



Press Responsibility and the Threat of Criminalization: A Study on the Role of Media in Digital Disputes

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Abstract

In the current era of digitalization, the journalism profession faces increasing risks of criminalization. Journalistic products disseminated through digital media are often deemed unlawful, especially for allegedly violating norms in the Electronic Transaction Information Law (UU ITE) and the Criminal Code (KUHP). Several cases show that journalistic disputes are not resolved through the right of reply mechanism, as required by Law Number 40 of 1999 concerning the Press—a *lex specialis* law—but are instead brought before the court. This contradicts the principle of press freedom as a constitutional function amid the rise of digital criminalization. Under the 1945 Constitution of the Republic of Indonesia and the Press Law, journalists are granted the right to exercise social control freely and responsibly. This research, titled *Press Responsibility and the Threat of Criminalization: A Study on the Role of Media in Digital Disputes*, analyzes the press's social responsibility within its constitutional framework and examines digital criminalization resulting from overlapping norms between the Press Law and the ITE Law. Using a normative juridical approach that examines laws, legal doctrines, and case studies, the study finds that legal protection for press freedom remains weak in law enforcement practices. Therefore, regulatory harmonization is necessary by strengthening the Press Law and providing juridical education for law enforcement officials to ensure that the press can uphold its social responsibility without facing the threat of criminalization.

Keywords: social responsibility, digital criminalization, Press Law.

INTRODUCTION

This paper analyzes the development of digital technology that has led Indonesia to experience a major transformation in the world of journalism and information technology. During the New Order government and the first decade of the Reform Order, Indonesia only knew print and electronic media as a means of disseminating information. In today's era, both print and electronic media must enter the digital space, operating the web and social media to expand the reach of the audience interacting with viewers. Media convergence coupled with the emergence of various digital platforms is a must if conventional media does not want to be abandoned by its audience. This change in the communication landscape also invites crucial questions about the role of conventional media as the fourth pillar of democracy which in the democratic era is always exaggerated by many parties (Syafriadi, 2023). Quoting Edmund Burke, according to Denis McQuail, the pillars of press democracy are equivalent to other pillars of democracy, namely the executive, legislature and judiciary in supervising the running of government and channeling the aspirations of the people (McQuail, 2011).

Media convergence, which is now becoming a model spirit in the development of communication media, is able to present a variety of information that can be accessed by technology users anytime and anywhere. It is present not only in the modern journalism sector but also in other sectors such as culture, entertainment and education. In the field of journalism, digital convergence integrates the communication industry in an integrated manner from broadcasting to network patterns (Chiu et al., 2013). At the same time, it encourages the implementation of the function of the press as a supervisor of power and a means of public empowerment (Adanlawo & Rugbeer, 2021). In addition, it ensures information disclosure, encourages public accountability, and maintains the balance of power (De Jesus, 2018). Through this role, the press helps prevent

abuse of authority and corrupt practices, strengthening transparency and accountability in state life (Adanlawo & Rugbeer, 2021). The press is also able to uncover hidden facts to be presented to the public so that the role of the press can build the foundation for a clean and responsible government (Parry, 2023).

Digitalization has opened great opportunities for the democratization of information and encouraged wider public participation in the news process. However, these advances are also accompanied by serious challenges to press freedom, especially in law enforcement practices in the digital space. One of the most crucial issues is the use of Article 27 paragraph (3) and Article 28 paragraph (2) of Law Number 11 of 2008 concerning Information and Electronic Transactions (ITE Law), which has been amended through Law Number 1 of 2024. These two articles are often interpreted broadly and are used to ensnare journalists, resource persons, and even ordinary citizens who convey information or criticism through digital media. The provisions in these articles are as follows:

(1) Article 27 paragraph (3):

"Every Person deliberately and without rights distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that have insulting and/or defamatory content".

(2) Article 28 paragraph (2):

"Every Person deliberately and without right disseminates information intended to cause hatred or hostility to certain individuals and/or groups of people based on ethnicity, religion, race, and intergroup (SARA)."

