer settlement by prioritizing reconciliation between the disputing parties. This approach not only aims to reduce the burden on the judicial system but also strengthens press freedom by providing space for settlements that are more oriented towards restoration, rather than just punishment. In this regard, restorative justice has the potential to be a more effective alternative in reducing the number of cases that must be resolved through judicial channels, as well as improving relations between the media and society.

Based on an analysis of existing regulations, such as Law No. 40/1999 on the Press, as well as data on cases recorded at the Press Council, this study aims to evaluate the extent to which existing policies support the application of restorative justice in the settlement of press offenses. The research will also identify gaps in legal practice that can be addressed with restorative approaches. The results of the research are expected to produce more concrete policy recommendations, which enable the application of restorative justice in the Indonesian legal system, especially in the context of press offenses.

This research uses a normative-empirical approach to analyze various relevant legal regulations, as well as examine the implementation of restorative justice based on data from the Press Council. Through this approach, the research will provide a deeper insight into how restorative justice can be applied to resolve press disputes in Indonesia. This research is expected to fill a void in the existing legal literature, as well as provide a new perspective on the potential and challenges of implementing restorative justice in the context of press offenses.

## **2. METODE**

This research uses a juridical-normative method with a statutory, conceptual, and comparative approach, which enables in-depth analysis of the application of restorative justice in the resolution of press offense cases in Indonesia. This method was chosen to systematically examine applicable regulations, such as Law No. 40/1999 on the Press, as well as other relevant legal documents, and compare them with international practices in

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<sup>8</sup> M Nurhadi, "RUU Penyiaran Ancam Kebebasan Pers? Inilah Pasal-Pasal yang Kontroversial," suara.com, 2024, <https://www.suara.com/news/2024/05/16/180435/ruu-penyiaran-ancam-kebebasan-pers-inilah-pasal-pasal-yang-kontroversial>.

implementing restorative justice.<sup>9</sup> The data used in this research is secondary data consisting of primary, secondary, and tertiary legal materials. Primary legal materials in this research are laws and regulations related to the press, especially Law No. 40/1999 on the Press, while secondary legal materials are books, journals, and articles relevant to the topic of restorative justice and dispute resolution of press offenses. Tertiary legal materials in the form of dictionaries and encyclopedias were used to clarify terms used in the context of law and restorative justice. This research began with the stage of collecting legal data and literature which included laws and regulations and statistical data on press offense cases recorded at the Press Council. Next, a normative-empirical analysis was conducted to identify obstacles and opportunities in the application of restorative justice, by reviewing relevant court decisions and interviews with judges, lawyers, and legal experts to gain a deeper understanding.

### **3. RESULT AND DISCUSSION**

#### **3.1 Implementation of Restorative Justice in Law No. 40/1999 on the Press and its Practical Challenges in Press Delict Cases**

In a legal context, restorative justice refers to an approach that aims to repair the damage caused by an offense or crime by involving offenders, victims, and other interested parties in a resolution process that focuses on restoring relationships, not just on punishment.<sup>10</sup> Within this framework, restorative justice seeks to restore the social balance damaged by the conflict or offense, create dialogue between the parties involved, and facilitate the repair of more constructive relationships.<sup>11</sup> This justice emphasizes the active role of victims and perpetrators in the resolution process, where they jointly seek solutions that can reduce the negative consequences of the actions that occurred and avoid repetition of similar violations in the future.

Meanwhile, press offenses are types of offenses committed within the scope of journalistic activities, which are often related to news that harms certain parties, be it in the form of slander, defamation, or dissemination of false information that can cause damage to the reputation of individuals or groups.<sup>12</sup> This offense becomes very complex because on the one hand, it is related to the freedom of the press guaranteed by the constitution, but on the other hand, the individual's right to protection of good name also needs to be

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<sup>9</sup> N Rizkia and H Fardiansyah, *Metode Penelitian Hukum (Normatif Dan Empiris)*, Cetakan Pertama (Bandung: Widina Media Utama, 2023).

