

Standardisation of the Press Coverage System in the Press Law

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8 Standardisation of the Press Coverage System in the Press Law

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8 Abstract

This write-up highlights the urgency of standardisation of news coverage arrangements to ensure respect for the principle of presumption of innocence. The standardisation should focus on the system of legal news writing standards, professional journalist standards and journalist competency standards contained in the Press Law. Regulations on writing news about the law that does not include a system to ensure professional standards of journalists and journalists' competence in writing legal news will cause difficulty in practising press reporting that respects the presumption of innocence principle. Therefore, it is important to explain the basic provisions of the Press Law. Standardisation of the regulations of the press system is needed to maintain harmony, consistency, and completeness, which is expected to improve efficiency.

Keywords: Standardisation, Press Coverage System, Press Law.

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1. Introduction

The standardisation of the regulations governing press coverage system in the Press Law is very important since it will ensure a system that respects the presumption of innocence. The goal is to avoid a legal vacuum¹, due to matters or circumstances that are not regulated by the Press Law or matters that are regulated by a statutory regulation but are unclear or incomplete. The legal vacuum eventually creates legal uncertainty (*rechtsonzekerheid*), which in turn leads to legal chaos (*rechtsverwarring*) due to opposing views: 1) as long as it is not regulated, it means that it is allowed; 2) as long as there are no clear and regulated procedures, it means it is not allowed. This causes confusion (chaos) in society regarding what rules should be used or applied; so, there is absence of certainty regarding the rules to be applied in regulating the situations or circumstances that occur.² To overcome this, it is clear that action is needed through the enactment of careful laws and regulations on such matters; the law should not be glib, which in turn would likely have a negative impact.

2. News Writing Standards

The press has a set of news writing standards based on the obligation to respect the principle of presumption of innocence. In this regard, the press is obliged to report events and opinions while exhibiting respect for religious norms, a sense of public decency and the principle of presumption of innocence. This is stipulated in Article 5, Paragraph (1) of Law No. 40 of 1999 concerning the Press, as follows:

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National press has the obligation to report events and opinions with respect towards religious norms and moral norms possessed by the public, completed with the presumed innocent principle.

Regarding the article above, there are two elements of reporting in the Press Law that if violated constitute a criminal act: First, the press should not judge or conclude that an accused person is guilty. Second, the interests of all parties involved in the reporting should be accommodated. The two elements are further explained as follows:

a. National Press should not judge

As stated above, the provisions of the Press Law prohibit the national press from broadcasts that portray an accused person as guilty and prescribe an obligation of accommodating the interests of all parties involved in the reporting. However, it does not mean that the press cannot broadcast the legal events of a case; the press may broadcast/present the facts or legal events starting from the police processes to the actions of the attorney's office

¹ Vacancy is a situation (condition, nature, etc.) of emptiness. In the Legal Dictionary, it is defined as a *Vacuum* (Bld), which is interpreted as "empty or vacant". From the above explanation, specifically, "legal vacuum" can be defined as "an empty condition or the absence of legislation (law) governing (certain) order in society", Tiar Ramon, *Legal Void*, articles, accessed from <https://tiarramon.wordpress.com>, on May 11, 2019, at 22:17 WITA

²Maskun and Wiwiek Meilarati, *Legal Aspects of Internet Based Fraud*, Kenia Media, Bandung, 2017, p. 5

and the court stage based on the facts of events occurring on the ground but shall not produce news that is sub judice.¹

Errors in writing news sometimes occur inadvertently due to the use of words that give the wrong perception about the legal status of someone passing through the legal process. The use of certain words by journalists in writing news should not be accepted; for example, the word *perpetrator* is sometimes used instead of *suspect*, and the word *suspect* is sometimes used instead of *witness*. In addition, the media should make use of "safety words" such as *rumored*, *rumors*, *allegedly*, *supposedly*, and *heard*. The safety words are intended to portray non-judgmental opinion, in case the news turns out to be false. Conversely, if false, the press must bear the risk of dealing with legal proceedings. In fact, there are media organisations that openly state the identity of a person who is accused of a crime so as to give the impression to the audience that he is guilty even before a court decision gives permanent legal force.