Article 27 paragraph (3) is often criticized as a rubber article because of its flexible and easily abusive normative formulation, especially for expression on social media. In response to this, the Constitutional Court through Decision No. 50/PUU-VI/2008 narrowed the scope of its application by stipulating that this article is a complaint offense so that it can only be processed based on reports from direct victims. Meanwhile, Article 28 paragraph (2) has undergone editorial adjustments through Law No. 1 of 2024, which clarifies the scope of the norm without changing its main substance, namely regulating the prohibition of the spread of SARA-based hate speech. This norm is now more firmly directed to protect vulnerable groups from identity-based attacks. According to the Constitutional Court Decision No. 19/PUU-XIX/2021, Article 28 paragraph (2) is also an absolute complaint offence, which means that only parties who are direct victims have the right to submit a report. This is a form of restriction against the potential for widespread criminalization and at the same time a protection of freedom of expression, including freedom of the press. The latest case in the application of this norm is a report submitted by the 7th President of the Republic of Indonesia Joko Widodo who visited the National Police Headquarters, Jakarta, on allegations of using fake diplomas on May 20, 2025 (Tempo, 2025).

The potential tension of norms between Law Number 1 of 2024, especially Article 28 paragraph (2) and Law Number 40 of 1999 concerning the Press from the perspective of the constitution and the principle of press freedom, is reflected in its application which is often used to journalistic works whose news material contains harsh criticism of certain groups, or certain figures. The case that befell Muhammad Asrul, a journalist of news.news in Palopo, North Sulawesi who was sentenced by a judge of the Palopo District Court to three months in prison, in 2021, for being proven to have violated Article 45 paragraph (1) junto article 27 paragraph (3) of the ITE Law, reflects the clash of norms between the two laws (CNN, 2021). The same thing was also experienced by Diananta, a journalist who works at the Banjarhits.id website, had to languish

in prison after being sentenced by the panel of judges of the Kotabaru District Court to 3 months and 15 days. He was proven to have produced news containing SARA and violated the journalistic code of ethics (RMOL.id, 2020).

The Alliance of Independent Journalists (AJI) recorded 89 cases of attacks on journalists and media throughout 2023, the highest number in a decade and a serious signal of the deterioration of press freedom. This situation is a big challenge for independent journalists and media, especially in carrying out their supervisory functions ahead of the February 14, 2024 elections. Various forms of attacks, both physical, digital, criminalized, and gender-based violence, targeted at least 83 individual journalists, 5 groups of journalists, and 15 media (AJI Indonesia, 2023). The most attacks occurred on the coverage of accountability and corruption issues in 33 cases, social and crime (25 cases), and the environment and agrarian (14 cases). These findings confirm that journalism critical of power remains a target of repression, especially when it comes to political and economic interests. In fact, journalistic activities are protected by Law No. 40 of 1999 concerning the Press, which guarantees a specific dispute resolution mechanism. These cases reflect the inequality between the constitutional guarantees of press freedom and the practice of digital criminalization that has a chilling effect. Apart from the data presented by AJI, criminalization was also experienced by Tempo journalist Nurhadi (2020-2021) when he was confirming a source in Surabaya in a case of tax bribery and alleged corruption in one of the state institutions.

The phenomenon of criminalization of journalists through the rubber articles of the ITE Law does not need to occur if law enforcers place Law Number 40 of 1999 as a *lex specialis* regulation as once enacted by the Chief Justice of the Supreme Court, Prof. Bagir Manan in the cassation case of the Editor-in-Chief of Tempo Magazine Bambang Harymurti against businessman Tommy Wanita in 2006. In the Supreme Court's decision No. 1608 K/PID/2005, the Court judge granted Bambang Harymurti's cassation application and acquitted him of all charges, restoring the defendant's rights, position and dignity through the enactment of the Press Law in the case (detikNews, 2006). The specificity of the Press Law that can override the *lex generalis* Law against the ITE Law or the Criminal Code, lies in the resolution of press disputes themselves which can be resolved through the right of reply (Article 5 paragraph (2), the right of correction (Article 5 paragraph (3), or with media facilitated by the Press Council in accordance with its function provided by the Press Law (Article 15 paragraph (2) letter d) which affirms, "The Press Council performs the following functions: (d) "to give consideration and seek to resolve public complaints on cases related to press reports". Beyond this specificity, positioning the Press Law as *lex specialis* is also in accordance with the principle or doctrine in legal theory that affirms, "*lex specialis derogat legi generali*" (a special rule overrides general provisions). Thus, the application of article 28 paragraph (2) of the ITE Law to journalistic products must be set aside, because according to Article 8 of the Press Law, "in carrying out their profession, journalists receive legal protection" (Syafriadi, n.d.).