<sup>10</sup> Lasmin Alfies Sihombing, "Restorative Justice, Kejahatan, Hukuman, Dan Peradilan Pidana: Sebuah Analisis Kesejarahan, Peluang Dan Tantangan," *UNES Law Review* 6, no. 3 (April 25, 2024): 8902–11, <https://doi.org/10.31933/unesrev.v6i3.1777>.

<sup>11</sup> Amriyanto Amriyanto and Tri Syafari, "Restorative Justice and State Responsibility for the Return of Rights of Victims Due to Fraud in Indonesia," *Pena Justisia: Media Komunikasi Dan Kajian Hukum* 23, no. 1 (March 11, 2024): 653–67, <https://doi.org/10.31941/pj.v23i2.5398>.

<sup>12</sup> Abidin, "Kitab Undang-Undang Hukum Pidana, Delik Pers Dan Problematika Jurnalistik."

maintained. Therefore, disputes related to press offenses require careful handling, taking into account the balance between freedom of speech and the right to protection of honor.

The presence of Law No. 40/1999 on the Press in Indonesia is the main reference in regulating the legal relationship between the media and society, as well as the role of the press in maintaining social control and democracy. This law emphasizes the importance of press freedom in revealing the truth, but also provides space for press dispute resolution regulated through the Press Council. However, in its application, the existing mechanism does not explicitly include a restorative justice approach as an option in resolving press disputes. In fact, restorative justice can be a more effective alternative in reducing the burden on the formal justice system and providing a fairer solution for all parties involved.

As a more mediative approach, restorative justice offers dispute resolution that does not rely solely on legal decisions, but also creates space for dialogue and negotiation between the disputing parties. In the context of press offenses, it is important to restore the relationship between the media and the individuals harmed by the news, with the aim of not only providing compensation or punishment but also repairing social relationships damaged by the conflict.<sup>13</sup> In other words, restorative justice is expected to reduce tensions that arise between the press and the public and provide a more constructive solution than simply resolving disputes formally.

However, the application of restorative justice in the Press Law faces several challenges. First, although the Press Council has provided non-litigation channels for resolving press disputes, many parties still prefer formal legal channels through the courts, given the uncertainty of the outcome of mediation or out-of-court settlements. This shows that trust in non-litigation dispute resolution mechanisms, which are closer to restorative justice principles, is still low. Second, the absence of clear provisions in the Press Law regarding the use of restorative approaches in handling press offenses is also an obstacle. Without an adequate legal basis, dispute resolution mechanisms with restorative principles are less structured and prone to abuse.<sup>14</sup>

In legal theory, the Indonesian legal system tends to follow a retributive approach, where law enforcement emphasizes the punishment of offenders, without regard to the possibility of restoring relations between offenders and victims.<sup>15</sup> In contrast to restorative justice, which focuses on restoring social harm and reconciliation, the retributive approach

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<sup>13</sup> Kangyin Dong et al., "Revisiting Energy Justice: Is Renewable Energy Technology Innovation a Tool for Realizing a Just Energy System?," *Energy Policy* 183 (December 1, 2023): 113820, <https://doi.org/10.1016/j.enpol.2023.113820>.

<sup>14</sup> Muhammad Alvin Nashir, Nabila Maharani, and Aisyah Zafira, "Urgensi Pembentukan Undang-Undang Restorative Justice Dalam Rangka Reformasi Keadilan Dan Kepastian Hukum Di Indonesia," *Sapientia Et Virtus* 9, no. 1 (March 31, 2024): 344–57, <https://doi.org/10.37477/sev.v9i1.501>.

<sup>15</sup> Untung Sumarwan and Lita Tyesta Addy Listya Wardhani, "Perwujudan Nilai-Nilai Pancasila dalam Kebebasan Pers Pasca Reformasi di Indonesia," *Jurnal Pembangunan Hukum Indonesia* 5, no. 3 (November 27, 2023): 484–509, <https://doi.org/10.14710/jphi.v5i3.484-509>.

is more punitive and often fails to restore social relationships damaged by the act. In the context of press offenses, this approach often does not meet the actual need of restoring the relationship between the media and the aggrieved individual. Therefore, while there is a well-established legal system for resolving disputes, it needs to be updated to more effectively create space for more restorative settlements. In fact, in the context of press offenses, the main purpose of dispute resolution is not merely to punish journalists or the media, but to repair damaged relationships and prevent further impact on reputation and social relations.<sup>16</sup> Restorative justice theory provides an alternative that is in line with the spirit of due process of law, where the rights of all parties are safeguarded, but the main focus is on recovery and reconciliation, not on punitive punishment.