Regarding news that concerns a person's or institution's "good name" or "honor", it is very important to avoid "labeling" that negatively affects the image and credibility of such a person or institution, both private and public. The attachment of titles that have negative connotations, both textually and contextually, to individuals, legal entities, officials, public bodies or certain professions amounts to ignoring the presumption of innocence principle. Reporting that is sub judice and concludes that someone made mistakes before the pronouncement of a court shows lack of respect of human rights by the press.² Human dignity should be maintained as stipulated in Law Number 48 of 2009 concerning Judicial Power and Law Number 8 of 1981 concerning Criminal Procedure Code (KUHAP).³

b. Accommodating the Interests of All Parties in the News

To ensure that the principle of presumption of innocence is respected, the press must accommodate the interests of all parties in news writing and reporting, in accordance with the provisions of Article 5, Paragraph (1) of the Press Law. In journalism, it is technically termed balanced news writing, according to the interpretation⁴ of Article 3 b of the Journalistic Code of Ethics.

There is a difference regarding the extent of the principle of presumption of innocence in the Criminal Procedure Code and the Press Law. The Criminal Procedure Code does not place the principle of presumption of innocence as a norm, but in the Press Law, it is placed as a norm or rule. On that basis⁵ the Press Law explicitly threatens criminal penalties for violators as stipulated in Article 18, Paragraph (2): a maximum fine of Rp. 500,000,000.00 (five hundred million rupiah).

To avoid the threat of punishment⁶ in writing news, journalists are obliged to examine the information before broadcasting it, as emphasised in Article 3 of the Journalistic Code of Ethics. Testing of information is intended to check and recheck its veracity.

To fulfill the element of testing information, journalists should always be careful about the source of the information they receive, since some sources of information are not credible; a check and recheck must be done first to ensure the correctness of the information. Even after checking and rechecking in the field and proving that the information is correct, it is still not deemed worthy of reporting since the balance and non-opinion elements have not been considered while writing the news.

To respect the rights of people who are passing through the legal process, before a judge takes a decision, which has legal force (*inkracht van gewijsde*), the defendant is presumed to be innocent. Therefore, the press must respect that right. Out of respect for the rights of suspects, based on this principle, the press took a number of positions. Some reported arrest, detention and prosecution in court by writing abbreviated names or initials. Other publishers use initials or pseudo names when writing news of arrest and detention, but after entering the court stage, the full real names of suspects are used. In other press releases, some also use full names from the arrest process to the court process. Regarding this matter, there is indeed no uniformity.

¹Hendrayana, *Upholding Press Freedom and the Implementation of the Principles of Presumption of Innocence*, Journal of the Press Council, edition No. 2, November 2010, p. 84, accessed from <https://dewanpers.or.id>, on May 8, 2019, at 23.01 WITA.³

²Chairul Huda, *The Meaning of the Principle of Presumption of Innocence and Its Use in Press Practices*, Journal of the Press Council, edition No. 2, November 2010, page 38, accessed from <https://dewanpers.or.id>, on May 8, 2019, at 23.01 WITA.

³Judhariksawan, *Hostis Human Generis (Enemy with Humans)*, Rikwins Publishing, Banten, 2017, p. 49

⁴ See the interpretation of Article 3 b of Press Council Decree Number 03 / SK-DP III / 2006 concerning the Journalistic Code of Ethics, which means that it is intended to provide space or time for reporting to each party proportionally.¹¹

⁵ Article 18, Paragraph (2) of Law Number 40 of 1999 concerning the Press states that: Press companies that violate the provisions of Article 5, Paragraph (1) and Paragraph (2) as well as Article 13 are liable to a maximum fine of Rp. 500,000,000.00 (Five hundred million rupiah).

Revealing the identity of the suspect today in terms of journalism is increasingly difficult to avoid. Technological advances have created electronic media, like television and internet. In television reports, the camera clearly captures the figure and face of the suspect, so the public can see it clearly. If the electronic media broadcasts the suspect's profile so clearly but the print media still hides the suspect's identity, of course, the print media will be a laughing stock since it is hiding something that is already known to the public. From a commercial standpoint, the print media will suffer losses, considering that there are more and more competitors. Inevitably, to satisfy its readers and make profit, the print media also tends to reveal the identity of suspects.¹

To avoid violation of the principle of presumption of innocence in writing news, the press must understand Press Law and the Journalistic Code of Ethics. This is the basis of reference, legal norms and professional ethics in carrying out journalistic duties.

