

## **Functions and Authority of the Indonesian Press Council in the Investigation of the Spread of Hoax News in Online Media**



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**ABSTRACT:** This study aims to find out about the position and role of the Indonesian Press Council in handling cases at the investigation stage of the spread of hoax news through online media. This study uses normative legal research methods. This research was conducted using library materials or secondary data from various literature and laws and regulations related to this research. This research is analytical-descriptive, so the results of this study indicate that to find out the mechanism of the position of the Indonesian Press Council as a witness in the investigation of cases of spreading hoax news, the Press Law stipulates that in the event of a dispute involving legal issues, the Press Council is given the authority to resolve the dispute in question. Thus, the party harmed by the news must first exercise the right of reply as stipulated in the Journalistic Code of Ethics. Furthermore, the Press Council is not equipped with the legal authority to impose coercive legal sanctions. For example, journalists who supported specific political causes. Although the Press Council was able to identify him, the Press Council was not authorized to impose any sanctions. The Press Council will examine the journalist's journalistic work unless it is a public complaint. Suppose the journalist's job is proven to violate ethics. In that case, the Press Council can provide a statement of assessment and recommendations so that the press concerned can improve its performance while admitting its mistakes.

**KEYWORDS:** Hoax, Authority, Press.

### **INTRODUCTION**

The rapid advancement of information technology today is causing significant progress in the mass media. Print or electronic media compete with each other for speed, so news reporters are required to be creative in delivering information. Mastering the basics of journalistic knowledge is a significant capital when entering this world. The media's existence is not limited to providing factual information to the public, but it also bears a heavy responsibility in presenting objective facts in every report. In Article 1 paragraph (1) of Law Number 40 of 1999, it is stated that the press is a social institution and vehicle for mass communication that carries out journalistic activities, including seeking, obtaining, possessing, storing, managing, and conveying information in the form of writing, sound, and images, as well as data and graphics, as well as in other forms using print media, electronic media, and all types of media available.

Freedom of expression, opinion, and information are manifestations of the press's duty in carrying out its journalistic activities. Freedom of the media is part of freedom of expression. In Indonesia, it is guaranteed constitutionally through Article 28 E and Article 28 F Amendment II of the 1945 Constitution of the Republic of Indonesia. In addition, freedom of the press and expression is also guaranteed in various other laws and regulations, such as Law Number 39 of 1999 on Human Rights (HAM) and Law Number 12 of 2005 on the Ratification of the International Covenant on Civil and Political Rights. As a country that has ratified the International Covenant on Civil and Political Rights, Indonesia is undoubtedly burdened with international obligations to harmonize its various laws and regulations so that they do not conflict with the aims and objectives of the International Covenant on Civil and Political Rights.

In the era of reform and democracy, the existence of a free press is a must. On the other hand, it raises controversial issues. Indeed, press freedom is guaranteed nationally, but any space is not expected to have absolute total press freedom (Adji, 2008). Press freedom is still not fully realized. When it performs as a vehicle for information and a means of social control, the press can still be charged with articles of the Criminal Code (KUHP) in carrying out their journalistic duties. The press has its law, Law Number 40 of 1999 on the Press. However, in practice, other laws, such as the Criminal Code, are used in law enforcement to regulate journalistic activities carried out by the press. This can lead to the criminalization of the media as another form of silencing the world of the press.

The presence of the Press Council since 1966 through Law Number 11 of 1966 on the Basic Provisions of the Press; at that time, the Press Council functioned as an advisor to the Government and had a structural relationship with the Ministry of Information. Over time, the Press Council continued to develop and finally had the latest legal basis, Law Number 40 of 1999 on

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the Press. Since then, the Press Council has become an independent institution. The formation of the Press Council is also intended to fulfill human rights because press freedom is included as part of human rights. The press council has the authority to resolve journalistic disputes; this is confirmed in one of the functions of the Press Council in Law Number 40 of 1999 in Article 15 paragraph (2) letter d.