In terms of practice, in resolving cases of press offenses, Indonesia still relies on litigation as the main route. This process is time-consuming, costly, and resource-intensive, both for the party filing the lawsuit and for the judicial system itself. Major cases involving the media often drag on through the court process, while the parties involved do not always get adequate or satisfactory solutions. In this case, restorative justice offers an alternative that can be faster, more efficient, and provide a fairer settlement by prioritizing the restoration of relationships between the parties involved, be it journalists, media, or aggrieved individuals.

The implementation of restorative justice in the resolution of press offense disputes in Indonesia is a strategic step that aims to reduce the burden on the increasingly heavy judicial system and improve the quality of restoration of relations between the parties involved. Restorative justice, in essence, focuses on restoring the relationship between the disputing parties, rather than simply punishing the perpetrator.<sup>17</sup> The basic principle of this approach is to bring perpetrators and victims together in a dialogue forum to reach a settlement that is not only fair but also heals the social wounds caused by the legal event. In the context of press disputes, where media coverage often involves multiple parties and the impact can be far-reaching, restorative justice offers a more humane and constructive solution than conventional litigation procedures that are often protracted and emphasize sanctions.

However, while restorative justice offers great potential in press dispute resolution, its application in the Indonesian legal system has not been fully accommodated. Law No. 40/1999 on the Press, although it includes several dispute resolution mechanisms such as the right of reply and the right of correction, still does not provide adequate space for the

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<sup>16</sup> Cahya Wulandari, "Dinamika Restorative Justice Dalam Sistem Peradilan Pidana Di Indonesia," *Jurnal Jurisprudence* 10, no. 2 (March 23, 2021): 233–49, <https://doi.org/10.23917/jurisprudence.v10i2.12233>.

<sup>17</sup> Viona Juanne Huwae, Deassy Jacomina Anthoneta Hehanussa, and Iqbal Taufik, "Pendekatan Restorative Justice Dalam Penyelesaian Tindak Pidana Pencemaran Nama Baik Di Bidang Informasi dan Transaksi Elektronik," *Patimura Law Study Review* 1, no. 1 (2023): 124–36, <https://doi.org/47268/palasrev.v1i1.10875>.

implementation of restorative justice principles in media disputes.<sup>18</sup> The law tends to favor retributive and formal approaches that focus on the rights of aggrieved parties through more conventional legal channels, while efforts to resolve disputes through mediation or restorative approaches have not been included as a mandatory standard procedure.<sup>19</sup> Therefore, to integrate restorative justice in the resolution of press offense disputes, the Press Law needs to be reformed, with the addition of more explicit provisions on mediation procedures and the important role of third parties in facilitating restorative dialogue.

It is also important to look at the role of the Press Council, which currently has the authority to handle press disputes. The Press Council can be a strategic institution in facilitating restorative justice in press disputes, but to do so, it needs to strengthen its capacity, both in terms of supervising the implementation of mediation and in terms of understanding and applying restorative principles. Given that the Press Council is already involved in dispute resolution, providing more in-depth training to the mediators involved and expanding their role in resolving disputes through a more constructive approach would be helpful. This requires strengthening regulations that support the Press Council to not only resolve disputes administratively, but also to ensure that decisions taken through the mediation process have binding legal force, so that the outcome can truly restore social relations between disputing parties.

The implementation of restorative justice also requires the development of an appropriate mediation model, in line with the characteristics of press disputes, which often involve multiple parties with different interests. The model should be designed to allow room for honest and open dialogue between the parties involved, which in turn will help build understanding and prevent similar conflicts from occurring in the future. It is important to emphasize that this model should involve a neutral third party who has expertise in handling media disputes and can ensure that the outcome of the mediation will have a positive impact on both parties and society at large.<sup>20</sup> Therefore, training for mediators who have specialized expertise in this field is needed so that mediation can take place effectively and provide fair solutions.

