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## **Constitutional Rights of Citizen Journalism in Indonesia: From *Maqashid Sharia* Perspective**

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### **Abstract:**

The conception of a democratic rule of law in Indonesia has implications for the social and law order as a protection for the citizens. The protections guarantee the rights and responsibilities of every person regulated or protected by a democratic state. Either of the rights protected by the constitutions of Indonesia is guaranteed in obtaining and conveying information. As a profession, it is a part of journalistic activities, both professional and citizen journalism, as a constitutionally inherent right. The problem encountered is protection for citizen journalism, which is not regulated as protection for journalists in the legal system of the press. This research employed a qualitative model with a normative juridical approach to conceptualise the laws with facts and phenomena of journalistic activities. The analysis aims to assert that every person has a constitutional right to obtain and convey information like a professional journalist. A law is responsible for citizen journalism based on the law system of the press and code of ethics, which places citizen journalism products as a part of the news on press channels or press companies as the objects of the media that publish information. The concept of the principles of citizen journalism is related by *maqashid syariah* in

Islam, which includes *al-ahkam al-khamsah*, namely religious protection (*hifz al-din*), protection of the soul (*hifz al-nafs*), protection of offspring (*hifz al-nasl*), protection of ideas/thoughts (*hifz al-'aql*), and protection of property (*hifz al-mal*).

**Keywords** : citizen journalism; constitutional rights; *maqashid sharia*.

## Introduction

The foundational principle of the Republic of Indonesia, rooted in the rule of law as mandated by the Constitution, influences the obligations of all individuals to adhere to statutory requirements. Each person is required to follow the laws within the structure of the national legal system established by the state. The enactment of laws is tailored to meet the behaviours and needs of society in response to various social phenomena and dynamics. Sociological factors, shaped by social, political, economic, and cultural dynamics, play a crucial role in the development of laws. Thus, every social phenomenon that emerges within society necessitates the creation of legal norms that address the resulting issues. Within the framework of a legal state, every individual possesses rights safeguarded by state law. Ensuring the rights of all citizens is a defining feature of a democratic legal state, as characterised by Stahl's concept of '*rechtsstaat*' and Dicey's notion of the *rule of law*.<sup>1</sup> According to both Stahl and Dicey, a democratic rule of law upholds human rights through its legislation. Consequently, as a democratic legal state, Indonesia guarantees human rights as outlined in the 1945 Constitution.<sup>2</sup>

The 1945 Constitution of the Republic of Indonesia, particularly Article 28F, ensures that every Indonesian citizen is guaranteed the right to communicate and obtain information. As established by the second amendment, this provision affirms that "everyone has the right to communicate and obtain information to develop their personal and social environment, and have the right to seek, obtain, possess, store, process and convey information using all types of available channels." In line with the guarantees provided by Article 28F of the Constitution, Law Number 39 of 1999 concerning Human Rights also emphasises these principles. Article 2 of this law states that "The Republic of Indonesia recognises and upholds human rights and basic human freedoms as rights that are naturally attached to and inseparable from humans, which must be protected, respected and upheld for the sake of increasing human dignity, prosperity, happiness, intelligence and justice." In this way, the state guarantees every action of citizens to exercise the rights they need as human beings.

Communication rights are also the basis for legal protection for journalistic and/or press activities, as stated in statutory regulations through Law Number 40 of 1999 concerning the press. Legal policy regarding the press is a form of protection for journalistic activities as guaranteed by the Constitution in Article 28F. Therefore, every journalistic activity is guaranteed legal protection so that no efforts from any party can threaten and stop the right to convey information. Through this legislation, the state guarantees the freedom and independence of the national press. The rapid advancement of information technology has transformed various aspects of people's lives, including communication patterns between individuals and

<sup>1</sup> Miriam Budiardjo, *Dasar-Dasar Ilmu Politik* (Jakarta: Gramedia Pustaka Utama, 2003), 113.

<sup>2</sup> Oksidelfa Yanto, 'Death Penalty Execution and the Right to Life in Perspective of Human Rights, 1945 Constitution of the Republic of Indonesia, and Indonesian Law', *Yustisia* 5, no. 3 (28 December 2016): 643–62, <https://doi.org/10.20961/yustisia.v5i3.8804>.



communities. As society's communication methods evolve alongside technological progress, the nature and impact of communication have also changed. One significant impact is the rise of digital communication channels, such as social media, which offer a variety of platforms for quick and interactive information exchange. Social media enables the swift and widespread sharing of information, serving as an effective means of public communication in the digital age.

The rapid and widespread development of information technology has significantly impacted society. Digital communication has become easily accessible and widely embraced. According to research by Harrys Nanda Pratama and FX Sri Sadewo, the term "internet society" describes how the internet in the information technology era serves as a crucial means for connecting and sharing information, referred to as "*network society*".<sup>3</sup> This concept highlights the profound influence of social media on society, promoting democracy in the digital era. Rahmi Mulyasih's research further notes that the swift advancement of technology, the internet, and social media facilitates easy access to information and brings about a cultural shift within society.<sup>4</sup> The dynamics of gathering news and mass communications in the era of information technology organised by press organisers are entering a new phase after the reform and guarantees of the Press Law. Freedom of the Indonesian press, previously limited and strictly monitored by the government, can carry out activities with the arrival of freedom of opinion regulated by the press law. Apart from that, press media channels are also growing along with developments in *network society*. This has also changed the order of information in journalism, which has begun to shift to the digitalisation of news or digital media.

