

The model for regulating press coverage that applies the principle of presumption of innocence

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ABSTRACT

The Journal examines the need for harmonization of the Press news, wrote legal news, and Stándar the journalist's profession in the press law. This harmonization intended so that among material, the one with other material can complement each other to respect the principle of presumption not guilty. The purpose of the law not void because things or circumstances are not regulated in the PressLaw, or even if it governs by a statute but is unclear or even incomplete. The vacancy of the law eventually raises the legal uncertainty (*Rechtsonzekerheid*), which further raises the legal mess (*rechtsverwarring*). This uncertainty of the law, so that the knowledge of the law Adequate does not support journalists who write Legal news, and the professional standards of journalists use different recruitment criteria. Consequently, it has been difficult to Create a responsible press.

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1. Introduction

The preaching arrangement that respects the principle of presumption of Innocence needs to harmoniz with journalists who possess legal News writing competencies, and journalists ' professional standards into the material provisions The Press Law. The Competence of journalists writing legal and Professional Standards journalists are two variables that are inseparable as the news system that has become the norm in the Press Law. Arrangement of legal preaching without being coupled with the competence of journalists writing Legal News and Professional standards of journalists will be difficult to apply Press news that respects the principle of presumption Innocent, so it

must be sought and explained his massage material in the regulatory provisions of the Press Law.

Harmonization of the arrangement of Press News is necessary to maintain the harmony, consistency, harmony, completeness, and integrity/integrity of the legislation as part of the legal system to function appropriately and effectively.

Research classifies 3 (two) settings of the press News system that governs The press, i.e., The preaching of respect for an innocent presumption principle, The competence of journalists writing Legal News and professional Standards journalist contents need harmonized. These three settings described as follows:

1. Amity respects the principle of presumption of innocence

The press is preaching the principle of presumption innocent, where the press is obliged to preach events and opinions by respecting religious norms and the sense of morality a presumption of innocent people and principles.

It is asserted in the explanation of Article 5 paragraph (1) of law No. 40 of 1999 on the press, as follows:

National Press in broadcast information, do not judge or make an error conclusion someone, Moreover for cases that are still in the judicial process, and can accommodate the interest of all parties concerned in the proclamation.

The explanation of the article above, there are two elements of preaching that is a criminal offense if there is a breach in the press law, ie. *First*: the press does not judge or make an error conclusion someone. *Second*, accommodating the interests of all parties concerned in the proclamation. Both of these elements outlined, as follows:

A. The national press does not judge

The National Press provisions in broadcasting information, not judge or conclude a person's fault, in any case still in Judicial proceedings, and can accommodate the interest of all parties concerned in the proclamation. But does not mean the press should not broadcast The case of legal cases, the press can broadcast/present a fact or a legal event from the police process, prosecutors to the extent of the courts based on the facts of events occurring in the field but should not make judgmental news.¹

Mistakes in the writing of the news in an application sometimes occur not because of something planned but the use of the word with a misconception of a person's legal status in legal proceedings. A person's legal status seems to be the same as the status of a particular event. The emergence of certain words that journalists made in

writing Such news, perpetrators should suspect, suspected witnesses should, free should discharge rejected should not be accepted.

Also, the media is using 'safeguards' with *rumored words, rumors, allegedly, supposedly, heard, rumored*. Safety words are intended to avoid the action of the opinion is not judgmental, if indeed the news turns is not true. Conversely, if true,

The press should assume the risk of dealing with legal proceedings. There are a media with blatantly mentioning Someone's identity is involved in criminal acts, so Giving The impression to the reader was guilty before a court ruling of a fixed legal force.

The preaching concerning " good name ' ' or 'honor' ' is very important to avoid 'liberalization" on the negative of the person concerned, or imagery, the credibility of an Agency or agency, both private and public. To confirm the predicate, both textual and in contextual, to the person, Legality, office, General body or Certain profession, which is negatively connotation, including but not limited to the " juridical predicate ' ' in an inaccurate legal process, may be viewed as a waiver of an innocent presumption principle. The judging of the judgmental and concluding mistake of a person before being declared by the Court, suggests that deliberate in the human Rights imaging Done by the press.²

The B. Accommodating the interests of all parties in preaching

P The press can be said to violate the principle of presumption of innocence if the contents have indeed judged someone or some people have been involved or guilty of committing a criminal offense, but have not been proved through a court ruling that has fixed legal force.

