

THE POSITION OF THE PRESS COUNCIL AS *QUASI-RECHTPRAAK* IN PRESS FREEDOM IN INDONESIA

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Abstract

This study aims to analyze the position of the Press Council as a quasi rechtpraak in press freedom in Indonesia. The research method used is a qualitative method. The results showed that the handling of press cases involved special institutions that were not found in law enforcement in other cases, both ordinary and extraordinary crimes. The special institution referred to is the Press Council. According to the provisions of Article 5 paragraph (2) Law Number 40 of 1999 concerning the Press, the functions of the Press Council include determining and supervising the implementation of the Journalistic Code of Ethics and providing considerations and seeking to resolve public complaints on cases related to press coverage. However, if the case in question has been handled by the police, the Press Council will not handle the complaint. The mechanism through the Press Law has been recognized, and even based on a number of legal considerations in the Constitutional Court's decision, a case of press coverage without or not initiated through the process of using the Right to Reply or until settlement through the Press Council, is deemed incompatible with the Press Law and lawsuit or conviction. Over the case is likely to be defeated.

Keywords: Press Law, Press Council, Press freedom, Quasi- Rechtpraak, Journalism.

A. INTRODUCTION

In Indonesia, the Press is regulated in Law Number 40 of 1999 concerning the Press (hereinafter referred to as the Press Law). Article 1 states the definition of the press, namely: "Social institutions and mass communication vehicles that carry out journalistic activities include searching, obtaining, possessing, storing, processing, and conveying information both in the form of writing, sound, images, sound and images, as well as data and graphics as well as in other forms using print media, electronic media, and all types of available channels." (S. D. Pers, 2010)

The press serves as a medium of information, education, entertainment, social control and as an economic institution. The function of the press that is the focus of this writing is the function of the press as a medium of information or informative function is to provide information to the general public in an orderly way (S. D. Pers, 2013a)

Independence and press freedom in Indonesia began to gain space after reforms in 1998. Juridically, this was marked by the passing of Law Number 40 of 1999 concerning the Press to replace Law Number 21 of 1982 concerning the Main Press which was considered repressive and shackled press freedom. However, the legitimacy of press freedom granted by law also demands responsible press professionalism (Rachmadi Usman, 2022). The national press has an obligation to respect religious norms and public decency and the principle of presumption of innocence (Ahmad yani, 2006). A professional press has a workflow that is not simple and adheres to strict journalistic principles and codes of ethics, namely *fair*, *cover both sides*, *check and recheck*, objective, do not mix facts and opinions, and are not biased (Manan, 2012)

Violations of journalistic principles and codes of ethics sometimes cause disputes between the press and the parties who are the object of reporting. On the one hand, the press is a representation of the right to express opinions and the right to obtain information. On the other hand, some people think that the interaction between society and the press should be equal, but in practice there has been inequality. The public, both as recipients and as subjects of information, often feel untruths in the news presented by the press. Reporting by the press often has negative effects that must be borne by the public due to the arrogance of the press which interprets press independence and freedom too loosely or too much. Even to the point that the term press appeared "excessive" (S. D. Pers, 2019)

The press council is a state institution, born under the mandate of the Press Law. Members of the Press Council consist of journalists and leaders of press companies elected by their respective organizations (S. D. Pers, 2013b). It also includes sitting community leaders as members. As described in article 15 paragraph (2) the Press Council carries out functions, including: (Wahidin, 2011)

- a. Protect press freedom from interference by others;
- b. Conduct studies for the development of press life;
- c. Establish and supervise the implementation of the Code of Journalistic 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. Facilitating press organizations in drafting regulations in the field of the press and improving the quality of the journalistic profession;
- g. Listing press companies.