This study aims to examine and analyze the conflict of norms that occur between the Electronic Information and Transaction Law (ITE) and the Press Law. The results of the study show that the conflict of norms not only causes a chilling effect on press freedom, but also weakens the role of the press in carrying out the function of social control. This is due to the emergence of fear among press personnel about the possibility of being criminalized in carrying out their professional duties.

This research is based on the problem of digital criminalization that arises due to the conflict of norms between the Press Law and the Electronic Information and Transaction Law, which until now has not received the focus of attention in previous legal studies that tend to focus on issues, ranging from press freedom in the ethical framework, social responsibility to the issue of freedom of opinion. Among these writings are Hijriani, Muhammad Nadzirin, and Anshari Nur entitled, "Press Freedom, Responsibility and Journalistic Ethics in a Competitive Online Media Environment" which further highlights the issue of ethical responsibility of online media without reviewing the dimensions of legal conflicts between laws (Hijriani & Nadzirin, 2024). A discussion that is not much different is also found in the article by Alya Rahmadani, Monika Lisa Paramita, Shafa Haura, and Firman F with the title, "Digital Regulation and Its Implications for Freedom of Opinion in the ITE Law on Social Media Platforms in Indonesia" which highlights the implications of the ITE Law on freedom of opinion on social media, but does not specifically examine the position of the press as a profession that is vulnerable to criminalization (Rahmadani et al., 2024). Apart from the two writings, there is also Sri Oktaviani's article entitled, "Constitution and Freedom of Opinion in Indonesia: An Analysis of Limitations and Protection" (Oktaviani, n.d.) where the author only examines the issue of the protection of freedom of opinion from a constitutional perspective, but he does not mention the relationship between the norms of the ITE Law and the Press Law as a regulatory framework that collides with each other.

Some of the studies that are relatively intersecting with the theme of this research are the writings of Gustina Rahayu and friends who discuss the criminalization cases that befell journalists after they were charged with using defamation articles through the ITE Law (Rahayu et al., 2025). In his article, "Criticism and the Law: An Analysis of Defamation Cases in Journalists under the ITE Law," Rahayu et al., highlighted the weak effectiveness of the Press Law in protecting journalists from criminal threats, especially when law enforcement officials chose the ITE Law as a regulation to ensnare journalists. The same review can also be found in the article Kristopansen and Putranto with the title "Journalistic Protection Against the Criminalization of the Information and Electronic Transaction Law in Indonesia" which shows the existence of law enforcement practices that override the principle of *lex specialis* from the Press Law, so that journalists can still be criminalized even though their position is carrying out professional duties based on the journalistic code of ethics (Kristopansen & Putranto, 2022). From the perspective of constitutional law, these two articles have opened an important space to read the conflict of norms between the two laws as a source of broader legal problems. By combining normative and empirical approaches, this study makes a more specific and in-depth contribution than previous studies. The focus of this study lies in the identification of the conflict of norms between the Press Law and the ITE Law, as well as its impact on the chilling effect experienced by journalists in carrying out the function of social control. This research also offers normative solutions in the form of harmonization and legal reconstruction as part of efforts to strengthen the guarantee of press freedom in the digital era.