National press freedom needs to be maintained together, not just based on legal provisions as a guarantee of freedom and independence of the national press. That being the case, press and/or journalistic activities need to be carried out with full responsibility as part of legal compliance, professionalism and integrity. Thus, press freedom and responsibility are essential in journalism and/or activities. To maintain the independence of the national press based on the professionalism and integrity of the journalist profession, it was agreed to have professional, ethical standards referred to as the Journalism Code of Ethics. The journalistic code of ethics becomes a behavioural guideline for the journalism profession and/or the national press as a form of professional responsibility. The general definition of a code of ethics is a moral and work ethics guideline prepared and established by a professional organisation, such as the Journalism Code of Ethics, namely as a collection of norms or ethics in the field of journalism created by, from, and for journalists. The journalistic code of ethics is a moral and ethical guideline for reporters/journalists in carrying out their profession so that they work professionally and still respect other people's rights.<sup>5</sup>

<sup>3</sup> Harrys Nanda Pratama and FX Sri Sadewo, 'Social Networking System Sebagai Public Sphere Politik Era Postdemokrasi Kampanye Pilpres 2014', *Paradigma* 03, no. 01 (2015): 1–8.

<sup>4</sup> Rahmi Mulyasih, 'Pentingnya Literasi Media Bagi Kaum Perempuan', *LONTAR: Jurnal Ilmu Komunikasi* 4, no. 3 (2017): 75–78, <https://doi.org/10.30656/lontar.v4i3.364>.

<sup>5</sup> Fuqoha Fuqoha, Indrianti Azhar Firdausi, and Arga Eka Sanjaya, 'Perlindungan Hukum Terhadap Intervensi Pemberitaan Dalam Kerangka Kemerdekaan Pers Nasional', *Ajudikasi: Jurnal Ilmu Hukum* 3, no. 1 (2019): 75, <https://doi.org/10.30656/ajudikasi.v3i1.1436>.



With the rise of digital media that delivers information quickly and transparently, the number of digital or online press institutions and media outlets is rapidly increasing. However, in practice, not all the need for information and events can be reported by institutions and/or press companies, both in print and online. According to Joseph Dominick, there are 4 (four) classifications of mass media used in the framework *use and gratifications model*, among which are *cognition* (knowledge), *diversion* (entertainment), *social utility* (social interests), and *withdrawal* (escape).<sup>6</sup> J. Dominick's thoughts regarding the use of mass media imply that information and news are necessary for society, both as a means of knowledge, seeking entertainment, realising social interests, and as a means of escape from daily activities. This can then become the basis for analysis of phenomena that occur in journalistic activities carried out by the general public, known as *Citizen Journalism*.

In general, citizen journalism can be defined as a form of reporting or coverage carried out by citizens to inform the public about an event or something interesting. According to Bowman and Willis, *citizen journalism* is "...the act of citizens playing an active role in the process of collecting, reporting, analysing, and disseminating news and information".<sup>7</sup> If simply defined, citizen journalism is the act of ordinary people reporting and sharing news and events generally through social media. Imam Kusumanginati explains that *citizen journalism* is a form of journalism activity carried out by ordinary citizens. In this way, ordinary citizens carry out the roles and functions similar to the duties and functions of the journalist or reporter.<sup>8</sup> Actions and activities involving citizen journalism are on the rise. Citizen journalism aims to convey information objectively and quickly through social media used by citizens, expressing their desire for diverse knowledge, entertainment, and social interest. However, reporting information through the mass media should be carried out by professional journalists according to their profession, who are protected by law and journalistic ethics in every process of obtaining the information. Hence, the role of citizen journalists is to convey information in their legal position, whether as journalists or ordinary citizens, who are not included in the provisions of the Press Law.

From the perspective of Islamic law, the issue of citizen journalism can be examined through the lens of *maqashid sharia*, particularly concerning social relations or *muamalah*. Thahîr bin 'Ashûr's concept of *maqashid sharia* involves the wisdom that guides *shari'a*, focusing on considerations that promote overall benefit. *Maqashid sharia* serves as a foundation for evaluating actions based on Islamic law, providing a common basis for human behaviour. The contemporary development of *maqashid sharia* also encompasses principles such as individual relationships, human dignity, human rights, justice, and universality.<sup>9</sup> From the description above, it is

<sup>6</sup> Elvinaro Ardianto and Lukiati Komala Erdinaya, *Komunikasi Massa: Suatu Pengantar*, Cet. Ke-2 (Bandung: Simbiosis Rekatama Media, 2005). p. 28

<sup>7</sup> Nova Darmanto and Santi Delliana, 'Citizen Journalism as Postmodern Journalism', *Jurnal Ilmiah Publipreneur* 5, no. 1 (2020): 13–27, <https://doi.org/10.46961/jip.v5i1.60>.

<sup>8</sup> Andi Fachruddin, *Journalisme Today*, Cet. Ke-1 (Jakarta: Prenadamedia Group, 2019). p. 23

<sup>9</sup> Deri Wanto, Rahmad Hidayat, and Repelita Repelita, 'Maqasid Shariah's Change as Theory: From Classical to Cotemporary Maqasid Shariah', *Al-Istinbath: Jurnal Hukum Islam* 6, no. 2 (2021): 427–54, <https://doi.org/10.29240/jhi.v6i2.3122>; Noer Yasin, 'The Authority Rationalization Philosophy of the Indonesia Competition Commission: The Due Process of Law and Maqashid Sharia Perspectives', *Jurisdictie: Jurnal Hukum Dan Syariah* 13, no. 1 (27 July 2022): 63–89, <https://doi.org/10.18860/j.v13i1.15873>.





interesting to examine the forms of legal protection and legal accountability for *citizen journalism* in Indonesia based on the provisions of national press legislation and journalistic ethics within the framework of national press freedom. The research about citizen journalism was conducted by Vidya Prahassacita<sup>10</sup>, focusing on citizen journalism responsibility. This research focuses on conceptualising *citizen journalism* activities as a form of human rights protected by the Constitution and perspective of *maqashid sharia*.

## Method

The research method used is a qualitative research model that attempts to analyse and interpret all phenomena and objectives through an explanation.<sup>11</sup> This research is presented descriptively and analytically to collect as complete data possible to describe facts and events systematically and integrated through primary and secondary data, allowing for theoretical development to explain the relationship between facts and events.<sup>12</sup> This research also employed a normative juridical approach, conceptualising law as norms, rules or principles for analysing data systematically with existing regulations, especially regulations relating to basic press laws, journalistic codes of ethics, and press council regulations.<sup>13</sup> In addition to examining human rights aspects in the Indonesian legal system, researchers also examined from the perspective of Islamic law with a *maqashid sharia* approach. The research adopted a normative juridical approach, relying on regulatory provisions as the foundation for developing concepts and analysis. Data collection was conducted through literature reviews to formulate the conception of *maqashid sharia* within the framework of freedom of expression, serving as material for comparative studies between constitutional and sharia perspectives. Additionally, the research involved observing and verifying events, which were then analysed using relevant theories and regulations. This research aims to formulate a comparative concept of constitutional rights between national law and Sharia.