The Press Council as a special institution formed to develop press freedom, its role is very important to be a regulator that provides legal protection to the press, including being a mediator in cases of press disputes (Tim LBH Pers, 2009). Through Supreme Court Circular (SEMA) No. 13/2008, the Press Council was appointed as an expert witness in the trial of cases of conviction of journalists or editors related to press reporting. This expert witness from the Press Council is very important, not only for efforts to resolve legal cases, but also supports the judiciary's commitment to strengthen and protect press freedom. In addition, efforts to support the guarantee of press freedom protection are also supported by a number of Memorandums of Understanding (MOU), for example with the Chief of National Police which is intended to one of them provide an understanding of the resolution of press cases associated with the application of criminal articles (press offenses) (Kusmadi & Samsuri, 2010)

In the legal higher education curriculum, press cases are limited to being introduced as criminal law issues, or often referred to as Press Delik or Press Crime (Haryanto, 2010). As a result, not surprisingly, when there are legal cases involving the press, many parties bring the legal cases directly through

criminal justice mechanisms, by reporting them to the police for trial. Worse, the settlement of press law cases is resolved, not with the Press Law, but with other legal products, such as the Criminal Code (KUHP) and other laws (Susanto, 2010).

Problems that arise as a consequence of the dissemination of information carried out by the press should use the Press Law as a legal basis in solving problems about the substance of information made by the press, not using other laws, including the Criminal Code (Syafriadi, 2018). Based on this, the author is interested in studying the position of the press council in moot courts. In this case, it is explained that the resolution of press cases is not limited to the judicial mechanism, let alone criminal justice (Ruwyastuti, 2021). However, the judicial mechanism here needs to be explained its position and practice in the field.

B. DISCUSSION

1. Legal Position (*Rechpositie*) held by the Press Council

The independent Press Council is mandated and mandated by Law No. 40 of 1999 on the Press to develop and maintain press independence or freedom and improve the life of the national press and carry out the following functions: a). Protect press freedom from interference by other parties. b). Conduct studies for the development of press life. c). Establish and supervise the implementation of the Code of Journalistic 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 drafting regulations in the field of press and improve the quality of the journalistic profession. g). Listing press companies (Sujoko, 2022)

These seven functions are always carried out by the Press Council, protecting press freedom which means maintaining freedom can be maintained, so that it functions in accordance with the purpose of holding press freedom. There are three things that can reduce the meaning of press freedom; The first is third parties that seek to reduce, undermine or eliminate press freedom. Second, third parties who use press freedom only as a mask for other interests, in other words they are stowaways of press freedom. Third, the press uses press freedom unprofessionally and unethically (Newlands, 2020).

The second function, in terms of providing studies, all methods and methods of assessment allow to be carried out by the press council. The poers council conducts various surveys both alone and in collaboration with other parties including universities and media watch. The Press Council also conducts strategic analysis reviews, including to determine which steps are on the priority scale and which are long-term steps. Then in carrying out the third function, namely establishing and supervising the implementation of the Code of Journalistic Ethics. The Press Council seeks to create a Code of Journalistic Ethics that can be used and applies to all journalists. In this regard, the press council has facilitated the creation of a Code of Journalistic Ethics by press organizations on March 14, 2006, which can apply to all journalist organizations. Then the agreement was set forth in the regulations of the Press Council. This means that the Press Council already has a reference to the Code of Journalistic Ethics that can be used as a reference for professional values (Yarsian Pote & Kristen Wira Wacana Sumba, 2018).

The existence of the Press Council is expected to help overcome the problems of an unprofessional press. This institution is given the authority to formulate rules in the field of the press and supervise their implementation. Article 15 of Law No. 40/1999 on the Press mentions the establishment of the Press Council as an effort to develop press independence and improve the life of the national press. The Press Law mandates the Press Council to carry out seven functions, including those related to the protection of press freedom, press review and development, implementation of the journalistic code

of ethics, settlement of press case complaints, preparation of regulations in the press sector, and press data collection. Many activities of the Press Council have been held as the implementation of these seven functions (Zeng & George, 2022).

Since its establishment in 2000, handling press case complaints has been the main activity of the Press Council. In 2012 the Press Council received 470 complaints regarding press stories and journalists' conduct. As many as 86 percent of the press complained was judged by the Press Council to violate the Code of Journalistic Ethics. The establishment of an independent Press Council became the most important part in the change from a free press during the New Order to a free press during the reform period. Law No.40/1999 on the Press expressly refers to the Press Council as an independent institution, no longer (again) subject to the ruling government or political party. In such a position, the Press Council can play a role on the one hand to protect press freedom to be guaranteed, on the other hand to ensure that press freedom is not misused by the press itself. The Press Council plays more of a role as an enforcer of press ethics, a self-regulatory institution in the field of the press, far from wanting to be a "press monster" (Suraya, 2019).