The circulation of hoaxes has increased in line with the start of the national Covid-19 vaccination program since it was launched on January 13, 2021. There is a lot of inaccurate information about vaccines present in the community. The number of people who are not responsible for making and spreading hoaxes adds to the noise because hoaxes consume many people. Data shows that social media Facebook ranks the highest in the spread of hoaxes regarding Covid-19 with 2,784 contents. Next, Twitter with 520 hoax content. While on Youtube, 49 content was found. There is also the remaining 24 content on Instagram. The Ministry of Communication and Information has deleted 2,927 content from this data, with 450 still under investigation.

This phenomenon can then raise questions about the position and function of the Press Law in such cases. The existence of the Press Law has not been fully implemented because it still uses the Criminal Code. Although Law Number 40 of 1999 on the Press has provided an institution for resolving press disputes, law enforcement officers still rely on the Criminal Code and the Civil Code in resolving disputes between the press and individuals or community groups. Although on the other hand, it must be acknowledged that the fundamental weakness of the Press Law has caused law enforcement officials to be unwilling to submit to it.

Journalists must be honest, fair, wise, moral, educated, creative, and talented. Journalists must be grounded in the truth and always be fought for, in addition to always being responsive or critical of situations or conditions. Responsive or essential means that problems and conditions often already show something else that needs to be tracked or questioned. Mass media is information media that is neutral in the community. The mass media convey information supported by solid facts, so there is no agreement. However, the mass media cannot always be objective in their functions. In managing the country's press, some rules serve as a reference for every journalist, namely through the Journalistic Code of Ethics.

The delivery of fake news or hoaxes utilizes almost any channel that has the potential to connect with many people. This makes someone using public media automatically become a connoisseur or target for spreading fake news. In turn, the hoax information can be in the form of notice, simple statements, videos, pictures, and graphic messages. In addition to the current public information that makes it easy to convey any information received, it makes the perpetrators of hoax news spreaders more flexible in carrying out their actions. This is also influenced by the level of understanding of the Indonesian people, who are still low about the types of hoax news.

This condition is further exacerbated by the increasing number of communication tools or social network users. The speed of information received at any time through social networking media is also a trigger for the increase in the spread of hoaxes. Moreover, the information presented is always appropriate or has a value close to the recipient object. Whether from religion, ethnicity, race, or environment. The news that develops in this community becomes very important to ensure that the content presented by an online news site is the truth or is fake news or hoaxes because the criminal threat of spreading hoax news does not only refer to the newsmaker but also to those who spread it.

The criminal responsibility for spreading hoax news as regulated in the Press Law must go through the mechanism of the Press Council. The investigator will ask the Press Council experts to process the crime if it is a press offense or a general offense. This mechanism applies to press companies that are legal entities, but indications are found of spreading hoaxes or fake news. As for media that are not legal entities and are managed unprofessionally, they are not within the protection framework of the Press Law. Thus, law enforcement can be carried out using Law Number 19 of 2016 on Amendments to Law Number 11 of 2008 on Information and Electronic Transactions.

### **RESEARCH METHODS**

This research uses normative legal analysis. This research was conducted using library materials or secondary data from various literature and related laws and regulations. The analytical description describes, examines, and describes the situation and what was done to overcome the problem. This research uses reform-oriented or change-oriented studies that evaluate compliance with current regulations and recommend changes to required rules (Marzuki, 2005).

The data collection method used is a literature study. A literature study reflects written information about the law from various sources and is widely published with the problems discussed in this research. The method identifies the secondary data needed, takes an inventory of data by the problem formulation, and cites literature and laws related to research material.

Legal materials that have been grouped and classified are then analyzed using qualitative analysis, which examines legal materials coherently by normative thinking. The problems obtained can be explained by existing and applicable rules, the next step from the current data, so that it becomes accurate and valid data and can be scientifically justified.

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### LITERATURE REVIEW

Mass media is an inseparable part of society. Mass media can have a very significant impact on society because mass media can provide various information needed by the public through multiple shows. This also makes it easy for the mass media to form a public opinion (Asrih, 2020). Mass media is also a tool used in delivering messages from sources to audiences by using mechanical communication tools such as newspapers, films, radio, and television (Cangara, 1998).