Apart from the domestic perspective, it can also be seen that countries such as Canada, the UK, and Australia have successfully integrated restorative justice in their press dispute resolution, albeit with slightly different approaches according to the characteristics of their respective legal systems. In Canada, for example, the restorative justice-based

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<sup>18</sup> Azahra Nahdiah Munugar, Komalasari, and Vina Tiarawati, "Peranan Delik Dalam Fungsi Dan Perkembangan Pers Menurut Undang-Undang Nomor 40 Tahun 1999 Tentang Pers," *De Juncto Delicti: Journal of Law* 2, no. 1 (June 27, 2022): 49–59.

<sup>19</sup> Kejati Jatim, "Jaksa Agung ST Burhanuddin: Restorative Justice Menjadi Alternatif Dalam Penyelesaian Perkara – Kejaksaan Tinggi Jawa Timur," 2022, <https://kejati-jatim.go.id/jaksa-agung-st-burhanuddin-restorative-justice-menjadi-alternatif-dalam-penyelesaian-perkara/>.

<sup>20</sup> Gede Andreano Preayogi, Ni Putu Rai Yuliantini, and Dewa Gede Sudika Mangku, "Pengaturan Asas Praduga Tak Bersalah Terhadap Tersangka Tindak Pidana Kesusilaan Dalam Pemberitaan Media Massa" 4 (2021).

mediation model has succeeded in reducing the number of disputes brought to court, as well as having a significant impact on the restoration of relations between media parties and victims. These countries demonstrate that the application of restorative justice in press disputes not only reduces the burden on the judicial system but can also increase public confidence in the legal system, as the outcome of mediation is more about reconciliation than punishment.<sup>21</sup> By looking at these experiences, Indonesia can adopt the best elements of the system and adapt them to the needs of the national law.

However, the application of restorative justice in Indonesia cannot be directly adopted without adjusting to the existing legal and cultural context. Indonesia has a diverse legal system and relies heavily on formal justice processes. Therefore, the application of restorative justice in the context of press offenses must involve a number of adjustments, both in terms of regulations, legal culture, and technical implementation in the field. One of the things that needs to be done is to amend the Press Law to explicitly include mediation and restoration mechanisms as dispute resolution options, while strengthening the role of the Press Council in regulating and facilitating the process.

It is also important to pay attention to the implementation of restorative justice in daily practice, including at the level of courts and authorized institutions. Law enforcement should support dispute resolution that prioritizes not only punishment but also the restoration of social relations and the prevention of future conflicts.<sup>22</sup> By integrating restorative justice principles into the existing legal system, Indonesia can reduce the burden on the formal justice system, accelerate dispute resolution, and encourage the creation of a more harmonious society, where problem-solving is done through dialogue and reconciliation, rather than punishment.

Thus, the implementation of restorative justice in the Indonesian legal system, especially in press dispute resolution, requires a holistic and comprehensive approach. Deep regulatory reforms, strengthening the capacity of existing institutions such as the Press Council, and developing mediation models that are appropriate to the Indonesian context are steps that need to be taken. Successful implementation of restorative justice will have a positive impact on Indonesia's legal system, reduce the burden on the judiciary, and create a more effective and sustainable solution to press disputes. Along with these changes, it is hoped to create a legal system that not only prioritizes sanctions, but also social recovery and reconciliation, which will ultimately strengthen a more just and equitable legal order in Indonesia.

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<sup>21</sup> Ian D. Marder, "Mapping Restorative Justice and Restorative Practices in Criminal Justice in the Republic of Ireland," *International Journal of Law, Crime and Justice* 70 (September 1, 2022): 100544, <https://doi.org/10.1016/j.ijlcj.2022.100544>.

<sup>22</sup> Maidina Rahmawati, *Peluang dan tantangan penerapan restorative justice dalam sistem peradilan pidana di Indonesia* (Pasar Minggu, Jakarta: Institute for Criminal Justice Reform, 2022).