The Press Council also receives and examines complaints about alleged violations of the journalistic code of ethics from all parties. Resolve complaints against alleged violations of the Code of Journalistic Ethics through the Right to Answer Mechanism, or Statement of Assessment and Recommendation (PPR). Then conduct education, training and socialization related to the journalistic code of ethics. However, in reality this role does not work well. It is noted that there are still many rubber articles Haatzai Artikelen (hate offenses) in the Criminal Code used by law enforcement officials to convict members of the press, including: Articles 154, 155, 156, 157, 160, and 162 of the Criminal Code. The use of articles of the Criminal Code to ensnare the press is an indication of the non-implementation of the Press Law, or it can also be said to be a formal marker of legal suppression of the press (Arief & Muthmainnah, 2021).

The Press Council is independent and there is no longer a government part in its management structure. The authority of the Press Council lies in the desire of editors and press media companies to respect the opinion of the Press Council and abide by the journalistic code of ethics and admit any wrongdoing openly (Nurdin et al., 2022). One of the functions that is 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 No. 40 of 1999 which states: "Provide consideration and seek to resolve public complaints on cases related to press reporting" (Parahita, 2021)

The presence of the Press Council since 1966 through Law Number 11 of 1966 concerning the Basic Provisions of the Press, at which 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 grow and finally had the latest legal basis, namely Law Number 40 of 1999 concerning the Press. Since then, the Press Council has become an independent body. The establishment of the Press Council is also intended to fulfill human rights, because press freedom is included as part of human rights (Abrar, n.d.).

The Press Council has the authority to resolve journalistic disputes, this is emphasized in one of the functions of the press council as stated in Law Number 40 of 1999 in article 15 paragraph (2) letter d which states: "Provide consideration and seek to resolve public complaints on cases related to press reporting". This weakness of the Press Law must be corrected in order to become a *lex specialis* for the press in Indonesia. It is also still a polemic as to whether the Press Law is a *lex specialis* or not. The justice system in Indonesia does not seem to be able to fully accommodate the application and restrictions allowed in international law related to press freedom and freedom of expression. In

various court decisions related to defamation, it still appears that the issue of ethics has become the realm of law (Ritonga & Syahputra, 2019).

The Press Council, in researching and testing the quality of journalistic work refers to the eleven points of the Code of Journalistic Ethics, and its interpretation as an analytical tool for ethical violations that occur. Eleven points of the Code of Journalistic Ethics affirm that Indonesian journalists (Anwar, 2020):

- 1) Be independent, produce accurate, immoral and non-bad faith news.
- 2) Take professional ways in carrying out journalistic duties.
- 3) Always test information, report immediately, do not mix facts and judgmental opinions, and apply the principle of presumption of innocence.
- 4) Do not make false, slanderous, sadistic and obscene news.
- 5) It does not mention and broadcast the identity of victims of moral crimes and does not mention the identity of children who are perpetrators of crimes.
- 6) Do not abuse the profession and do not accept bribes.
- 7) Have the right of refusal to protect sources who do not want to be identified or whereabouts, respect the provisions of the embargo, background information, and off the record in accordance with the agreement.
- 8) Do not write or broadcast news based on prejudice or discrimination against a person on the basis of differences in ethnicity, race, color, religion, sex and language and do not degrade the dignity of the weak, poor, sick, mentally disabled. Or physical disabilities.
- 9) Respect the rights of interviewees about their private lives, except in the public interest.
- 10) Promptly retract, rectify and correct erroneous, and inaccurate news accompanied by an apology to readers, listeners or viewers.
- 11) Serve the right of answer and the right of correction proportionately.