3. Journalist Professional Standards

With respect to carrying out journalistic activities, journalists have professional standards, which ensure that they act professionally in accordance with the Journalistic Code of Ethics. A professional journalist in press publishing has the qualifications to recruit reporters. The journalist professional standards require that journalists should have the following abilities:²

- a. Mastery of journalistic skills
- b. Mastery of the field of coverage
- c. Obedience to journalistic ethical codes

It is our opinion that journalists' knowledge and scope of assignment determine the accuracy of reporting. The more knowledgeable a reporter is in the field of coverage, the greater the tendency to provide accurate information and the more reliable the journalist's writing will be from the readers' perspective. Conversely, the less knowledgeable a journalist is in the field of coverage, the less the accuracy of information that can be given, and the journalist's writing will command less trust among readers.

Journalism is a noble profession since journalists work for the interests of the wider community in general. If the work is done properly without violating the rules of journalism, then journalists will get the full trust of the public, readers, or viewers. The issues in the news are very diverse and cover the fields of education, culture, law, politics, social field, economics, and so on. Of course, this poses a challenge to journalists in carrying out their duties in the field.³

There is lack of regulation of journalists' professional standards by the Press Law; this is not the case regarding laws regulating other professions, such as advocates⁴ and notary public⁵. Even though journalists are also professions that have expertise, associations and ethical codes, they have the right to withhold their sources if disclosing them endangers their safety.⁶ People who report news and regularly carry out journalistic activities are known as the press. Article 1, Paragraph (1) of Law Number 40 of 1999 states as follows:

The press is a social institution and a vehicle for mass communication that carries out journalistic activities including searching, obtaining, possessing, storing, processing and displaying information in the form of text, sound, pictures, sounds and images, data and graphics as well as other forms using print media, electronic media and all types of channels available.

In general, there are several characteristics that are inherent in every profession, which are as follows:⁷

¹Wina Fleet, *Face of Criminal Law Press*, Istaka Kartini, Jakarta, 1989, p. 75.

²Romeltea, *Journalist's Professional Standards*, accessed from <https://romeltea.com/>, on May 20, 2019, at 02.58 WITA.

³Jealson, *the Responsibility of Professional Journalists in the News*, accessed from <https://steemit.com/jurnalists/@jealson>, on May 20, 2019, at 01.41 WITA.

⁴ See Article 2 of Law No. 18 of 2003, the provisions for the appointment of Advocates, as follows: 1. Those who can be appointed as Advocates are graduates with a legal higher education background and have undergone the Advocate profession special education carried out by the Advocate Organization. 2. Appointment of Advocates is carried out by the Advocate Organization. A copy of the decision letter on the appointment of Advocates as referred to in paragraph (2) shall be submitted to the Supreme Court and the Minister.

⁵ See Article 3 of Law No. 30 of 2004 concerning the requirements to be appointed as a Notary Public, as follows: a) Indonesian Citizens, b) Devoted to God Almighty, c) Aged at least 27 years, d) Physically and mentally healthy, e) Graduated with a law degree and a notary level graduate degree; f) Have undergone apprenticeship or worked as a Notary's employee for 12 consecutive months at the notary's office on his own initiative or on the recommendation of the Notary Organization after graduating from the notary strata; g) Not having the status of a civil servant, state official, advocate, or not holding another position which by law is prohibited from being concurrently appointed as a notary public.

⁶ See Article 1 Paragraph (4) of Law Number 40 of 1999.

⁷ Accessed from <https://www.jurnal.com>, *Professional Features*, on May 18, 2019, 00.47 WITA

1. The existence of special knowledge, which is usually the expertise and skills possessed thanks to education, training and years of experience.
2. There are rules and very high moral standards. Every professional actor bases his activities on the professional code of ethics.
3. Professionals should serve in the interest of the public, meaning that they should not allow personal interests to affect the interests of society.
4. A special permit is required to practise a profession. Each profession will always be related to the interests of the community, where human values in the form of safety, security, survival and so on are promoted. Therefore, to run a profession, a special permit is needed.
5. Professionals usually become members of a professional body.