## Results and Discussion

### Constitutional Rights in Obtaining and Disseminating Public Information

Understanding the conceptual meaning of rights varies greatly depending on the purpose of using the word. However, within the legal framework, rights are an inseparable part of the law in the sense that they are born and/or given by law. Several literatures define the term “rights” as possession, ownership, and/or authority. In the Indonesian Dictionary, rights involves ownership, possession, authority, power to do something, and power over or to demand something.<sup>14</sup> In the Law Dictionary, rights is defined as the power or authority of a person to get or do

<sup>10</sup> Vidya Prahassacitta, ‘Citizen Journalism in Cyber Media: Protection and Legal Responsibility Under Indonesian Press Law’, *Humaniora* 8, no. 1 (2017): 45, <https://doi.org/10.21512/humaniora.v8i1.3695>.

<sup>11</sup> Syamsuddin A.R and Vismaia S Damaianti, *Metode Penelitian Pendidikan Bahasa*, Cet. Ke-3 (Bandung: Remaja Rosdakarya, 2009). p. 73

<sup>12</sup> Ulber Silalahi, *Metode Penelitian Sosial*, Cet. Ke-1 (Bandung: Unpar Press, 2006). p. 22

<sup>13</sup> Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif* (Jakarta: Rajawali Press, 2006). p. 14-15

<sup>14</sup> Dendy Sugono and dkk., *Kamus Bahasa Indonesia* (Jakarta: Pusat Bahasa Departemen Pendidikan Nasional, 2008). p.514



something.<sup>15</sup> Meanwhile, Marzuki Quotes Ronald Dworkin defines rights as follows “Rights are best understood as a trump over some background justifications for political decisions that state the goal for the community as a whole”.<sup>16</sup> The purpose of Dworkin’s opinion is to explain that rights are the most essential things the state gives to society.

From the various explanations of the meaning of rights, it can be concluded that rights are inherent to every individual and are guaranteed by the state. This state guarantee of individual rights reflects the characteristics of a democratic rule of law, as described by Julius Stahl. Stahl’s framework includes the existence of a Constitution that defines the relationship between the rulers and the people, the division of state power, and the recognition and protection of individual freedoms.<sup>17</sup> Albert V. Dicey also emphasised the importance of rights in a democratic rule of law through the *supremacy of the law, equality before the law, and constitution based on human rights*.<sup>18</sup> Recognition of rights bound by the Constitution or law shows that rights are an inseparable part of the law, as is Joseph Dworkin’s view regarding rights originating from the state. Law is one of the sources for the implementation of a state, which provides limits and provides recognition of fundamental rights in the administration of the state. Therefore, when rights are conceptualised by law or the Constitution, constitutional rights are formed, which can be interpreted as rights regulated and limited by the Constitution or law.

Indonesia as an independent country is based on the country’s Constitution, often referred to as the 1945 Constitution. The Constitution (hereinafter referred to as the Constitution) can generally be interpreted as written or unwritten rules regarding how a government is organised. E.C.S Wade and G. Godfrey Phillips describe the Constitution as *a document that sets out the organs’ framework and principal functions*.<sup>19</sup> Wade and Phillips’ view can be simplified as the Constitution is a document that determines the duties and functions of the state in administering the state through the instructions contained in the document. The 1945 Constitution of the Republic of Indonesia is the basic foundation for administering the Indonesian state. Thus, the 1945 Constitution became the foundation and basis for the rights and obligations of the state towards the people and the people towards the government. Therefore, constitutional rights refer to the rights recognised and granted by the government to its people to achieve common goals within the framework of an independent state. Recognition of constitutional rights is an implication of the *rule of law*, as in Stahl and Dicey’s concept of recognition of human rights or *constitution based on human rights*.

In the 1945 Constitution, recognitions regarding human rights have been regulated and outlined in the provisions in CHAPTER X concerning citizens and residents CHAPTER XA concerning human rights. CHAPTER X consists of Articles 26, 27, and 28, while CHAPTER XA consists of Articles 28 A to 28 J. This

<sup>15</sup> B.N. Marbun, *Kamus Hukum Indonesia*, Cet. Ke-1 (Jakarta: Pustaka Sinar Harapan, 2009). p. 91

<sup>16</sup> Peter Mahmud Marzuki, *Pengantar Ilmu Hukum*, Ed. Revisi (Jakarta: Kencana Prenada Media Group, 2013). p. 153

<sup>17</sup> Ni’matul Huda, *Hukum Tata Negara Indonesia (Edisi Revisi)*, Cet. Ke-8 (Jakarta: Rajawali Press, 2013). p. 82

<sup>18</sup> Miriam Miriam Budiardjo, *Dasar-Dasar Ilmu Politik*, Revisi (Jakarta: Gramedia Pustaka Utama, 2008).

<sup>19</sup> Budiardjo. p. 170



constitutional right guarantees every citizen to obtain what his or her right is, with limitations determined by the state. Restrictions are intended to create a balance so that each person's rights are not allowed to conflict with other people's rights.