### **3.2 The Potential of Restorative Justice in the Settlement of Press Delict Cases and its Implications for the Burden of the Indonesian Justice System**

Dispute resolution in cases of press offenses in Indonesia often faces obstacles in terms of time, cost, and the reputation of the parties involved.<sup>23</sup> Protracted legal proceedings often create tension between the aggrieved party and the perpetrator, which in turn worsens social and professional relations. In this context, the potential application of restorative justice in the resolution of press offense disputes is highly relevant. Restorative justice offers an approach that focuses not only on punishing the perpetrator, but rather on restoring relationships and resolving conflicts in a more humane, fair, and efficient manner.<sup>24</sup>

Cases that have occurred in Indonesia, such as disputes between the media and public figures, or between journalists and people who feel defamed, show the urgent need to implement restorative justice more systematically. One relevant example is a case between a journalist and a political figure who felt that a news report had damaged his reputation. Instead of taking the case to court, if there were a more intense mediation mechanism, the two parties could agree to reach a more restorative settlement, such as an apology or correction of the news, without the need to go through a lengthy and costly legal process.

The implementation of restorative justice here has great potential in reducing the burden on the Indonesian justice system. Currently, many cases of press offenses end up in court with processes that can take years to complete.<sup>25</sup> This process is not only burdensome for the parties involved but also puts a strain on an already under-resourced judicial system. By replacing or even complementing the dispute resolution pathway through restorative justice-based mediation, the judicial system can focus on more serious cases, while pressing disputes that can be resolved more quickly can be resolved out of court.

To optimize restorative justice in resolving press offense disputes, several strategic steps need to be taken. First, changes are needed in Law No. 40/1999 on the Press to include more explicit provisions on mediation and reconciliation mechanisms in press dispute resolution. This could include an obligation for aggrieved parties to first attempt mediation before taking the case to court. Second, the Press Council needs to be empowered to play an active role as a mediator in press disputes, as well as provide more

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<sup>23</sup> Wahidur Roychan, Susanto, and Taufikur Rohman, "Reformulasi Pengaturan Restoratif Justice Dalam Sistem Peradilan Pidana di Indonesia," *Jurnal Magister Ilmu Hukum* 13, no. 2 (December 29, 2023): 45–67, <https://doi.org/10.55499/dekrit.v13n2.210>.

<sup>24</sup> Muhammad Zainuddin, Zakki Mubarak, and Rielia Bachriani, "Politik Hukum Restorative Justice Dalam Pembaharuan Hukum Pidana di Indonesia," *Semarang Law Review (SLR)* 3, no. 1 (April 27, 2022): 120–29, <https://doi.org/10.26623/slr.v3i1.5050>.

<sup>25</sup> Masahiro Suzuki, "Victim Recovery in Restorative Justice: A Theoretical Framework," *Criminal Justice and Behavior* 50, no. 12 (December 2023): 1893–1908, <https://doi.org/10.1177/00938548231206828>.

effective facilities for both parties to reach a mutual agreement. The Press Council could also work with other institutions, such as the Institute of Mediation and Arbitration, to develop a more structured and efficient mediation program.

Third, education to the public and journalists about the importance of restorative justice also needs to be done. The media needs to understand that resolving disputes through mediation not only benefits the injured party but also maintains the reputation and integrity of the media itself. By resolving disputes amicably, the media can avoid further conflict and strengthen their credibility in the eyes of the public.

With these steps, restorative justice can be a more effective, efficient, and recovery-oriented alternative in resolving press offense cases in Indonesia. The application of this approach has great potential to reduce the burden on the judicial system, create a more harmonious relationship between the media and society, and improve social justice for parties involved in press disputes.