These characteristics are also inherent in journalism, which is technically regulated in the Journalistic Code of Ethics according to the mandate of Article 7, Paragraph (2) of the Press Law¹. The Journalistic Code of Ethics only emphasises the duties and responsibilities of journalists in writing news without being accompanied by appointment arrangements that involve profession standards of journalists.² Reporters are professionals. They must have special expertise (skills), extensive knowledge in their field (knowledge), and attitude in accordance with the code of conduct or ethics of journalism. Journalists are professionals, like doctors, midwives, teachers and lawyers who have a code of ethics.

The absence of standardisation arrangements regarding journalism in the act makes it possible for anyone to become a journalist without any conditions. Also, since it is very easy to become a journalist, the actual number of journalists is unknown, and performance is not easily monitored. With weak qualifications accompanied by weak supervision, problems arise related to the quality of journalists, including a weak understanding of journalistic ethics. As a result, there are unprofessional journalists, which caused a negative attitude towards press freedom since it gave rise to a feeling of antipathy by the public towards journalism as well as caused the public to undervalue the profession.³

4. Competence of Reporters to Write Legal News

Press reporting that respects the principle of presumption of innocence is in accordance with the provisions of Article 5, Paragraph (1) of Law Number 40 of 1999. However, since the law is not accompanied by the competency standards of journalists as legal news writers, violations of the principle of presumption of innocence in press reporting is difficult to avoid.⁴ For a law or regulation (written) to function effectively, the law or regulation itself (must be complete) must be synchronised with others.

The regulation of journalists' competency in writing legal news is not found at all in the Press Law, resulting in disharmony with the regulation on the application of the presumption of innocence principle in press reporting. As a result, violations of the principle of presumption of innocence in press reporting are still common, especially in the use of inappropriate legal terms. Journalists who come from non-legal educational backgrounds often use inappropriate legal terms while reporting news. For example, *perpetrator* should be *suspect*, a *verdict off* should be *an acquittal*, and so on. Legal disharmony occurs since there is disharmony between one legal norm and another, so harmonisation is needed to ensure that there is harmony between the provisions of one regulation and another in a law.

According to Sidharta, several possible causes of disharmony in the legal system are as follows:

- a. There is vertical inconsistency in terms of the format of the regulation, that is, a lower hierarchical regulation is contrary to a higher hierarchy regulation, for example between government regulations and the law.
- b. There is vertical inconsistency in terms of time, that is, some rules are hierarchically parallel but one applies first before the others.

¹ See Article 7, Paragraph (2) of Law Number 40 of 1999 indicating that journalists have and obey journalistic code of ethics.

² Romoltea, *Journalistic Code of Ethics: Journalist Professional Ethics*, accessed from <https://romeltea.com>, on May 19, 2019, at 00.51 WITA.

³ Accessed from <https://ajj.or.id/>, article, *Media Policy Reform Series, Testing the Idea of Revision of the Press Law, Study Results and Proposed Problem Laws*, on 19 May 2019, at 01.00 WITA.

⁴ *Ibid*, p. 110

c. Horizontal inconsistencies occurring in terms of the substance of the regulations, that is, some rules are hierarchically parallel but the substance of one regulation is more general than the substance of the other regulations.

d. Horizontal inconsistencies occurring in terms of substance in the same regulation, for example, the provisions of article 1 conflict with the provisions of article 15 of the same law.

e. Inconsistencies occur between different formal sources of law, for example, between laws and judges' decisions or between laws and customs.¹

It is our opinion that Sidharta's thinking in part (d), "horizontal inconsistency occurs in terms of substance in the same regulation ..." occurs in Law No. 40 of 1999 concerning the Press, due to the regulation of press coverage in Article 5, Paragraph (1) not being accompanied by the regulation of journalists' competencies, so respect the principle of presumption of innocence is still frequently disregarded.