Based on the points of the Code of Journalistic Ethics above, the Press Council identifies errors or violations of the code of ethics that occur, by assessing the intention of disseminating information, how to obtain information, testing the source of information, and its delivery (not prejudiced, not discriminatory, not judgmental, not defamatory, not degrading, and always respecting privacy). These eleven points serve as guidelines for the Press Council in assessing, reviewing and analyzing public complaints submitted to the Press Council, especially those related to journalistic works (Aspinall et al., 2019).

In order to develop press freedom and improve the life of the national press, the Press Council carries out functions including establishing and supervising the implementation of the Code of Journalistic Ethics, as well as providing consideration and seeking to resolve public complaints on cases related to press reporting. In this context, the function of the Press Council is not to be a defender of the media. The task of the Press Council is to uphold the Code of Journalistic Ethics and protect press freedom (Mujani & Liddle, 2021).

In December 2010, the Press Council received 512 complaints: 144 direct and 368 copies; 48 cases of mediation, four cases with decisions of the Press Council. The rest is by mail or direct communication with related parties. In addition, the Press Council also handles several cases of press ethics without any complaints from the public. The result of mediation and handling of cases carried out is a decision

or recommendation in which 80 percent state that the media or journalists have violated the code of ethics in various forms (Andryan et al., 2021).

The sanctions imposed by the Press Council for violations of the code of ethics are the inclusion of the right to answer accompanied by an apology, and the necessity to attend journalistic training for journalists or editors who violate the code of ethics. Of that number, 95 percent are obeyed by the media or journalists concerned, and only a few media are unwilling to obey the decisions or recommendations of the Press Council (Hamayotsu, 2013).

The Press Council in the previous period, namely the period 2007-2010, through the Commission on Public Complaints and Enforcement of Press Ethics, received a total of 1,185 complaints, most of which also involved violations of the Code of Journalistic Ethics. Generally violated are Articles 1, 2, 3, and 4 concerning: Unbalanced, unprofessional, and judgmental reporting, and some that broadcast obscene news. Others violate Articles 9, 10, and 11, including not respecting the privacy rights of sources, not immediately correcting false news, and not serving the community's Right to Answer proportionately (Rudy, 2022).

However, despite the name of the Press Council, this institution is not a council that simply always wins the press in any case under the pretext of upholding press freedom. Based on its function to enforce and supervise the Code of Journalistic Ethics, the Press Council is a press society council that ensures that people's rights are not trampled on by the press by sheltering behind the concept of press freedom. Not surprisingly, in most of its decisions, the Press Council blames the media or journalists and in many cases requires the media to publish the complainant's Right of Answer with an apology to the parties concerned and/or the public (Hanitzsch & Hidayat, 2012).

The role of the national press is to convey information to the public, so that if there is misinformation related to the news, the main obligation of the press is to apologize to the public. The public is the most disadvantaged when the press carries misinformation. The Press Council always seeks a solution through deliberation for consensus set forth in the peace statement. If deliberations do not reach consensus, the Press Council will continue the examination process to make a decision. The decision of the Press Council is in the form of a Statement of Assessment and Recommendation (PPR) determined through a Plenary Meeting. Notification of Decision, Statement of Assessment and Recommendation of the Press Council is submitted to the parties to the dispute and is open (Wiratraman, 2014).

2. Position of the Press Council as *Quasi Rechtpraak* (Moot Court)

The handling of criminal acts committed related to the press has its own uniqueness when compared to the handling of other crimes. Although there is no specific procedural law to enforce the law within the scope of press crime, there are certain procedures that must be passed. The uniqueness of the procedures for handling press crimes can be observed from the institutions involved in handling press law enforcement, the regulations and laws used, criminal elements that can be categorized to determine the existence of guilt, proof of criminal acts, and the flow of handling (Yu et al., 2021).

The handling of press cases involves special institutions that are not found in law enforcement in other cases, both *ordinary crime* and *extraordinary crime*. The special institution in question is the Press Council. According to the provisions of Article 5 paragraph (2) of Law Number 40 of 1999 concerning the Press, the functions of the Press Council include establishing and supervising the implementation of the Code of Journalistic Ethics and providing consideration and seeking to resolve public complaints on cases related to press reporting. However, if the case has been handled by the police, the Press Council will not handle the complaint (D. Pers, 2007).