Avoid such allegations, the press in The writing must be able to accommodate the interests of all parties in the news, according to the provisions of article 5 paragraph (1) of the Press Law³

¹ Feryan *Enforcing the independence of the press and the execution of presumption innocent*, Journal of Press Board, issue No. 2, November 2010, p. 84, accessed from <https://dewanpers.or.id>, on December 8 May 2019, at 23.01 WITA.

² The *The basic meaning of Praduga innocent and its usage in PrakteK* release, Journal of Press Board, issue No.

2, November 2010, pp 38, accessed from <https://dewanpers.or.id>, on 8 May 2019, at 23.01 WITA.

³ View Interpretation Article 3 B of the Press Council Decree No.: 03/SK-DP/III/2006 concerning the journalistic code of ethics, The intended Bis to provide space or time for preaching to each Party proportionately.

journalistic is categorized as balanced writing according to the interpretation of article 3 B of the Code of Journalistic ethics.

The presumed presumption principle set in the Kuhap and the press law has a distinct meaning. KUHAP still puts the principle of an innocent presumption not as the norm, but in the press, LAW already puts it as the norm or rule.

On that basis, the Press law expressly gives the threat of punishment⁴ the breach as stipulated in article 18 clause (2) with the highest penalty of Rp 500.000.000.00,- (five hundred million rupiah).

Avoiding the penalty for breaking news, the journalistic theorists who are the benchmark of journalists before broadcasting information are required to test the information, as emphasized in article 3 of the Code of journalistic ethics. Test The information intended to check and recheck the truthfulness of the information.

To meet the elements test, the information gives attention to all journalists to always be careful to receive information. Any information received is not as complex as the source of the news but, thus, first performed a check and *rechecked* to ensure the truth of the information. Even after Check and recheck in the field and proved the truth of the information is also not yet considered worthy of being preached because the balanced and unopinion elements have not met in the writing of the news.

In honor of the person involved in the legal process, before the decision of the judge, having a definite legal force (*Inkracht van Gewijsde*) must be considered not a guilty person. Therefore the press should respect that right. The Honor the suspect because of this principle, the press took some attitudes. There are reported arrests, detention to prosecution in front of the trial by writing abbreviations or initials. Other publishers, using the initials or the name

Samara when writing news of the arrest, detention, but after entering the trial stage in court using the actual full name. Other press publications, also some are wearing full names since the arrest process until the court proceedings. There is no uniformity for this matter.

Proclaim, the identity of criminal suspects today in journalistic terms increasingly difficult to avoid. Advances in technology have created Electronic press like televise. In the television report, the camera captures the figure and face of the suspect so that the public can see it with light. If The electronic Press had already broadcast the suspect profile so clearly, but the press print still hides the identity of the suspect, Of course, Press print will be a laughing material, because it is a secret to something that is already known by the public. From the commercial corner, the print Press will suffer losses, but more and more rivals. Inevitably to satisfy its readers and dredge commercial profits, press print also tends to reveal the identity of the suspect as is.⁵

Avoiding the violation of the principle of presumption Innocent in the writing of the news The press had to understand the press Law, the code of journalistic ethics, and become a ' ' Pocketbook' ' reporter. This is the basic reference and legal Norm as well as professional ethics in carrying out the duties of journalism.

2. Competency writing reporter Legal News

The news of the press that respects the principle of presumption of innocence according to the provisions of article 5 paragraph (1) law no. 40 the year 1999, which is not accompanied by the standard of journalists ' competence as the author of the law, the violation of the principle of presumption of innocence in the news of the Press, Difficult to avoid. So that the law or Regulation (written) works The law or regulation itself effectively (must be complete) must be synced with each other.

⁴ Article 18 paragraph (2) of Law No. 40 year 1999 on the press that: Press companies that violate provisions of article 5 paragraph (1) and paragraph (2), as well as article 13 are sentenced to fines of at most Rp. 500,000,000.00 (five hundred million rupiah).

⁵ Vienna Fleet, 1989, *Face of criminal Law Press*. Library Kartini, Jakarta, 1989, p. 75.