Among the rights guaranteed by the state in the 1945 Constitution is the right to obtain and convey information as outlined in Article 28, which reads, "freedom of association and assembly, expressing thoughts verbally and in writing and so on is determined by law". From these provisions, every person has the right and is given the freedom to express themselves to develop themselves independently or in groups, conveying aspirations either orally or through writing, which is distributed in certain ways in accordance with the provisions of the laws that regulate it, rendering Article 28 the basis for the recognition of constitutional rights. Provisions regarding the constitutional right to obtain and convey information concretely and clearly are stated in Article 28 F of the 1945 Constitution: "Everyone has the right to seek, obtain, own, store, process and convey information using all types of available channels." From these provisions, every person has the same right to obtain and convey information using all media and/or channels owned by each person as a constitutional right. There should be no exceptions to the provisions in Article 28 F, as there are no exceptions throughout all stages of this article. However, in practice, Article 28 F is identified with press or journalistic activities, which means that the rights of Article 28 F are only for press/journalism actors or individuals. This contradicts Article 28 D paragraph (1) of the 1945 Constitution, which states that "Everyone has the right to recognition, guarantees, protection and fair legal certainty as well as equal treatment before the law". As in Article 28 D paragraph (1), everyone should have the same opportunity to obtain and convey information privately and publicly.

As previously stated regarding restrictions, certain actions are limited by legislation as stated in article 28 I paragraph (5), namely: to uphold and protect human rights in accordance with the principles of a democratic rule of law, the implementation of human rights is guaranteed, regulated, and recorded in legal regulations. Furthermore, article 28 J paragraph (2) states that in exercising his rights and freedoms, every person is obliged to comply with the restrictions determined by law with the sole aim of ensuring recognition and respect for the rights and freedoms of other people and to fulfil fair demands in accordance with moral considerations, religious values, security and public order in a democratic society. From the description of constitutional rights in the 1945 Constitution, it can be concluded that among the many rights recognised and guaranteed by the state is obtaining and conveying information as a form of journalistic activity. As defined by Roland E. Wolesley and Lawrence R. Campbell, journalism is an act of sending out information, opinion and entertainment to the public that is systematic and can be trusted for its truth.<sup>20</sup> According to MacDougall, journalism collects news, finds facts, and reports events.<sup>21</sup>

Since Indonesia's independence, journalistic activities have been regulated by various regulations. However, after the amendment to the Constitution through the

<sup>20</sup> Baksin Askurifai, *Jurnalistik Televisi: Teori Dan Praktik*, Cet. Ke-4 (Bandung: Simbiosis Rekatama Media, 2016). p. 48

<sup>21</sup> Hikmat Kusumaningrat and Purnama Kusumaningrat, *Jurnalistik, Teori & Praktik*, Cetakan Ke (Bandung: Remaja Rosdakarya, 2014). p. 15



provisions of Article 28 F, a Law concerning changes to the press was also issued as a form of legal protection and safeguarding the freedom of the press or national journalism through Law Number 40 of 1999. Nonetheless, as a general rule, restrictions on the right to press activities do not extinguish constitutional rights. We call on individuals to do the same as journalists and news organisations. Therefore, as a part of the journalistic activities of journalists and people outside the circle of journalists, the phenomenon of citizen magazines arises.

Within the framework of the Indonesian Constitution, *citizen journalism* is part of individual rights that receive guarantees as stipulated in the 1945 Constitution. Therefore, the right to citizen journalism as a form of the constitutional right of Indonesian citizens cannot be impeded or prohibited by anyone. Hence, citizen journalism activities in Indonesia are subject to the laws and regulations enforced by the state, as stipulated in Article 28 D paragraph (1), Article 28 F, Article 28 I paragraph (5). It is guaranteed by the Constitution as an inherent right of all citizens, along with restrictive clauses stated in Article 28 J (2)

### **Protection of Journalistic Activities in the Press Legal System**

The concept of protection within the framework of a modern legal state is manifested in the form of constitutional guarantees for all citizens as a consequence of a legal state, namely everything in the form of actions and policies of the government and/or the state is regulated through legal provisions.<sup>22</sup> As stated by Aji Mulyana, the form of legal protection is the protection of everyone's right to receive equal treatment and protection by law or legislation.<sup>23</sup> The perspective of the protection framework above shows that protection is regulated and based on a legal framework. This legal framework is formed and enforced by the state as a guarantee for actions, deeds and/or activities carried out by each person. In journalistic activities in Indonesia, the form of protection provided is based on the constitutional framework and statutory provisions governing journalistic activities, namely through the press law as a guarantee of protection for journalistic activities and/or behaviour. The implication of the press law, as outlined in Law Number 40 of 1999 concerning the Press, is the creation of national press freedom. Freedom of the press as a basis for consideration of the Press Law is said to be a form of popular sovereignty and is a very important element in creating democratic social, national and state life to guarantee freedom to express thoughts and opinions as in journalistic activities.

Legislative Provisions as the basic basis for carrying out journalistic activities have existed since 1966 through Law Number 11 of 1966 concerning Basic Provisions for the Press. In line with the development of journalistic activities from time to time, the press law was amended sequentially, starting with Law Number 4 of 1967, Law Number 21 of 1982, and finally Law Number 40 of 1999. The legal provisions governing journalistic issues and activities indicate the role and responsibility of the government in providing rights and protection for journalistic rights within the framework of the Indonesian legal system. The role and responsibility of the state in protecting journalistic activities in Indonesia as outlined

<sup>22</sup> Fuqoha Fuqoha, 'Perlindungan Hukum Terhadap Kesempatan Kerja Bagi Masyarakat Lokal Di Kota Cilegon', *Jurnal Wawasan Yuridika* 2, no. 2 (2018): 35–57.

<sup>23</sup> Fuqoha, Firdausi, and Sanjaya, 'Perlindungan Hukum Terhadap Intervensi Pemberitaan Dalam Kerangka Kemerdekaan Pers Nasional'. p. 78





in the Constitution of the Republic of Indonesia in Article 28 I paragraph (4), namely “protection, promotion, enforcement and fulfilment of human rights is the responsibility of the state, especially the government”. Journalistic activities are one of the human rights granted and guaranteed by the state which must be protected by the state as stipulated in Article 28 F of the 1945 Constitution, namely, “every person has the right to communicate and obtain information to develop their personal and social environment, and has the right to seek, obtain, possess and convey information using all types of available channels.” Hence, constitutionally, journalistic activities in Indonesia receive legal guarantees and protection as a form and responsibility of a democratic legal state.