The Press Council tries to apply the principles of kinship and deliberation to consensus in handling news cases. The complainant and the complained media were found in one forum. Then as a mediator the Press Council mediated the two disputing parties. If consensus is reached, then it is stated in the Peace Statement of both parties. In general, in the conclusion of the Peace Statement plus a clause that the parties will not bring the case in question to the realm of law. If the press cannot maintain compliance with the Code of Journalistic Ethics, it does not rule out the possibility of criminalization of journalists. Because in the event of criminalization, the Press Council cannot do much. Article 1 Paragraph (2) of the Complaints Procedure to the Press Council stipulates that the Press Council does not examine complaints that have been reported to the police or court. Although a Memorandum of Understanding (MoU) has been signed with the National Police, containing the news cases that have been reported to the National Police, allowing mediation by the Press Council, the decision to continue or not to continue the case with the legal process remains in the hands of the whistleblower (Pressindo, 2000).

In practice, it is often found that the loading of the Right to Answer is considered to have not met the sense of justice or cannot solve the problem. Therefore, the parties can bring the news case through the mediation process at the Press Council. This is in accordance with its function of the Press Council to provide consideration and seek to resolve public complaints on cases related to press reporting. If the consideration of the Press Council is not heeded, then there is an opportunity for the aggrieved party to make a claim for compensation for the news. This means that the mechanism to be used is a civil justice mechanism, not a criminal one. Because the conviction for journalistic work using criminal articles in the Criminal Code, indirectly, is a form of denial of the principles of democracy and press freedom. In its advocacy, the Press Legal Aid Institute (LBH) stated that criminal punishments to journalists or media companies clearly have an impact on the press community as a whole. The criminalization of journalistic work not only undermines press freedom, but also silences people's freedom and right to information (Suraya, 2019).

The mechanism through the Press Law has been recognized, and even based on a number of legal considerations in the Constitutional Court ruling, a press reporting case that without or not begins to be resolved through the process of using the Right to Answer or until settlement through the Press Council, is considered not in accordance with the Press Law and the lawsuit or conviction of the case is likely to be defeated. That is why, the Right to Answer mechanism is an important key to its legal position in a resolution of press reporting cases (Arief & Muthmainnah, 2021).

Sequentially, the flow of the series of press case resolution starts from submitting the right of answer, complaint to the Press Council, to the issuance of recommendations from the Press Council. If the initial stage gives rise to recommendations for handling cases by law enforcement officials, then the actions of investigation, investigation, prosecution to examination before the court, are further law enforcement actions.