Competence arrangement journalist writes Legal News is not at all basic settings in the press law, so there is disharmonization with the setting of the principle of presumption innocence in the press release. Consequently, violations of the principle of presumption of innocence in Press coverage are still common, especially in the use of words inappropriate legal terms. For journalists who come from the background of non-legal education often preach the fact precisely assess the facts. Examples of *perpetrators* should *suspect*, the *release* verdict should be free, the investigation should be an investigation, expert witnesses should include expert description, and so on. Legal disharmony occurs because There is an inconsistency between a legal norm and a differential Norm, so It takes harmonization to occur alignment between The material setting one and other settings in one legislation.

According to Sidharta, at the time of harmonization, there can be some possibilities that cause the disharmonization of the legal system is:

- a. There is a vertical inconsistency in terms of regulatory format, which is a lower hierarchical rule contrary to the higher regulatory hierarchy, such as between government regulations by law.
- b. The inconsistency occurs vertically in terms of time, i.e., several rules that are hierarchically aligned, but one first happens then the other.
- c. Horizontal inconsistency occurs in terms of regulatory substance, i.e., several rules that are hierarchically aligned, but one regulatory substance is more common than other regulatory substances.

- d. A horizontal inconsistency occurs in terms of substance in the same regulation, such as the provisions of article 1, contrary to the provisions of article 15 of the same law.
- e. Inconsistencies occur between formal sources of different laws, e.g., between law and judge judgment or between law and customs.⁶

The thinking of Sidharta in part (d), ' ' *There is a horizontal inconsistency in terms of substance in the same regulation... ' ' menu ut researchers, it occurred in law No. 40 the year 1999 about the press, because the press news settings in Article 5 paragraph (1) is not accompanied by the competency arrangement of journalists so that they aim to respect the principle of presumption Innocent is still a frequent violation.*

Article 15 paragraph (2) of Law No. 40 the Year 1999⁷ has entrusted the Press-board to facilitate the press organization in drafting regulations in the Press area and increase quality professional journalists. On that basis, the Press Council issued regulation number 01/regulation-DP/X/2018 t to the standard of the journalist's competence, as follows:⁸

1. Awareness (*Awareness*)

In carrying out his work, journalists require to be aware of ethical norms and legal provisions. The outline of the correspondent awareness of the journalists needed for performance enhancement and the professionalism of journalists is:

1.1 Ethical and legal awareness

⁶ Slamet Hariyadi, 2012, *Disharmony of legal products*In Sidharta, *Toward harmonization of legal system as Pesi Regional Management Pillarsir Indonesia*, The Jakarta, 2005, diakkses from <https://www.academia.edu>, on 15 May 2019, at 03.29 WITA.

⁷ See article 15 paragraph (2) of law No. 40 of 1999, that: The Press Council performs the following functions: A. Protecting the independence of the press from the interference of other parties, B. Conducting assessments for the development of press life, C. Establish-

ing and Supervise the implementation of the journalistic code of ethics, D. Give consideration and seek the resolution of public complaints on cases relating to press release, E. Developing communication between the press, the public, and the Government, F. Facilitate press organizations to develop regulations in the press and improve the profession of entrepreneurshipAn, G. Record the press company.

⁸ See appendix to the Press Council Regulations Number 01/Regulation-DP/X/2018, p. 9-12.

Ethical awareness is crucial in the profession of journalism, so every step of the journalist, including in the decision to write or broadcast a problem or event, will always be based on a mature consideration. Ethical awareness will also facilitate journalists in knowing and avoiding mistakes such as plagiarism or accepting rewards. With this awareness, journalists will also be appropriate in determining the feasibility of the news or maintaining the confidentiality of the source. A lack of awareness of ethics can seriously lead to a lack of moral instruction, something that firmly directs and guides the values and principles that must be held. Lack of awareness can also cause journalists to fail in carrying out their functions. Journalists who broadcast information without direction means failing to exercise their role in spreading the truth of a problem and event. Without journalists applying ethics, journalists are prone to mistakes and may raise issues that result in inaccurate information and bias, touching privacy, or not respecting news sources. In the end, it causes poor journalistic work. To avoid matters above, journalists are mandatory:

- a. Have integrity, firmly in principle, and strong in value. In carrying out its mission, the reporter must be ethical, have a determination to adhere to high journalistic standards, and have a responsibility.
- b. Serving the public interest, reminded the ruling to be responsible, and voice the unsound to be heard in his opinion.
- c. Be brave in confidence, independent, questioning authority, and appreciate the difference. Journalists should continue to improve their ethical competencies because journalists who continue to do so will better prepare in the face of a quaint situation. To improve ethical competencies, journalists need to deepen the journalistic code of Ethics and the Code of ethics of each journalist organization.
- d. Understand, implement, ensure, and educate the journalistic code of Ethics and the laws/regulations related to the press.