Further provision of constitutional guarantees regarding journalistic activities is regulated in Law Number 40 of 1999 to maintain press freedom and protect journalistic activities. Article 2 of the Press Law (hereinafter referred to as the Press Law) stipulates that “press freedom is a form of popular sovereignty based on the principles of democracy, justice and the supremacy of law”. Thus, the Press Law is a shield or protector for press activities and/or conveying information based on legal sovereignty. Therefore, the continuity of journalistic activities is based on the Press Law. The guarantee of protection for journalistic activities in the Press Law is contained in Article 4, paragraph (1) press freedom is guaranteed as a human right of citizens; (2) the national press is not subject to censorship, banning or prohibition for broadcasting; (3) to guarantee freedom of the press, the press has the right to seek, obtain and disseminate ideas and information; and (4) in being accountable for reporting before the law, journalists have the right to refuse.

The provisions as in Article 4 paragraph (2) regarding censorship, banning and/or prohibition are stated in Article 1 paragraph 8: “Censorships is the forcible deletion of part or all of the information material to be published or broadcast, or an act of reprimand or warning that is threatening in nature from any party, and/or the obligation to report, and obtain permission from the authorities, in carrying out journalistic activities.” Meanwhile, Article 1 point 9 states, “Banning or prohibition of broadcasting is the cessation of publication and circulation or broadcasting by force or against the law.” The provisions of Article 4, paragraph (2), are deeply rooted in the historical context of reporting through print and broadcast media, marked by instances of censorship and prohibitions imposed by various parties, including the government.<sup>24</sup> Historically, the national press faced significant constraints, lacking the freedom and independence mandated by the Constitution. Consequently, regulatory changes have been enacted to ensure the independence of the national press, aligning with constitutional guarantees.

The press legal system, through Law Number 40 of 1999, guarantees legal protection as stipulated in Article 4 as stated in the provisions of Article 18 paragraph (1) that “Any person who unlawfully intentionally carries out an action which results in hampering the implementation of the provisions of Article 4 paragraph (2) and paragraph (3) shall be punished with imprisonment for a maximum of 2 (two) years or a fine of a maximum of Rp. 500,000,000.00 (Five hundred million rupiah).” The provisions of Article 18, paragraph (1), show the

<sup>24</sup> Edy Susanto, Mohammad Taufik Makarao, and Hamid Syamsudin, *Hukum Pers Di Indonesia* (Jakarta: Rineka Cipta, 2010). p. 203



sovereignty of the national press, which protects journalistic activities from threats, discrimination, and other efforts. The legal protection of the press in Indonesia, as outlined in the Press Law, ensures the freedom of the national press in alignment with constitutional ideals and provisions. Freedom of the press entails the assurance that journalistic activities can be conducted professionally without being arbitrary. As noted by legal expert Prof. Bagir Manan, the press is not above the law and must adhere to legal standards. However, law enforcement actions against the press are not meant to constrain or suppress it but rather to uphold and enhance the press's responsibility and discipline.<sup>25</sup>

### **Legal Responsibility Against Citizen Journalism In Indonesia**

In the Indonesian Dictionary, accountability is derived from the concept of responsibility, defined as the obligation to bear the consequences of actions subject to scrutiny, blame, or legal prosecution.<sup>26</sup> Legal responsibility, therefore, refers to the obligation to answer for actions within the framework of legal provisions. This means that everyone must be accountable for their actions under the law. The law serves as a boundary for individual actions to prevent them from infringing on the rights and interests of others. As Sudikno Mertokusumo states, the law is a set of rules that balance individual freedom with the protection of societal interests, ensuring harmony between personal liberties and the welfare of the community.<sup>27</sup> The press legal system comprises a set of rules governing national press activities, ensuring their proper functioning and freedom. Law Number 40 of 1999 embodies this system, reflecting press freedom as a constitutional right of every Indonesian citizen within the context of human rights. Consequently, anyone who violates the principles and provisions of press law must be held accountable for their actions.

Under the current press legal system, every member of the national press is required to adhere to legal provisions, not only for the protection of their actions or duties as journalists but also to uphold press freedom. According to a study by Andi Akifah, becoming a journalist is challenging because it involves more than just disseminating information to the public; it requires specific qualifications and skills.<sup>28</sup> In performing their roles and duties, journalists are bound by legal and ethical standards as specified in the journalistic code of ethics. The evolution of mass media has given rise to *citizen journalism*, where individuals take on roles similar to professional journalists. This phenomenon is closely linked to the advancement of information technology, which has facilitated easier information dissemination. According to M. Castells, the advent of technology is defined in this excerpt as “...the products of new information technology industries are information producing devices or information processing itself.”<sup>29</sup> Thus, the development of information technology has significantly influenced people's behaviour in utilising these advancements. Consequently, citizen journalism has grown and evolved

<sup>25</sup> Bagir Manan, *Menjaga Kemerdekaan Pers Di Pusaran Hukum*, ed. Wina Armada Sukardi, Cet. Ke-II (Jakarta: Dewan Pers, 2011). p. viii

<sup>26</sup> Sugono and dkk., *Kamus Bahasa Indonesia*. p. 1623

<sup>27</sup> Sudikno Mertokusumo, *Mengenal Hukum*, Cet. Ke-3 (Yogyakarta: Liberty Yogyakarta, 2002). p. 41

<sup>28</sup> Andi Akifah, 'Citizen Journalism: A Study of New Form of News Media Reporting', *Jurnal Academica* 04, no. 01 (2012): 774–82.