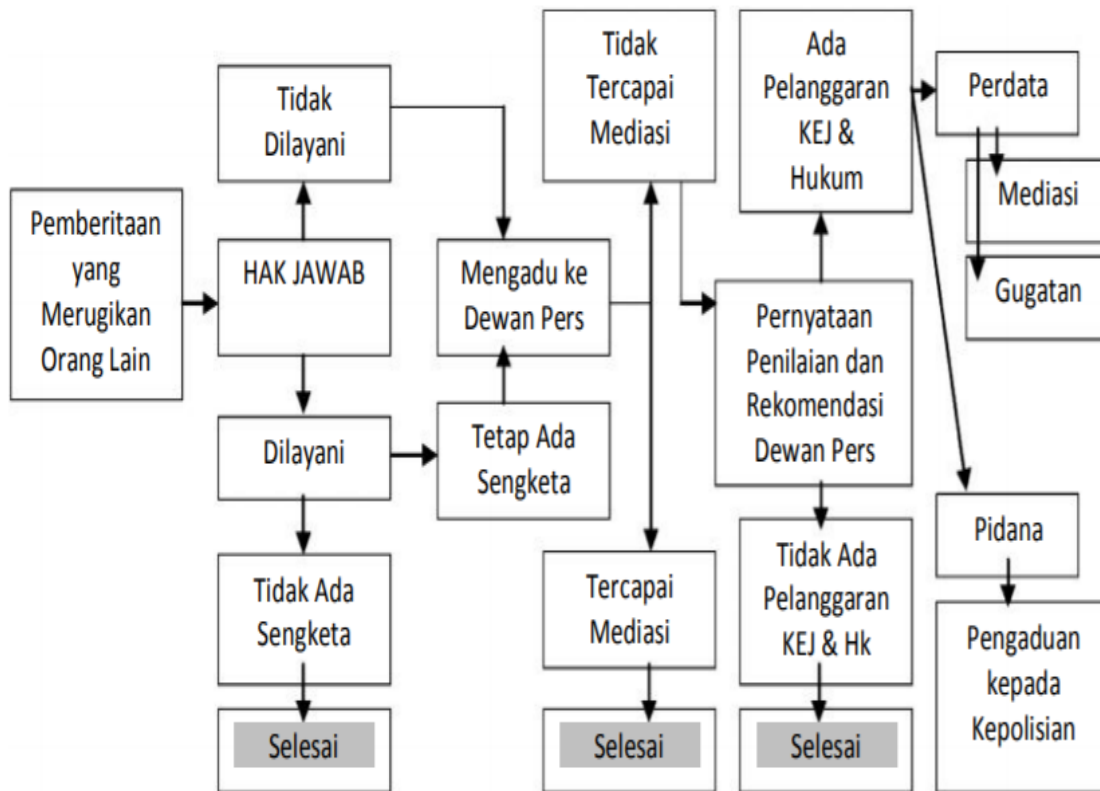


Figure 3.1. Press Case Handling Schematic

The existence of the submission of the right to answer is the main thing that must be taken by parties who feel aggrieved by a report. In this case, the press is obliged to serve that right of answer. If the press does not fulfill the right of responsibility for the aggrieved party, the aggrieved person can file a complaint with the Press Council. On complaints from parties who are not served the right to answer, the Press Council will mediate between the party who is aggrieved by the news published, and the press company (Abrar, n.d.).

If this mediation process does not obtain a solution to the disputed problem, the Press Council will hold a plenary session to issue a statement of assessment and recommendation on the journalistic work complained. After obtaining a statement of assessment and recommendation from the Press Council, there are two possibilities that can be presented. If the assessment and recommendation states that no violations of the Code of Journalistic Ethics and compliance with journalistic work procedures are found, then the case is declared over. However, if on the contrary, the press council's assessment states that there is a violation of the Code of Journalistic Ethics in the journalistic work complained of, then recommendations in civil and criminal channels can be followed up to law enforcement in the realm of litigation.

Compared to other judicial mechanisms, criminal justice is a much older mechanism in resolving press law cases, as it has been practiced since colonial times.

There are a number of criminal articles that are often directed at the press using the Criminal Code, including:

- 1) Articles of sowers of hatred (haatzaai artikelen), such as articles 154-157 of the Criminal Code;
- 2) Insult and defamation, articles 134, 136bis, article 137, articles 207-209, articles 310, 311, 315 and 316 of the Criminal Code
- 3) Broadcasting false news, articles 171, 317 of the Criminal Code
- 4) Sedition, articles 160-161 of the Criminal Code
- 5) Violation of decency and decency, articles 282 and 533 of the Criminal Code.
- 6) Violation of state secrecy, articles 112-115 of the Criminal Code.

These criminal articles are also added to a number of other articles in other laws such as the Electronic Information and Transaction Law, such as the article on defamation through virtual media (article 27 paragraph 3 of the ITE Law). Despite the fact that press cases are brought through criminal justice mechanisms, recent developments in law and press freedom show that there is no longer a need for this mechanism to resolve press reporting problems.