The term mass media itself is growing in use when it is used to describe communication being used on a larger scale. According to Wilbur Lang Schramm, mass media is a working group organized around several devices to circulate the same message, at the same time, to a large number of people (Nadie, 2018). There are three functions of mass media, namely:

1. Function of information, mass media carry essential information for everyday life. We know weather forecasts, current economic and business conditions, and more. The essence of the media information function is that it is carried out by the news content mentioned by the news.
2. Educational function, mass media provide comprehensive knowledge about selected topics such as health magazines or information technology magazines are also examples of education through the media.
3. Entertainment functions, such as newspapers publishing cartoons, comics, and puzzles, and on weekends there is usually a special supplement to entertain. Audio-visual media such as television and radio also broadcast many entertainment programs, for example, stand-up comedy, films, sports, and fashion shows.

The term press or press comes from the Latin term pressures, which means pressure, pressure, squeezed, and solid. The press in the Indonesian vocabulary comes from the Dutch language, which has the same meaning as the English "press," as a designation for printing equipment. The existence of the press from the translation of this term, in general, is as a media to suppress or suppress society. Its more precise meaning is in its function as social control (Wahidin, 2011). In the broadest sense, the press is a printed or electronic media that regularly submit reports as facts, opinions, proposals, and pictures to the general public. The information in question is after going through a process, from collecting materials to broadcasting. In a narrow sense, the press is printed media such as daily newspapers, weekly newspapers, magazines, and bulletins, while electronic media includes radio, film, and television.

The term or the word press is taken from the English word, which means print. In more operational terms, the word press has 2 (two) meanings; the first is the printing business. Second, it implies an effort to deliver news through print or electronic media. Of the 2 (two) meanings, the correct meaning in this context is the second. The business of providing information in various forms is press activities ranging from newspapers, radio, and television, to the internet. These multiple forms of delivery will undoubtedly spoil the reader in enjoying the news (Efendi, 2019). In another explanation, press means to print and means printed broadcast or printed publication. The press is a social institution or community institution, a subsystem of the government system in the country where it operates, together with other subsystems.

Article 2 of Law Number 40 of 1999 on the Press states that press freedom is a form of popular sovereignty based on democracy, justice, and the rule of law (Susanto, 2010). Following Article 3 paragraph (1) of Law Number 40 of 1999 concerning the Press, the article states that the function of the press is that the national press functions as a medium of information, education or education, entertainment or recreation, social control or correction and also as mediation. The first is as a vehicle for mass communication. The national press is communication between citizens, citizens, the government, and various parties. Second, as a disseminator of information. The national media can disseminate information from the government or the state to citizens (from top to bottom) or from citizens to countries (from bottom to top). Third, as an opinion former. News, writings, and views poured through the press can create ideas for the wider community. Opinions are formed through the news that is spread through the media. Fourth, convey information as quickly as possible to the broadest possible community. All information submitted must meet the essential criteria: accurate, actual, factual, exciting or important, trustworthy, complete, intact, clear, transparent, honest, fair, balanced, relevant, helpful, and ethical (Efendi, 2019).

The era of globalization is marked by the entry of technology called the internet, which has begun to shift the existence of conventional media in meeting the needs of the community as information providers. Online media that is now widely available has caused a change in the public consumption system towards mass media. Online media has a primary weapon that has succeeded in slightly shifting the existence of conventional media such as newspapers, magazines, and even television with its main advantages. The speed offered by internet-based media can attract people to switch to looking for information on the internet. People don't need to wait to get new news but use a computer, internet connection, and even a cellular phone. Now, information can be easily accessed by readers.

By definition, online media is also called cyber media, internet media, and new media can be interpreted as media that are presented online on internet websites. In the perspective of media studies or mass communication, online media is the object of study of new media theory, which is a term that refers to requests for access to content (content/information) anytime, anywhere, on any digital device as well as interactive user feedback, creative participation and community formation around media content is also an aspect of actual time generation (Romli, 2012).