As a complement to the ethical understanding, journalists required to understand and realize the legal provisions associated with journalistic work. The understanding of this is also necessary to be improved. Journalists are obliged to absorb and understand the press Act, keep the honor, and protect its rights. Journalists also need to know things about humiliation, privacy violations, and various provisions with speakers (such as off the record, sources that do not want to be called confidential sources). Legal competencies require appreciation to the law, legal boundaries, and can take appropriate and public decisions and safeguard democracy.

1.2 Journalistic sensitivity

Journalistic sensitivity is a journalist's instincts and attitude in understanding, capturing, and revealing certain information that can develop into journalistic work.

1.3 Networking and lobbying

Journalists who are in the task of carrying out the freedom of the

press as big for the benefit of the people must be aware, know, and need a network and lobbying widest and as much as possible, as a reliable source of information, accurate, current, and comprehensive and support the implementation of the journalist profession. The above things can be done by:

- A. Building a network with speakers;
- B. establishing relationships.
- C. utilizes access.
- D. was adding dan updates to the relationship database.
- E. Maintain a professional attitude and integrity as a journalist.

2. Knowledge

Journalists are required to have the theory and principles of journalistic, general knowledge, and special knowledge. Journalists also need to know the various developments of cutting-edge information fields:

- 2.1. General Knowledge general knowledge includes basic general knowledge of issues such as social, cultural, political, legal, historical, and economical. Journalists are required to continue to add knowledge to be able to follow social dynamics and then present useful information to audiences.
- 2.2. Special knowledge includes knowledge relating to the field of coverage. This knowledge is necessary for a journalist's specific coverage and journalistic work.
- 2.3. Knowledge theory and the journalistic principles of knowledge theory and journalistic principles include knowledge of theories and principles of journalistic and communication. Understanding journalistic theories and commu-

nication is important for journalists in carrying out their profession.

3. Skill (*skills*)

Journalists have an absolute master of journalistic skills such as writing techniques, technical interviewers, and editing techniques. Also, journalists should be able to conduct research, investigation, analysis, and determination of the preaching and skillfully use their work tools, including information technology.

3.1. Skill (six M)

Engineering skills include searching, acquiring, owning, storing, processing, and delivering information skills. The Format and style of the coating are related to the medium and its role.

3.2. Skills using tools and information technology

Skill using tools includes skills using all the equipment, including information technology needed to support the profession.

3.3. *Research and investigation Skills*

Research and investigation skills include the ability to use reference sources and data available; and tracking and verifying information from a variety of sources.

3.4 Analytical skills and direction of preaching.

Analysis skills and preaching direction include the ability to collect, read, and filter facts and data and then seek the relationship of such facts and data. In the end, journalists can give judgment or the direction of the development of news.

Standard provisions of journalists ' competence set out in the Press

Council rules, according to the researchers contrary to the provisions of article 5 paragraph (1) of the Press Law, as a manifestation of the proclamation that respects the principle Presumption Innocent. Researchers analyze. There are two conflicting factors. Both factors described as follows:

1. Journalist knowledge factor

The knowledge of journalists, especially those from the legal sciences, has become an influential factor in providing correct legal information, Particularly in realizing the principle of presumption of innocence in the news of the press, according to Article 5 paragraph (2) of the Press Law. The Press Board regulation does not govern for that, but The arrangement is enforced on journalists in general or derived from various Disciplines.

Legal News should be written by journalists who have a legal education in the background so that there is harmonization with the news of the press Respect for an innocent presumption principle.

2. Legal Factors

The press Law is binding because The Nature of the legislation is a legal product with the arrangement of criminal acts for the customer. The Press Council Regulations are not binding due to the nature of the regulation is not a legal product, as stipulated in ⁹ Law No.

12 of 2011 on the establishment of Legislation. The journalist 's competency arrangement should be part of the article setting the press release into the law so that it is binding for the realization of law enforcement (law enforcement) on the press law.