There are a number of reasons why criminal justice remedies should be abolished or no longer need to be used, including:

- 1) From the point of view of its history of law enforcement, both in authoritarian and post-authoritarian times, the criminal articles were used not to support the guarantee of press freedom, but on the contrary, to suppress the press. The cases of Megawati reporting on Rakyat Merdeka (2003), Tomy Winata reporting on Tempo (2003) and the conviction of Bersihar Lubis for her column (2007), are examples of this fact.
- 2) From the point of view of its normative text, the words 'written' or 'written' in the penal articles of the Criminal Code, are often used to interpret its scope to include the press. This is also used as a legal basis to attack the press whose reporting harms certain parties, so that its application becomes repressive and threatens press freedom itself.
- 3) Referring to the Supreme Court decision No. 1608/K/PID/2005, the Supreme Court clearly stated an important point, the point is: (i) The judiciary erred when applying the Criminal Code, where the case is a case related to press reporting whose scope is regulated in the Press Law (point 82) (ii) It must consider the philosophical foundation that underpins the Press Law that the national press should be the fourth pillar of democracy, so that judges should contribute to establishing legal protection for press workers and consider the Press Law as *lex specialis* (point 83). (iii) Press regulations should take priority over other regulations, including criminalization on the basis of the Criminal Code.
- 4) More than 50 countries have directed or shifted criminal issues such as defamation, slander, unpleasant acts, into civil law issues. Even a number of countries have abolished defamation laws, because they are considered to worsen the democratization process. A number of international bodies, such as the United Nations, OSCE and OAS, have stated that there is a need for criminal removal of defamation, as restrictions on expression are not justified. Therefore, it should be changed, from 'criminal defamation' to 'civil defamation'. In Indonesia, a number of articles have also been annulled by the Constitutional Court, such as the hate-mongering articles in the Criminal Code.

- 5) The government through state institutions such as the National Law Development Agency (BPHN), has stated about the elimination of criminalization of journalistic works. For example, the Head of BPHN, Prof. Dr. Ahmad Ramli stated, "... no longer 15 is needed to criminalize journalistic works..." (2012). In addition, he also stated, "... The threat to the press is not only criminalization, but also civil lawsuits against the press, and there is no limit on how much compensation the press must pay, so this can lead to threats to press freedom" (2013).

Therefore, the position of the Press Council as a *Quasi Rechtpraak* (Moot Court) is a solution to the resolution of press cases in Indonesia, although in this case further studies are needed, especially in relation to criminal and civil justice (Astraatmadja, 2001). In resolving press disputes that often occur between press personnel and other parties, the press council must be able to resolve disputes that occur using several settlement strategies, including the following:

1. Mediation

Empirically, the Press Council has become a mediator in disputes between the press as heralds and parties who feel aggrieved by press reporting. As a further implementation of this function, in the organizational structure of the Press Council was established the Commission on Public Complaints and Enforcement of Press Ethics. Mediation played by the press council is mediation outside the court process, and is voluntary or the choice of the parties. Thus, the press council can carry out its mediation function if the reporting party and the party who feels aggrieved as a result of being reported request or approve the Press Council to carry out its function. The Press Council performs its role as a mediator, in this case the Press Council listens more to the wishes of the parties the position of the press council here is only as a mediator. Then as a facilitator, here the press council gives consideration to alternatives that can be done in solving problems (Dewan Pers, 2013).

2. Statements, Assessments and Recommendations (PPR),

Statement, Assessment and Recommendation (PPR) in resolving press disputes referring to the Press Law and the Code of Ethics for Journalists, the role of the Press Council is very important in press life. The results showed that the role of the Press Council in resolving press disputes is to receive all reports and complaints from the public, the government, or the press itself. In resolving reported or complained press disputes, the Press Council uses mediation mechanisms. If no meeting point is reached between the two parties, the Press Council then issues a Statement, Assessment and Recommendation (PPR) which is submitted to both parties to the dispute. The PPR is also published in the ETIKA bulletin and the Press Council website which can be downloaded by anyone (Pers, 2019).

The problem then becomes an obstacle for the Press Council in resolving its case, sometimes the Whistleblower or the complainant after giving a report or complaint is less cooperative with the Press Council. Reports and complaints submitted to the Press Council through the Press Council's Complaints Commission have either been reported to the police or the case has been filed in court. The complainant's lack of understanding of press media messages. The complainant in filing a claim for damages was disproportionate. Misunderstandings between disputing parties during the mediation process (Kusmadi & Samsuri, 2010).