The potential application of restorative justice in resolving press offense disputes in Indonesia, although promising, requires in-depth attention to various aspects of the existing law.<sup>26</sup> One of the hindering factors is the inadequacy of the existing regulations in Law No. 40/1999 on the Press.<sup>27</sup> This law mostly regulates the right of reply, which is normative in nature and does not provide room for mediative dispute resolution involving the parties directly involved. Although the Press Council has a supervisory function over news that is deemed to violate journalistic ethics, there are no provisions that explicitly regulate mediation mechanisms or dispute resolution through restorative justice.<sup>28</sup> In fact, if the process of resolving press disputes is pushed in a more constructive direction,<sup>29</sup> through mediation and direct dialogue between the media and the aggrieved party, the potential for restoring relationships and reputation can be more guaranteed, compared to going through long and protracted legal channels.

One of the main challenges in implementing restorative justice is the lack of a comprehensive understanding of the concept among legal practitioners, journalists and the public at large. Often, mediation in the context of the press is perceived as something that is limited to news clarification, while restorative justice is broader than that, an effort to restore the social and psychological conditions of the parties involved in the conflict.

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<sup>26</sup> Agus Hari Wibowo dan Nuraini Yusoff, "'Hedges' And Media Ethics: A Case in Indonesian Newspaper," *Procedia - Social And Behavioral Sciences*, The International Conference on Communication and Media 2014 (I-Come'14) - Communication, Empowerment And Governance: The 21st Century Enigma, 155 (6 November 2024): 295–98, <https://doi.org/10.1016/j.sbspro.2014.10.295>.

<sup>27</sup> Henny Saida Flora et al., "Keadilan Restoratif Dalam Melindungi Hak Korban Tindak Pidana Cyber: Manifestasi Dan Implementasi," *Jurnal Ius Constituendum* 8, no. 2 (June 8, 2023): 169–84, <https://doi.org/10.26623/jic.v8i2.6365>.

<sup>28</sup> Iin Rahmawati Dan Ruslan Abdul Gani, "Pertanggungjawaban Pidana Terhadap Delik Pers (Suatu Kajian Normatif)," *Legalitas: Jurnal Hukum* 1, No. 4 (9 Mei 2020): 133–90, <https://doi.org/10.33087/legalitas.v1i4.74>.

<sup>29</sup> Arpandi Karjono, Parningotan Malau, and Ciptono Ciptono, "Penerapan Keadilan Restoratif Justice Dalam Hukum Pidana Berbasis Kearifan Lokal," *Jurnal USM Law Review* 7, no. 2 (July 23, 2024): 1035–50, <https://doi.org/10.26623/julr.v7i2.9571>.

Settlements that lead to restoration, rather than punishment, allow for reconciliation and the creation of better relationships going forward. In the case of press offenses, this could mean a meeting between the media and the defamed or aggrieved individual to find a more humane solution that benefits both parties, without waiting for a court decision that often cannot restore the original situation.

A real case in point, for example, is a news dispute between a media outlet and a public figure who felt insulted in a news report that offended his dignity.<sup>30</sup> In many cases, while there is a right of reply or clarification provided by the Press Law, it is often a limited statement that does not resolve the root of the problem, which is the damage to relationships caused by the news. In contrast, if restorative justice efforts are in place, disputes can be resolved through direct discussions, where the media and the aggrieved party can express their views and reach a more substantial agreement, such as a more in-depth apology or correction, and perhaps even an agreement to prevent similar conflicts from occurring in the future. Such a settlement has the potential to reduce existing tensions, minimize the social impact caused, and avoid prolonging the dispute that can damage the image of both parties.

Integrating restorative justice in Indonesia's press regulations, particularly in Law No. 40/1999 on the Press, can provide a more effective and efficient alternative to dispute resolution.<sup>31</sup> One step that could be taken is to introduce a mediation clause as a prerequisite before taking a case to court. This would help reduce the spike in press cases going to court, while providing an opportunity for the parties involved to resolve their issues in a more peaceful and constructive manner. In fact, the Press Council can act as a facilitator in the mediation process, providing support and guidance.