To facilitate the harmonize the basis of its message includes various elements or units of competence, both legal knowledge, news writing skills that allow it to be able to do coverage by referring to the standard of legal news writing outlined in article 3 paragraph (1) of the Code of Journalistic ethics. These two settings is a condition that can not be eliminated to realize the news of the press that respects the principle of presumption innocent.

The objective of this competency arrangement is to, improve the quality and professionalism of journalists, maintain the dignity of profession and the professions of journalism as a special profession of intellectual work producers, became a reference to the performance evaluation system of journalists by the press companies, placing journalists on the strategic position in the press industry, avoiding abuse journalists profession, and enforcing the freedom of the press based on public interest¹⁰

3. Professional Standards journalist

In conducting journalistic activities, journalists have a professional standard in conducting their work to Act professionally following the code of journalistic ethics. A professional Journalist in the press publication qualifies to recruit journalists. Qualifications that become The

⁹ View Article 7 paragraph (1) Law Number 12 year 2011 about *Establishment of statutory regulations* consist of: a.Negar Basic LawA Republic of Indonesia year 1945; b. Decree of the People's Consultative Assembly; c.Law/Government Regulation in lieu of

law;D.Government regulation;And.Presidential regulation;f.Provincial regulations; Dan g. District/City regulations.

¹⁰ See appendix to the Press Council Regulations Number 01/Regulation-DP/X/2018, p.6.

professional Standards of journalists are as follows:¹¹

- a. Mastering keterampilan journalistic
A journalist must have the Skills (*expertise*) to write the news following the journalistic **rules**. He has to master **the** News Writing techniques, also featured and articles. For that, a journalist must be a person who has at least participated in the basic journalistic training. He must **be well trained, well trained**. Journalistic skills include a news search technique and writing, in addition to a good understanding of the meaning of a news story. He must understand what news, news values, news stories, how to look for them, and the rules of general news writing.
- b. Mastering the field of coverage
Ideally, journalists become a "*Generalist*," understand and control everything, so that it can write well and care about anything. Most importantly, however, he had to master the field of coverage well. Sports journalists must master the terms or The language of the sport.
HYPERLINK "<http://romeltea.com/category/bahasa-jurnalistik/>" \t "_blank" \o "Bahasa" _ Economic journalists should understand the theories and economic terms. So on. If a graduate in Economics, then tasked with covering sports events, then the first step is to recognize and study the world of sports, as well as the terms that apply in the world. If not mastering the legal matter, do not first cover the activities in court before understanding – at least – the legal terms. If self-imposed, it is likely to be miswritten, miscaptured, the alias is not careful in writing the

news. If you are going to write religious news (Islam), dominate the Islamic terms first. Don't arrive – just an example – write "Saw" behind "Allah" and "SWT" behind "Prophet Muhammad."

- c. Adhering to the code of journalistic ethics

A good journalist (Professional) holds journalistic ethics. The term Islamic must be a person who fine according to Islamic values. For Indonesian journalists, ethics is summarized in the Indonesian journalists ' Code of Ethics (KEWI), which has been designated the Press Council as the code of journalistic ethics for journalists in Indonesia. With the Code of Ethics, a journalist will not confuse the facts and opinions on writing news; he will not write defamatory, sadistic, and obscene news; he will not "mortgaged his freedom" by accepting the envelope; only Inform the right or factual; And so on.

Qualified journalist Knowledge and task field coverage according to author One of the factors that determine the *accuracy* of the news The increasingly knowledgeable journalists in the field of coverage. The greater can also provide the correct information and writing journalists increasingly trusted readers. On the contrary, fewer journalists ' knowledge in the field of coverage. The less information can be given and by itself, the journalists ' writings less believable.