<sup>29</sup> Rulli Nasrullah, 'Komodifikasi Warga Dalam Ruang Citizen Journalism', *Jurnal Kawistara* 2, no. 2 (2012), <https://doi.org/10.22146/kawistara.3972>.



alongside mass media, particularly online media. *Citizen journalism* is intertwined with the concept of the *public sphere*, which serves as a platform for individuals and society to express their needs and interests on political, developmental, economic, social, cultural, and other issues.<sup>30</sup> Abdul Malik's study highlights that the accessibility of information technology has expanded the public space for information exchange, enabling everyone to share ideas and concepts within this public space.<sup>31</sup>

*Citizen journalism*, as quoted by Fachrudin from Nugraha Pepih, refers to journalistic activities carried out by the general public who are not professional journalists.<sup>32</sup> Various terms are associated with this concept, including *citizen journalism: public journalism, advocacy journalism, participatory journalism, participatory media, open source reporting, distributed journalism, citizen media, advocacy journalism, and grassroots journalism*.<sup>33</sup> This highlights that anyone can engage in journalistic tasks, such as searching for and creating news or information. However, the issue arises regarding the accountability for these actions within the press legal framework. Article 8 of Law Number 40 of 1999 states, "in carrying out their profession, journalists receive protection." This provision, along with Article 4, paragraph (4), which states that "journalists have the right to refuse when held accountable for reporting before the law," confirms the legal accountability of journalistic activities."

The explanation of the above articles indicates that every report must be accountable both ethically and legally. Ethically, this pertains to the professional ethics of journalists, which are outlined in the journalistic code of ethics issued by the press council, press organisations, and/or the journalist's employer. Legally, accountability aligns with the provisions governing journalistic activities regulated by press and broadcasting laws, providing legal protection for journalistic endeavours. Prof. Bagir Manan emphasised the importance of accountability in journalism, stating that any reporting harming the dignity, honour, good name, or reputation of an individual or community must be responsibly acknowledged and regretted as a violation of fundamental human principles.<sup>34</sup>

Based on the description above, legal protection for journalistic activities is exclusively granted to journalists and press companies which oversee such activities. *Citizen journalism*, however, is not covered under the legal provisions of Law Number 40 of 1999 concerning the Press or Law Number 32 of 2002 concerning Broadcasting. Consequently, individuals not regulated by these laws do not receive legal protection. *Citizen journalists*, therefore, only have rights and protection based on the Constitution. Any actions that violate legal provisions or infringe upon the legal rights of others must be held accountable under the law. The rapid growth of *citizen journalism* through online media has transformed the news system and

<sup>30</sup> Yanti Dwi Astuti, 'EKSISTENSI PUBLIC SPHERE DALAM MEDIA MAINSTREAM: Studi Pada Rubrik Citizen Journalism Tribun Yogyakarta', *Jurnal Sosiologi Reflektif* 12, no. 2 (2018): 233, <https://doi.org/10.14421/jsr.v12i2.1235>.

<sup>31</sup> Abdul Malik, 'Ruang Publik Sebagai Representasi Kebijakan Dan Medium Komunikasi Publik (Studi Komunikasi Kebijakan Ruang Publik Kota Serang)', *Sawala : Jurnal Administrasi Negara* 6, no. 2 (2018): 82–88, <https://doi.org/10.30656/sawala.v6i2.914>.

<sup>32</sup> Fachrudin, *Journalisme Today*. p. 23

<sup>33</sup> Rahmat Edi Irawan, 'Aplikasi Citizen Journalism Di Era Konvergensi Media', *Humaniora* 5, no. 2 (2014): 816, <https://doi.org/10.21512/humaniora.v5i2.3137>.

<sup>34</sup> Bagir Manan, *Menjaga Kemerdekaan Pers Di Pusaran Hukum*. p. 85



established a new medium for public reporting. Some online media outlets have allowed citizen journalists to actively communicate the latest information. The demand for timely information has created opportunities for citizen journalists to participate and function similarly to professional journalists. However, *citizen journalism* reports are subject to strict review and selection to ensure compliance with journalistic ethics and press laws. Press companies remain bound by the journalistic code of ethics and broadcasting laws. According to Yanti Dwi Astuti's research on the *public sphere*, news content produced by citizen journalists is still carefully curated to maintain quality and news value,<sup>35</sup> distinguishing it from typical online media practices.

Thus, *citizen journalism* activities are not necessarily directly linked to the individuals creating the news. Instead, accountability falls on the media or press companies, which are bound by the journalistic code of ethics and press laws. Legal and ethical accountability does not typically extend to individual citizen journalists. To preserve the independence of the country's press, it is crucial for both professional journalists and citizens interested in journalism to receive proper training and adhere to journalistic regulations and ethical codes. Additionally, journalism education should be applied to citizen journalism, emphasizing values such as responsibility, empathy, authenticity, discernment, and integrity in information dissemination.<sup>36</sup>

### **The Practice of Citizen Journalism from the Perspective of *Maqashid Sharia***

When discussing citizen journalism within the framework of *Maqashid Sharia*, it is essential to recognize that Islamic legal thinking often focuses narrowly on the texts of the Quran and Hadith without delving into their deeper meanings.<sup>37</sup> A comprehensive approach to Islamic law should holistically encompass broader studies such as *ushul al-fiqh*, *qawâ'id al-fiqh*, and *Maqashid Sharia*. These three elements are crucial components of an integrated system that must develop in harmony. *Ushûl al-fiqh* provides the methodology for a deeper understanding of Islamic law, while *qawâ'id al-fiqh* forms the foundational basis of the Islamic legal structure.<sup>38</sup> *Maqâshid al-Syarî'ah* represents the values, spirit, and objectives underpinning Islamic law.<sup>39</sup> By considering these elements together, we can achieve

<sup>35</sup> Yanti Dwi Astuti, 'EKSISTENSI PUBLIC SPHERE DALAM MEDIA MAINSTREAM: Studi Pada Rubrik Citizen Journalism Tribun Yogyakarta'. p. 247

<sup>36</sup> Fauzi Ramdani and Ely Sufianti, 'Netizen Sebagai Basis Citizen Power Dalam Mengawasi Mutu Pelayanan Publik Netizens as the Base of Citizen Power to Oversee the Quality of Public Services', *KNIA : Konferensi Nasional Ilmu Administrasi* 3.0, 2019, 1–5.

<sup>37</sup> Agus Waluyo, 'The Developmental Policy of Halal Product Guarantee in the Paradigm of Maqâshid Sharî'ah in Indonesia', *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 20, no. 1 (10 June 2020): 41–60, <https://doi.org/10.18326/ijtihad.v20i1.41-60>.