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Online media is one of the most popular and distinctive types of media. The peculiarity of this type of media lies in the necessity of having an information technology network using computer devices in addition to knowledge of computer programs to access news. The advantage of this media is that the information is up-to-date, real-time, and practical (Yunus, 2010). Online media is also said to have benefits because it is applicable. This is because online media can be accessed from anywhere and anytime, as long as internet facilities support it. This makes many people more fond of online media because of the ease of accessing information (Suryawati, 2011).

Types of online news can be classified into 5 (five) categories namely (Romli, 2012):

1. News sites in the form of online editions of print media newspapers or magazines, such as online republic, Kompas cybermedia, media-indonesia.com, and tribunjabar.co.id;
2. News sites in the form of online editions of radio broadcasting media, such as Australian radio (radioaustralia.net.au) and Netherlands radio (rnw.nl);
3. News sites in the form of online editions of television broadcasting media such as CNN.com, metronews.com, and liputan6.com;
4. Pure online news sites that are not related to print or electronic media, such as Antaranews.com, detik.com, and VIVA News;
5. A news index site that only contains news links from other news sites such as Yahoo! News, NewsNow, and Google News news compilation services automatically displays news from various online media.

On the other hand, the owner or publisher, the types of websites can be classified into 6 (six), namely:

1. News organization websites, websites of press or broadcasting institutions, for example, online editions of newspapers, television, news agencies, and radio.
2. Commercial organization websites, websites of business institutions or companies such as manufacturers, retailers, and financial services, including online shops and businesses.
3. Government websites in Indonesia are marked with go.id domains such as Indonesia.go.id, setneg.go.id, and dpr.go.id.
4. Interest group websites, including websites of mass organizations, political parties, and non-governmental organizations.
5. Websites of non-profit organizations, such as charities or community groups.
6. Personal website.

## RESULTS AND DISCUSSION

The presence of Law Number 40 of 1999 concerning the Press, according to the Preamble Considering letter c, basically the Act is intended to realize press freedom, primarily to provide guarantees for the protection of the press from any intervention in carrying out its role. One of the efforts to achieve this is strengthening the Press Council institution.

The Press Law stipulates that the Press Council is given the authority to resolve the dispute in question in case of a dispute concerning legal issues. The Press Council is given a role to monitor the life activities of the press world as well as to participate in expressing opinions regarding legal matters when there is a press dispute, whether carried out by fellow professionals among the press, the press, and government, as well as the press media with the community or individuals who exist in the community (Mochtar, 2016).

The number of hoaxes circulating among the public is inseparable from the proliferation of online media that are not in the form of a press company, as emphasized in Law Number 40 of 1999 on the Press. Whereas in the Press Council, it is even recommended to take the form of a Limited Liability Company (PT). Meanwhile, online media that spread hoaxes were formed to complement an institution's or community's information needs. Including those that are established and active at certain times. Depends on the interests of the person or group of people. Apart from that, some have massive activities but do not yet have a legal entity required by the law and other laws and regulations (Amran, Akub, & Heryani, 2018). The purpose of hoaxes is just a joke, for fun, to form public opinion. In essence, hoaxes are misguided and misleading, especially if internet users are not critical and immediately share the news they read with other internet users. As previously stated, hoaxes are most widely spread through social media.

The word hoax comes from English, meaning deception, deceit, fake news, or rumors spread by someone. So it can be said that hoax is a word that means the untruth of information, the definition of a hoax itself, according to Wikipedia, is fake news is an attempt to deceive or trick the reader or listener into believing something, even though the creator of the fake news knows that the news is fake and not accurate (Simamarta, 2019). Pellegrini developed MacDougall's definition of a hoax and explained it as a lie made up in such a way by someone to cover or distract from the truth, which is used for personal gain, both intrinsically and extrinsically. Ireton argues that Posetti and UNESCO define Fake News as fake news containing information that intentionally misleads people and has a specific political agenda.

According to the Press Council, the characteristics of a hoax are:

1. Causing anxiety, hatred, and hostility.

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2. The source of the news is not clear. Hoaxes on social media are usually unverified, unbalanced media reports and tend to corner certain parties.
3. Contains fanaticism in the name of ideology; the title and introduction are provocative, punishes, and hide facts and data.