A journalist's profession is a noble work, as they work in the interest of the wider public in general. If the work is to be put to good use and without breaking the journalistic rules, then a journalist will gain full trust from the community or readers, viewers. The news, which is very diverse in the field of education, culture, law, politics, social, economics, and so

¹¹ Romeltea, *Standard journalist Profession*, accessed from <https://romeltea.com/>, on 20 May 2019, At 02.58 WITA.

on, is certainly a challenge for a journalist in carrying out its duties in the field.¹²

¹³ Not the standard of journalists' professions into the press laws became different from other professions, such as advocates and Notary¹⁴, but Journalists are also a profession of expertise, association, and Code of Ethics, have the right to deny any right to mention The resource if it endangers the safety of the speaker.¹⁵ Press call it a reporter's work is a person who regularly performs journalistic activities. Seminar A article 1 paragraph (1) of law number 40 the year 1999 explaining that:

The press is a social institution, and the mass communication rides that carry out journalistic activities include finding, acquiring, owning, storing, processing and sating information both in the form of writing, voice, images, sound, and images as well as data and Graphics or other forms using printed media, electronic media and any channels available.

In general, there are some traits or traits that are always inherent to the profession, namely as follows:¹⁶

1. The presence of special knowledge, which usually these skills and skills are owned by education, training, and years of experience.
2. There are a very high rule and moral standard. This usually every professional actor to base their activities on the Code of Profession Ethics.

3. To serve the interests of MaSharakat, it means every culprit profession should put personal interest under the interests of society.
4. There is special permission to run a profession. Every profession will always be related to the interests of society, where the humanitarian values in the form of safety, security, survival, and so on, then to run a profession must first have special permits.
5. Professionals are usually members of a profession.

The characteristic is also characterized by journalists who theoretically governed in the Code of conduct journalistic following the mandate of POrigin 7 paragraph (2) of the Press law. The arrangement of journalistic code only emphasizes the duties and responsibilities of journalists in writing news without being accompanied by Setting the appointment into a standard journalist profession.¹⁷ The journalist is a profession. He must possess the skills, knowledge, and attitude following the Code of ethics or Ethics (ethics) that apply is the code of ethics Journalistic. Journalists are professionals, just like doctors, midwives, teachers, or lawyers who have a code of ethics.

There is a standardization arrangement against the profession of this journalist in the ACT of making everyone can become a journalist without any conditions. And it's too easy to be a journalist, and It also makes it unknown

¹²Jealson, *Responsibilities of professional journalists in the news*, accessed from <https://steemit.com/jurnalis/@jealson>, on 20 May 2019, at 01.41 WITA.

¹³ See article 2 of the Act No. 18 of 2003, the provisions of the Advocate's appointment as follows: 1. Who can be appointed as an advocate is a scholar who is set in the higher education of law and after attending a special education profession advocate who Conducted by the Advocate organization. 2. The Advocate's appointment is done by the Advocate organization. Copy Letter The Advocate's appointment as referred to in paragraph (2) shall be submitted to the Supreme Court and Minister.

¹⁴ See article 3 Law No. 30 year 2004 on Terms adopted as the legal profession of notary, as follows. A Indonesian citizen; b) Fear of the one true God; c) Aged at least 27 years; d) healthy physical and spiritual; e)

worship of law and graduate students Strata level two Kenotariatan; f) have undergone internships or real-life has worked As a notary employee within 12 consecutive months at the office of Notaries on its own initiative or on the recommendation of a notary organization after passing the strata of two Kenotariatan; g) Not as a civil servant, a state official, an advocate, or not a other position in which the law-undag is prohibited from being trapped by a notary public.

¹⁵ See article 1 paragraph (4) of law number 40 year 1999.

¹⁶ Accessible from <https://www.e-jurnal.com>, *Professional traits*, on May 18, 2019, at 00.47 WITA

¹⁷ Romoltea, *The code of Journalistic Ethics: the Ethics Profession* Accessible from <https://romoltea.com>, on May 19, 2019, at 00.51 WITA.

for what amount and certainly not easy to supervised performance. With the weak qualifications accompanied by poor supervision issues related to the quality of the journalist, including a weak understanding of journalistic ethics. A procure is an unprofessional journalist, who pose a detrimental attitude to the independence of the press because it raises antipathy and unappreciated attitudes from society to this profession.¹⁸

Based on the regulation of press news that respects the presumption of an innocent principle in the press law, the Press Council rules on the competence of journalists, and the release of the press company regulates the Standards of professional journalists should not contradict the settings press release in national law. Through the press release system, The competence of journalists and professional standards of journalists should be in the same setting To create Harmony (alignment, suitability, compatibility) to promote legal certainty, and it will be able to shift the wider interests. If legal certainty followed in absolute order, then the law will be useful to the law itself, as well as for society.

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