<sup>38</sup> Zulfikar Zulfikar, 'Habib Ahmed's Maqâshid Sharî'ah Concept on Cooperative Regulations in Indonesia', *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 21, no. 2 (31 December 2021): 247–72, <https://doi.org/10.18326/ijtihad.v21i2.247-272>; Ahmad Lutfi Rijalul Fikri, 'Qawâ'id Al-Fiqhiyyah Analysis on The Prohibition of Monopoly Practices and Unfair Business Competition: A Critical Review', *Justicia Islamica* 18, no. 1 (16 April 2021): 132–48, <https://doi.org/10.21154/justicia.v18i1.2466>.

<sup>39</sup> Zuly Qodir, Haedar Nashir, and Robert W. Hefner, 'Muhammadiyah Making Indonesia's Islamic Moderation Based on Maqâshid Sharî'ah', *Ijtihad: Jurnal Wacana Hukum Islam Dan Kemanusiaan* 23, no. 1 (26 June 2023): 77–92, <https://doi.org/10.18326/ijtihad.v23i1.77-92>.





a more complete and balanced understanding of Islamic law and its application in daily life.<sup>40</sup>

The freedom to express opinions or disseminate information is a right that must be exercised responsibly, with the aim of promoting good rather than evil or injustice. Individuals are free to express their opinions as long as their actions do not violate laws against blasphemy, slander, falsehood, or insulting others' beliefs, nor should they be driven by personal desires. In the Islamic context, there is no tolerance for malicious or cruel behaviour, and no one has the right to use harsh or degrading language in the guise of criticism. Therefore, the freedom of expression must adhere to the general principles of Islamic law, which require individuals to uphold truth, avoid evil, and eliminate wrongdoing.<sup>41</sup> Al-Maududi expressed his views on human rights, especially regarding freedom of opinion in Islam. According to him, Islam allows freedom of thought and expression of opinions through various channels to all citizens, provided that the contents of these opinions contain positive values. Freedom of opinion can also be realised through communication and calls for good things for the common good. Al-Maududi emphasised that every Muslim is obligated to invite others to the right path and abandon the wrong one. For him, a government that revokes this right is violating God's commandments.<sup>42</sup>

Eliwarti Maliki explained the concept of *Maqashid* as a form of aggression, not as a tool to defend against attacks. In detail, he wrote as follows: *Hifdz al-din* (maintaining religion) becomes *haq attadayyun* (religious rights), which includes the right to worship and practice religious teachings. This right not only safeguards the sanctity of religion but also builds worship facilities and strengthens healthy relationships between religious believers within and outside the religious community. Therefore, this right indirectly helps create an environment conducive to one's religious expression. *Hafdz an-nafs*<sup>43</sup> (care for the soul) becomes *haq alhayat*

<sup>40</sup> Syaikhu et al., 'The Maqashid Sharia Construction on Inheritance in Dayak Ngaju Customs Within the Tumbang Anoi Agreement', *El-Mashlahah* 13, no. 2 (2023): 181–202, <https://doi.org/10.23971/el-mashlahah.v13i2.7375>; Ramadhita Ramadhita, Sudirman Sudirman, and Syabbul Bachri, 'Model of Zakat Utilization in the Covid-19 Pandemic Era: Perspective of Maqashid Sharia', *Al-Istinbath: Jurnal Hukum Islam* 7, no. 1 (30 May 2022): 245, <https://doi.org/10.29240/jhi.v7i1.4462>; Syafril Wicaksono et al., 'Maqashid Sharia Progressive: Anatomical and Transformational of Halal Institutions in UIN KHAS Jember', *El-Mashlahah* 13, no. 2 (31 December 2023): 107–32, <https://doi.org/10.23971/el-mashlahah.v13i2.7370>; Abbas Arfan et al., 'The Implementation of Maqashid Sharia: Heterogeneity of Scholars' Fatwas towards Islamic Banking Contracts', *Legality: Jurnal Ilmiah Hukum* 32, no. 1 (14 March 2024): 105–28, <https://doi.org/10.22219/ljih.v32i1.32170>; Amir Tajrid, 'Tracing the Genealogy of Maqāsid Al-Sharī'ah Concept: A Historical Approach', *Al-Ahkam* 31, no. 1 (29 April 2021): 69–90, <https://doi.org/10.21580/ahkam.2021.31.1.6696>.

<sup>41</sup> Danil Putra Arisandy, Asmuni, and Muhammad Syukri Albani Nasution, 'The Majelis Ulama's Fatwa on Freedom of Expression On Social Media: The Perspective of Maqashid Sharia', *Al-Istinbath: Jurnal Hukum Islam* 7, no. 2 (2022): 467–86, <https://doi.org/10.29240/jhi.v7i2.5235>.

<sup>42</sup> F Fitrianiingsih, 'Kebebasan Berpendapat Yang Dibatasi Oleh Pasal 310 KUHP Prespektif Undang-Undang Nomor 39 Tahun 1999 Tentang HAM Dan Abu Mansur A'la Al Maududi', *Al-Balad: Journal of Constitutional Law* 1, no. 3 (2019).