Article 15, Paragraph (2) of Law No. 40 of 1999² mandated the Press Council to facilitate press organisations in drafting regulations in the field of the press and improve the quality of journalism. On that basis, the Press Council issued Rule Number 01 / Regulation-DP / X / 2018 concerning Journalist Competency Standards, as follows:³

1. Consciousness (*awareness*)

2. Knowledge

3. Skills

In our opinion, the provisions of the journalist competency standards set out in the Press Council Regulation contradict the provisions of Article 5, Paragraph (1) of the Press Law, which is meant to ensure reporting that respects the presumption of innocence principle. We point out two conflicting factors. These two factors are explained as follows:

1. Journalist Knowledge Factor

Journalists' knowledge, especially knowledge associated with legal discipline, is an influential factor in providing correct legal formation, particularly in realising the presumption of innocence principle in press reporting, according to Article 5, Paragraph (2) of the Press Law. The Press Council regulations do not address this issue, but the regulations apply to journalists in general, from various disciplines. Legal news should be written by journalists with a background of legal education so that there is harmonisation, with press reporting that respects the principle of presumption of innocence.

1. Legal Factor

The Press Law is binding due to the nature of formation of the act; it is a legal product with the provisions of criminal offenses for offenders. The Press Council regulations are not binding due to the nature of the regulations; the regulations do not constitute a legal product, as stipulated in⁴ Law Number 12 of 2011 concerning Formation of Rules and Regulations. The regulation of journalists' competence should be part of the article that regulates press coverage in the Press Law, so that it is binding to ensure the realisation of law enforcement against violations of the Press Law.

In order to facilitate harmonisation, a compilation that contains various elements or aspects of competence should be put together; it should include both legal knowledge and news writing skills that enable journalists to carry out coverage based on the legal news writing standards stipulated in Article 3, Paragraph (1) of the

¹Slamet Hariyadi, 2012, *Disbarmonious Legal Provisions*, in Sidharta et al., *Towards the harmonization of the legal system as the Pillar of Management of the Indonesian Pesi sir Area*, Bapenas, Jakarta, 2005, accessed from <https://www.academia.edu>, on 15 March 2019, at 3-29 WITA.

² See Article 15, Paragraph (2) of Law No. 40 of 1999: The Press Council carries out the following functions: a. protect the freedom of the press from interference from other parties, b. conduct studies for the development of press life, c. establish and supervise the implementation of journalistic code of ethics, d. provide consideration and seek resolution of public complaints on cases related to press reporting, e. develop communication between the press, the public and the government, f. facilitate press organizations in developing regulations in the field of press and improve the quality of the journalism profession, g. list of press companies.

³ See Appendix to Press Council Regulation Number 01 / Regulation-DP / X / 2018, p. 9-12.

⁴ See Article 7 paragraph (1) of Law Number 12 of 2011 concerning Formation of Regulations consisting of: a. The 1945 Constitution of the Republic of Indonesia; b. Decree of the People's Consultative Assembly; c. Government Act / Regulation in Lieu of Law; d. Government regulations; e. Presidential decree; f. Provincial Regional Regulations; and g. Regency / City Regulations.

Journalistic Code of Ethics. Both aspects are conditions that must be satisfied to ensure the realisation of press coverage that respects the presumption of innocence principle.

The purpose of this competency regulation is to improve the quality and professionalism of journalists, maintain the dignity of the journalism as a specialised profession producing intellectual works, be a reference for performance evaluation of journalists by press companies, place journalists in a strategic position in the press industry, avoid misuse of journalism, and uphold press freedom based on public interests.¹

5. Conclusion

Press reporting that respects the presumption of innocence principle is stipulated in the Press Law. Press Council Regulations on journalist competence and freedom of press companies to set the professional standards of journalists must not contradict the rules of press reporting stated in the Press Law. The system of reporting news, standard of reports, professional standards of journalists and the level of competence of journalists must be the same to ensure press coverage standardisation for the realisation of legal certainty, which is in the public's interest. If legal certainty is maintained absolutely, then the law will benefit the law itself and also the community.

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¹ See Appendix to Press Council Regulation Number 01 / Regulation-DP / X / 2018, p. 6.

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