Social media is online media that supports social interaction. Social media uses web-based technologies that turn communication into interactive dialogue. Some examples include social networks, blogs, wikis, YouTube, etc. Everyone can create, edit and publish their news content, promotions, articles, photos, and videos through social media. Besides being flexible and broad in scope, it is more efficient, fast, interactive, and varied. Social networks of great interest to the public include Twitter, Facebook, Instagram, Path, TikTok, and so on. In addition to facilitating communication, social media also provides a place for the latest news to spread. For example, many Instagram accounts currently contain information that cannot be proven true.

Investigators can summon the person in charge of the media if it is necessary to provide information. However, in explaining, the person in charge of the press can only explain according to the content in the news. In addition to the content in the information, the person in charge of the media can reject it. In contrast to journalists or news makers who are not in control of the press. If an investigator calls, 2 (two) possibilities can be done. First, if the summons is made by the investigator directly as a suspect, it can be immediately rejected for error in persona. This is because the person in charge of the media must be called and/or designated a suspect. In other words, this summons violates the criminal responsibility system adopted in Law Number 40 of 1999 on the Press. Second, if a journalist not in charge of the media is called a witness, then there are 2 (two) options. That is, they are allowed to attend the summons before the investigators say they object to being examined because they are not by the mechanism in the Press Law. Then, if another warrant is made, the journalist not in charge of the media can refuse. In addition, journalists summoned and not in control of the press can refuse to come directly because they are not by the rules in journalism. This condition can be a different obstacle for investigators in uncovering a hoax case.

But on the other hand, this mechanism is applied to protect press freedom. Thus, the agency, through the Press Council, must be prioritized. The responsibility of the press, as stated in the Press Law, refers to the person in charge of the media (Amran, Akub, & Heryani, 2018).

The Press Council will decide if the two parties do not reach an agreement. The decision of the Press Council is known as the Statement of Assessment and Recommendation (PPR). Both parties must obey this decision. If there is a violation, the Press Council will determine the type of violation, including in the Journalistic Code of Ethics. Then, if it is related to a press offense, it will be recommended to law enforcement officials. In the criminal realm, the court must first ask for experts from the Press Council before resolving the legal problem. On this basis, the Supreme Court (MA) has issued Circular Letter (SEMA) Number 13 of 2008, dated December 30, 2008, on Requesting Information from Expert Witnesses in the Press in Press Disputes. The court was asked to prioritize the Press Council's experts because the Press Council is considered to be the institution that best understands press matters. Thus, in general, the court must first hear the experts from the Press Council before deciding.

The Press Law regulates the accountability system. Then it was agreed that as far as journalistic work is concerned, a successive fictitious accountability system applies. Therefore, press companies are required to include the name of the person in charge of the company. However, suppose it is outside the issue of journalistic work, then the journalist or member of the press company who commits a criminal act. In that case, the existing laws and regulations will apply. For example, the general criminal law applies if a journalist commits fraud or extortion. On the other hand, when it comes to journalistic work uses a press accountability system.

Based on Article 15 paragraph (2) of Law Number 40 of 1999 on the Press, the Press Council carries out the following functions:

- 1) Protecting press freedom from interference from other parties;
- 2) Conducting studies to develop the life of the press;
- 3) Establish and supervise the implementation of the Journalistic Code of Ethics;
- 4) Give consideration and seek settlement of public complaints on cases related to press reporting;
- 5) Develop communication between the press, society, and government;
- 6) Facilitating press organizations in drafting regulations in the press sector and improving the quality of the journalistic profession;
- 7) Register press company.

The seven functions that the Press Council always prioritizes are to protect the freedom of the press, which means maintaining that independence can be maintained so that it functions by holding press freedom.