<sup>43</sup> Rahmat Hidayat et al., 'Review of Maqāsid Al-Syarī'ah Concerning the Fulfillment of Child Rights Post-Divorce in Budi Aji Village, Simpang Pematang District, Mesuji Regency', *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 22, no. 2 (31 December 2022): 213–28, <https://doi.org/10.30631/alrisalah.v22i2.1254>; Royan Utsany, Afrizal Tw, and Khamim Khamim, 'Women's Rights and Gender Equality: An Analysis of Jasser Auda's Thoughts and His Contribution to Renewal of



(right to life), which aims to improve the quality of life for individuals and society as a whole. The right to life must focus on the holistic improvement of human life, not just on certain aspects. *Hifdz al-aql* (maintaining reason), namely *haq al-ta'lim* (right to education). Respecting reason does not just mean keeping one from going crazy or drunk. Safeguarding reason also includes fulfilling the intellectual rights of every individual in society, including the protection of their copyrights, work and creations. *Hifdz al-mal*<sup>44</sup> (protecting assets) becomes *haq al-amal* (right to work), which goes beyond simply protecting assets from interference from others. This right also includes a person's right to obtain property lawfully through work, which simply gives someone the authority to create jobs for others, allowing everyone to enjoy their right to a prosperous life. *Hifdz al-irdl* (maintaining honour) becomes *haq al-intirom al-insani* (the right to human honour), which does not only aim to protect one's own and family's honour from accusations and slander. Preserving customs and culture is also an integral part of maintaining the honour and dignity of society as a whole. In a broader context, maintaining the dignity and honour of the nation is also part of the right to maintain honour.<sup>45</sup> Freedom to express opinions on any issue, whether regarding the government or government system, freedom from power censorship, and freedom to participate in expressing opinions are recognised rights. This concept is related to the principles of *maqashid syariah* in Islam, which include *al-ahkam al-khamsah*, namely; religious protection (*hifz al-din*), protection of the soul (*hifz al-nafs*), protection of offspring (*hifz al-nasl*), protection of ideas/thoughts (*hifz al-'aql*), and protection of property (*hifz al-mal*).<sup>46</sup>

## Conclusion

Based on the research conducted regarding the constitutional right to seek, obtain, and convey information as outlined in the 1945 Constitution, it is evident that everyone has equal rights and obligations in accessing and disseminating information through media or public spaces (public sphere). This reflects the

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Islamic Family Law in Indonesia', *Journal of Islamic Law* 3, no. 1 (7 February 2022): 54–73, <https://doi.org/10.24260/jil.v3i1.530>.

<sup>44</sup> Asrul Hamid and Dedisyah Putra, 'Pemenuhan Nafkah Keluarga dengan Bekerja di Bank Konvensional: Suatu Pendekatan Maqashid Syariah', *El-Usrah: Jurnal Hukum Keluarga* 2, no. 1 (8 June 2019): 11–23, <https://doi.org/10.22373/ujhk.v2i1.7640>; Norcahyono Norcahyono and Muhammad Arni, 'Strategies of Career Women at Islamic Universities in Kalimantan in Carrying Out Household Obligations from the Perspective of Maqashid As-Syari'ah', *Syariah: Jurnal Hukum Dan Pemikiran* 21, no. 1 (9 June 2021): 88, <https://doi.org/10.18592/sjhp.v21i1.4143>.

<sup>45</sup> Ridwan Jamal, 'Maqashid Syariah Dan Relevansinya Dalam Konteks Kekinian', *Jurnal Ilmiah Al-Syiroh* 8, no. 1 (2010): 1–12, <https://doi.org/10.30984/as.v8i1.34>.

<sup>46</sup> Fakhruddin Fakhruddin et al., 'From Fiqh Al-Ibadat to Muamalat: Repositioning Zakat Management in Indonesia in the Perspective of Maqāshid Al-Shari'ah', *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 8, no. 1 (27 April 2024): 495–517, <https://doi.org/10.22373/sjhc.v8i1.19637>; Rahmatiah HI et al., 'Strict Liability and Product Safety: The Case of Dangerous Syrup in Indonesia in the Maqashid Syariah Perspective', *AHKAM: Jurnal Ilmu Syariah* 23, no. 2 (31 December 2023), <https://journal.uinjkt.ac.id/index.php/ahkam/article/view/34240>; Mukti Tabrani, 'Maqāshid Revitalization in Global Era: Istidlāl Study from Text to Context', *AL-IHKAM: Jurnal Hukum & Pranata Sosial* 13, no. 2 (31 December 2018): 310–33, <https://doi.org/10.19105/al-lhkam.v13i2.1814>; Faishal Agil Al Munawar, 'Abd al-Majīd al-Najjār's Perspective on Maqāshid al-Shari'ah', *JURIS (Jurnal Ilmiah Syariah)* 20, no. 2 (15 December 2021): 209–23, <https://doi.org/10.31958/juris.v20i2.4281>; Marli Candra, Umi Asmaul Fauziah Adha, and Athifatul Wafirah, 'Menjaga Keharmonisan Keluarga Melalui Ruqyah Perspektif Maqashid Syariah', *El-Usrah: Jurnal Hukum Keluarga* 4, no. 2 (31 December 2021): 430, <https://doi.org/10.22373/ujhk.v4i2.9022>.



principles of constitutional democracy, which guarantees and protects human rights. The activities of seeking, obtaining, possessing, storing, processing, and conveying information are considered human rights and are essential to the journalism profession. These activities are protected by the Constitution and the Press Law, ensuring press freedom and independence. Journalistic activities, therefore, are protected by both constitutional and statutory regulations. This guarantees journalists and press companies the freedom and independence to convey public information. Notably, journalistic activities are no longer limited to professional journalists but are also undertaken by citizens, known as citizen journalists. Citizen journalism, as a facet of human rights, requires legal protection and accountability under the law, especially when fulfilling the duties and roles of journalists as per press regulations. However, citizen journalists are not directly responsible for their reporting as long as it is disseminated through press channels or companies. This is because press companies are bound by press laws and journalistic codes of ethics, which ensure accountability and ethical standards.

From the perspective of *maqashid sharia*, citizen journalism embodies the freedom to express opinions or disseminate information responsibly, aiming to promote good and not to incite evil or injustice. Individuals can freely express their opinions, provided that their actions do not violate laws related to blasphemy, slander, falsehood, or the denigration of others' beliefs, nor are they driven solely by personal desires. The recognised rights include freedom to express opinions on any issue, including government and its systems, freedom from censorship, and the right to participate in public discourse. However, these freedoms must align with the principles of *maqashid sharia* in Islam, which encompass the five essential protections: religious protection (*hifz al-din*), protection of life (*hifz al-nafs*), protection of progeny (*hifz al-nasl*), protection of intellect (*hifz al-'aql*), and protection of property (*hifz al-mal*). These principles ensure that exercising freedom does not infringe upon these fundamental values.

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