The application of restorative justice approaches will also go a long way in reducing the burden currently borne by the Indonesian justice system. As we know, the justice system in Indonesia is facing major challenges, including high caseloads, limited time and resources, and uncertainty faced by the parties involved in disputes. By providing a faster and cheaper alternative to dispute resolution through restorative justice, the justice system can focus more on cases that require more serious handling, while disputes that can be resolved mediatively can be resolved more quickly and without increasing the burden on the courts. In addition, the use of restorative justice in press dispute resolution can increase public confidence in the legal system, as this approach emphasizes aspects of recovery and reconciliation, which are more oriented towards restorative justice for all parties involved.

It is also important to realize that restorative justice is not the sole solution for all types of press disputes. Cases involving slander or libel with a highly damaging impact on

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<sup>30</sup> Tatang Mulya Sinaga, "Sengketa Pemberitaan Diselesaikan Lewat Dewan Pers," 2023, <https://www.kompas.id/baca/humaniora/2023/05/15/sengketa-pemberitaan-diselesaikan-lewat-dewan-pers>.

<sup>31</sup> Abdul Wahid, "Keadilan Restoratif: Upaya Menemukan Keadilan Substantif?," *Jurnal Ius Constituendum* 7, no. 2 (October 16, 2022): 307–21, <https://doi.org/10.26623/jic.v7i2.5793>.

the reputation of a particular individual or group may still require formal legal channels to provide proportionate sanctions against the perpetrator.<sup>32</sup> However, for many other cases that do not involve serious crimes, settlement through mediation based on restorative justice can be a very useful alternative, reducing lengthy processes and speeding up the restoration of relations between the media and the aggrieved party.<sup>33</sup>

For this reason, a strategic step that can be taken is to revise Law No. 40/1999 on the Press, including elements of mediation and reconciliation in the process of resolving press disputes.<sup>34</sup> Drafting regulations that support the application of restorative justice in journalism will be very important to encourage the realization of more constructive dispute resolution, with the ultimate goal of achieving restoration of social relations and more equitable justice. Dispute resolution through restorative justice not only benefits the aggrieved party but also maintains the credibility and sustainability of the press industry itself, which is increasingly important amid the enormous challenges faced by the media in this digital era.

With the right steps and support from all relevant parties, restorative justice has the potential to become a better alternative in resolving cases of press offenses in Indonesia, which will ultimately reduce the burden on the judicial system and strengthen the foundation of justice in Indonesia.

#### **4. CONCLUSION**

The implementation of restorative justice in the resolution of press offenses in Indonesia is essential to improve the effectiveness of the legal system and reduce the burden on the formal judiciary. This approach offers a more humane and constructive solution, emphasizing the restoration of relationships between the parties involved rather than mere punishment. Although there is already an out-of-court dispute resolution mechanism in Law No. 40/1999 on the Press, restorative approaches have not been clearly accommodated in the regulation, which is a major challenge. Therefore, legal reforms that include the addition of restorative-based mediation procedures are needed to encourage faster, more efficient and fair dispute resolution. In addition, the role of the Press Council needs to be strengthened as a more active mediator, and education of journalists and the public on the benefits of restorative justice is essential to increase acceptance of this approach. With these steps, Indonesia can create a more balanced legal system that

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<sup>32</sup> Sindhi Cintya and Hery Firmansyah, "Penerapan Restorative Justice Sebagai Bentuk Permaafan Hakim Dalam Tindak Pidana Pencurian Oleh Lansia," *Jurnal USM Law Review* 6, no. 2 (August 19, 2023): 543–53, <https://doi.org/10.26623/julr.v6i2.6379>.

<sup>33</sup> Guoxiang Li et al., "The Role of the Digital Economy in Promoting Energy Justice: Evidence from Procedural Justice and Restorative Justice," *China Economic Review* 89 (February 1, 2025): 102334, <https://doi.org/10.1016/j.chieco.2024.102334>.

<sup>34</sup> Joko Susanto et al., "Tanggungjawab Pemberitaan Pers dalam Perspektif Teori Keadilan dan Teori Sistem Sosial," *Lancah Jurnal Inovasi dan Tren* 2, no. 2 (2024): 3077–92, <https://doi.org/10.35870/ljit.v2i2b.3392>.

prioritizes restoring relationships and preventing conflicts from persisting, while increasing public trust in the legal system.

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