The press council is independent, and there is no longer a part of the government in its management structure. The Press Council's authority lies in the editors and presses media companies' desire to respect the Press Council's opinions, comply with the journalistic code of ethics, and admit any mistakes openly. One of the functions that form the basis for the Press Council in carrying out the function of resolving disputes, including mediation, comes from Article 15 paragraph (2) letter d of Law Number 40 of 1999, which states that "to give consideration and seek settlement of public complaints on cases involving related to press coverage."

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The Press Council is not equipped with the legal authority to impose coercive legal sanctions. For example, journalists who sided with specific politics. Even if the Press Council can identify him, the Press Council is not authorized to give any punishment. Except, it's a public complaint (Samsuri, 2013). The Press Council will then examine the journalist's journalistic work. Suppose the journalist's news is proven to have violated ethics. In that case, the Press Council can provide a statement of assessment and recommendations so that the press concerned improves its performance and admits its mistakes. Then if there are journalists proven to have fatally violated ethics, the Press Council only provides recommendations to the media companies that employ the journalists to take action. For example, there are warnings, imposition of sanctions, and dismissals as a policy of the company.

By law, press companies must appoint a person in charge, which consists of 2 (two) fields, namely the person in charge of the business sector and the person in charge of the editorial industry. The accountability mechanism carried out by journalists is taken over by the press company represented by the person in charge. Article 12 of the Press Law states that press companies must publicly announce the names, addresses, and persons in order through the media concerned. What is meant by the person in charge is the person in charge of the press company covering the business and production sectors.

As long as journalists carry out their duties based on the Press Law, the Journalistic Code of Ethics, and derivative regulations such as the Press Council Regulation, journalists cannot be subject to criminal charges. This interpretation does not mean that the journalist profession is immune to crime. The journalist profession must still be subject to and obey the law. However, by the provisions of the law itself, as regulated in the Press Law, journalists cannot be convicted. Whether there is a critical error or not, it must first be measured through the Press Law and the Journalistic Code of Ethics.

The Criminal Procedure Code is not explained in detail related to the requirements for a person to be said to be a witness. Still, Article 185 paragraphs (1) to (7) are related to witness testimony considered valid or can be used as evidence in proving a crime in court. One of the legal provisions about witnesses is in Article 1, number 27 of the Criminal Procedure Code, which states that "witness testimony is one of the evidence in a criminal case in the form of testimony from a witness regarding a criminal event that he experienced, he saw. And he experiences it himself by citing the reasons for his knowledge." article 185 paragraph (1) states that "witness testimony as evidence is what the witness stated in court."

Based on the above limitation, the arrangement of witnesses is as or related to the way of proving or facilitating finding the facts whether or not a crime is true or an incident is carried out through information about a crime or an incident that he saw directly through his senses.

### CONCLUSIONS AND RECOMMENDATIONS

This study concluded that the Press Council was given the authority to resolve disputes regarding spreading hoax news. The Press Council has a role in monitoring the activities of the world of the press as well as participating in expressing opinions regarding legal issues in the event of a press dispute, whether carried out by fellow professionals among the press, the press, and the government as well as the press media with the community or individuals who exist in the community. However, the Press Council is not equipped with the legal authority to impose coercive legal sanctions. For example, journalists who sided with specific politics. If the Press Council can identify him, the Press Council is not authorized to give any punishment. Except, it is a public complaint. As long as journalists carry out their duties based on the Press Law, the Journalistic Code of Ethics, and derivative regulations such as the Press Council Regulation, journalists are not subject to criminal charges.

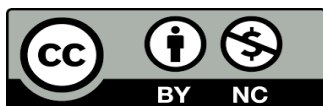
Thus, suggestions are obtained from the conclusion above that the House of Representatives of the Republic of Indonesia needs to conduct a study, review, and refine Law Number 40 of 1999 concerning the Press. In that refinement, it must also become clear regarding the criminal responsibility of the press. Because Law Number 40 of 1999 concerning the Press is associated with the principle of criminal responsibility according to the Law on Information and Electronic Transactions, there are differences, so there seems to be dualism. It needs to be emphasized that Law Number 40 of 1999 concerning the Press is *lex specialis* (the law that more specifically) so that if there is a problem related to press reporting, the legislation used is the Press Law.

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