

## ABSTRAK

Gisheila Paulonia Ambarwati. 2026. *Disharmoni Pengaturan Hukum tentang Kebebasan Berekspresi dalam UU Pers dan UU ITE: Analisis Yuridis Putusan Mahkamah Agung Nomor 5940 K/Pid.Sus/2022*. Skripsi. Program Studi Hukum, FH, Universitas PGRI Madiun, Pembimbing (I) Dr. Indriyana Dwi Mustikarini, S.H., M.H. (II) Dimas Pramodya Dwipayana, S.H., M.H.

Kebebasan berekspresi sebenarnya sudah dilindungi dalam peraturan internasional UDHR dan ICCPR serta peraturan nasional UUD NRI Tahun 1945, UU HAM, sekaligus dua aturan, yaitu UU Pers dan UU ITE. Penelitian ini bertujuan melihat bagaimana kebebasan berekspresi diatur dalam UU Pers dan UU ITE, bagaimana penerapan ketentuan pidana diterapkan pada kasus tersebut, serta bagaimana bentuk dan implikasi disharmoni antara dua aturan ini. Penulis menggunakan metode penelitian hukum normatif dengan sifat deskriptif melalui pendekatan perundang-undangan, konseptual, dan kasus. Jenis penelitian sekunder dengan sumber data primer, sekunder, tersier. Teknik pengumpulan data studi kepustakaan dan teknik analisis data silogisme interpretasi. Hasilnya cara kerja UU Pers dan UU ITE memiliki arah yang berlawanan. UU Pers lebih mengutamakan penyelesaian damai lewat hak jawab dan mediasi Dewan Pers, sedangkan UU ITE cenderung mengarah ke hukuman pidana. Perbedaan ini membuka celah bagi wartawan untuk dikriminalisasi karena tulisannya, seperti dialami Muhammad Asrul dalam Putusan Mahkamah Agung Nomor 5940 K/Pid.Sus/2022. Majelis hakim keliru menyamakan pelanggaran kode etik dengan tindak pidana, salah menentukan subjek yang bertanggung jawab, dan tidak mempertimbangkan kepentingan publik dalam berita tersebut. Ketidaksesuaian ini melanggar hak konstitusional warga negara sekaligus mengabaikan posisi UU Pers yang seharusnya diutamakan. Akibat dari permasalahan tersebut ialah muncul rasa takut di kalangan jurnalis dan melemahkan fungsi pers sebagai kontrol sosial. Saran yang sesuai adalah pemerintah dan DPR perlu menyelaraskan aturan pers dengan aturan siber, aparat hukum tidak boleh kaku dalam menilai sengketa pers digital, dan perusahaan media serta jurnalis perlu memperkuat administrasi dan kemampuan profesional.

Kata kunci: Disharmoni, UU pers, UU ITE, Kebebasan berekspresi, Kriminalisasi wartawan

## **ABSTRACT**

Gisheila Paulonia Ambarwati. 2026. *Disharmony of Legal Regulations on Freedom of Expression in the Press and ITE Law: A Legal Analysis of Supreme Court Decision Number 5940 K/Pid.Sus/2022*. Thesis. Law Department, Universitas PGRI Madiun, Supervisor (I) Dr. Indriyana Dwi Mustikarini, S.H., M.H. (II) Dimas Pramodya Dwipayana, S.H., M.H.

*Freedom of expression is actually protected by international regulations, the UDHR and ICCPR, as well as national regulations, the 1945 Constitution of the Republic of Indonesia, the Human Rights Law, and two regulations, namely the Press Law and the ITE Law. This study aims to examine how freedom of expression is regulated in the Press Law and the ITE Law, how criminal provisions are applied in these cases, and the forms and implications of disharmony between these two regulations. The author uses a normative legal research method with a descriptive nature through legislative, conceptual, and case approaches. The type of secondary research uses primary, secondary, and tertiary data sources. The data collection technique uses literature studies and interpretive syllogism data analysis techniques. The results show that the workings of the Press Law and the ITE Law are in opposite directions. The Press Law prioritizes peaceful resolution through the right of reply and mediation by the Press Council, while the ITE Law tends towards criminal penalties. This difference opens up opportunities for journalists to be criminalized for their writing, as experienced by Muhammad Asrul in Supreme Court Decision Number 5940 K/Pid.Sus/2022. The panel of judges mistakenly equated violations of the code of ethics with criminal acts, incorrectly identified the responsible parties, and failed to consider the public interest in the news. This discrepancy violates citizens' constitutional rights and ignores the Press Law, which should be prioritized. The resulting issues have created fear among journalists and weakened the press's role as a social control mechanism. Appropriate recommendations include the government and the House of Representatives (DPR) needing to align press regulations with cyber regulations, law enforcement agencies not being rigid in their assessment of digital press disputes, and media companies and journalists needing to strengthen their administration and professional capabilities.*

*Keywords: Disharmony, Press Law, ITE Law, Freedom of expression, Criminalization of journalists*