3. Right to Answer Mechanism

The Press Council has always insisted that people exercise their Right to Answer. Thus there will be written or recorded references that the erroneous news has been refuted and corrected. If there is no written or recorded reference, then the public and even the grandchildren of the person or institution concerned will assume that the news is true, because it has never been refuted. Therefore,

whenever there is adverse news, the Press Council recommends the immediate use of the Right to Answer proportionately. Refute any paragraphs or sections that are incorrect with relevant facts, and send copies to the Press Council.

In assessing violations of the Code of Journalistic Ethics, the Press Council sorts by the weight of the violation, whether it is a violation or an omission. If it is only negligence, then the press media is required to serve the Right of Answer. However, if there is an element of intentionality, the press media must apologize. Then conduct education, training and socialization related to the journalistic code of ethics.

However, in reality this role does not work well. It is noted that there are still many rubber articles Haatzai Artikelen (hate offenses) in the Criminal Code used by law enforcement officials to convict members of the press, including: Articles 154, 155, 156, 157, 160, and 162 of the Criminal Code. The use of articles of the Criminal Code to ensnare the press is an indication of the non-implementation of the Press Law, or it can also be said to be a formal marker of legal suppression of the press. Although the resolution of problems regarding the press or disputes arising from mass media reporting has been regulated in law number 40 of 1999 concerning the press, in reality there are still many press cases that are resolved by setting aside the Press Law as the basic guideline. The task of the Press Council is only to produce a Statement of Assessment and Recommendation. The authorities imposing sanctions are the media concerned. If the media does not implement sanctions, the Press Council publishes publicly (Armada, 1993).

4. Correspondence or Telephone

The Press Council also resolves complaints by correspondence or telephone. The correspondence process is carried out if the complaint comes from an area far from Jakarta or difficult to reach, making the direct mediation process technically difficult or expensive. So the settlement is carried out by correspondence with complainants and complainants, which is usually supplemented by telephone communication. Settlement via telephone communication also takes precedence if an immediate settlement process is needed and cannot be delayed. This happens, for example, to cyber media that must immediately rectify their news or delete news comments that cause controversy or harm certain parties (Lamuri, 2007). Or in cases of press in the area have the potential to cause violent incidents if not handled promptly.

5. Giving Opinions

Strictly speaking, Law No. 40 of 1999 concerning the Press regulates the settlement of press crimes through the Right of Answer and Right of Correction as stipulated in Article 5 paragraphs (2) and (3). If the Press Company does not carry out the settlement mechanism as referred to in Article 5 paragraphs (2) and (3), then the aggrieved party can take the provisions of Article 18 paragraph (2), criminalizing the Press Company with criminal charges of a maximum fine of five hundred million rupiah (Ridwan, 2004). Related to the above violations, parties who feel aggrieved by news or press activities can take other channels as stipulated in Article 15 of Law No. 40 of 1999 concerning the Press, namely making complaints to the Press Council. Furthermore, the Press Council will conduct a review and assessment of incoming complaints.

C. CONCLUSION

The press council functions to protect press freedom which means maintaining freedom can be maintained, so that it functions in accordance with the purpose of holding press freedom. The Press Council is mandated and mandated by Law No. 40 of 1999 concerning the Press to develop and maintain press independence or freedom and improve the life of the national press and carry out the

following functions: a). Protect press freedom from interference by other parties. b). Conduct studies for the development of press life. c). Establish and supervise the implementation of the Code of Journalistic 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 drafting regulations in the field of press and improve the quality of the journalistic profession. g). Listing press companies.

According to the provisions of Article 5 paragraph (2) of Law Number 40 of 1999 concerning the Press, the functions of the Press Council include establishing and supervising the implementation of the Code of Journalistic Ethics and providing consideration and seeking to resolve public complaints on cases related to press reporting. However, if the case has been handled by the police, the Press Council will not handle the complaint. The mechanism through the Press Law has been recognized, and even based on a number of legal considerations in the Constitutional Court ruling, a press reporting case that without or not begins to be resolved through the process of using the Right to Answer or until settlement through the Press Council, is considered not in accordance with the Press Law and the lawsuit or conviction of the case is likely to be defeated.

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