RESEARCH METHOD

This research used a normative-critical qualitative approach to understand how the press carried out its social responsibilities while facing the threat of digital criminalization within the framework of its function as a constitutional institution. The main focus was placed on the relationship between legal norms that guaranteed press freedom and regulatory practices that

exhibited restrictive tendencies through digital legal instruments, particularly the Electronic Information and Transaction Law (ITE Law). The two problem formulations addressed in this study were, first, the position of journalists' social responsibility within the constitutional function of the press, and second, the impact of digital criminalization on journalistic freedom and responsibility.

The research relied on data obtained from secondary legal materials, including laws and regulations such as the 1945 Constitution of the Republic of Indonesia, Law No. 40 of 1999 concerning the Press, and Law No. 19 of 2016 as an amendment to the ITE Law, as well as relevant Constitutional Court decisions. The analysis was conducted using the content analysis method and a normative-critical legal approach, which enabled the researcher to examine normative provisions textually while assessing how these provisions were applied in practice.

RESULTS AND DISCUSSION

Social Responsibility of Journalists in the Constitutional Function of the Press

Indonesia's long journey towards press freedom has its roots in colonial times, when freedom of expression and information was severely restricted by colonial regimes. After independence, the condition of the press did not immediately improve: the reigns of President Sukarno and President Suharto were marked by various forms of restrictions, including strict censorship and the blocking of media perceived as contrary to the interests of the rulers. However, a significant turning point occurred at the end of the 1990s through the momentum of the Reform Movement. The political changes that occurred at that time opened up new space for freedom of expression, including press freedom which then experienced rapid development. As a result of this transformation, Indonesia gained international recognition as a country with a completely free press in democratic life and civil liberties (Evans, 2019).

In the Indonesian constitutional system, the press has a strategic position as part of the constitutional right of citizens to obtain, process, and convey information as guaranteed in Article 28F of the 1945 Constitution. This article states that *"Everyone has the right to communicate and obtain information in order to develop his or her personal and social environment, and has the right to seek, obtain, possess, store, process, and convey information using all available channels."* This provision is the constitutional basis for the existence and function of the press in democratic life.

Although freedom of the press is guaranteed by the constitution, its implementation remains within a legal framework that allows for certain restrictions. These restrictions are imposed not to arbitrarily curb freedom but to maintain a balance between freedom of expression and protection of other individual rights, as well as to maintain public order and security. However, any form of such restrictions must be based on human rights principles and must not be contrary to the spirit of the constitution (Arsyafira et al., 2021). Law Number 11 of 2008 concerning ITE, especially the provisions in Article 27 paragraph (3) is often in the spotlight of the public and the community of freedom of expression activists because it is considered to have the potential to criminalize legitimate opinions. The article regulates the prohibition of the distribution and/or transmission of information that contains insults or defamation, but its application is often considered to overlap with the constitutional right of citizens to express their opinions, especially in the digital realm.

The main criticism of this article is that it tends to be abused to silence criticism, equating expressions or opinions, especially those with social and political criticism nuances, with forms of violations of the law such as defamation or hate speech (Utomo, 2021). In addition to social criticism and political pressure, journalists and media actors in Indonesia also face various other forms of threats that are no less serious, ranging from physical violence, harassment, to legal snares sourced from various regulations. Legal instruments such as the Criminal Code (KUHP), the Information and Electronic Transactions Law, and Law Number 27 of 2022 concerning Personal Data Protection are often used, both legally and repressively, to suppress freedom of expression and journalistic work. In practice, these legal provisions are often abused to intimidate or silence the press, especially when they reveal sensitive information or criticize power (Simandjuntak et al., 2024).

The main function of the press is to convey information accurately, factually, and objectively to the public. This task is at the core of the social responsibility theory of the press *which* places press freedom not as an absolute right but as a freedom that must be exercised with ethical awareness and public responsibility. According to Fred S. Siebert, Theodore Peterson, and Wilbur Schramm in their classic work *Four Theories of the Press*, social responsibility theory emerged in response to the weakness of libertarian theory by emphasizing that the free media must remain accountable to society (Siebert et al., 1956). In this theory, the press functions not only as a conveyor of information but also as a social institution that must play a role in maintaining the integrity of democracy, facilitating healthy public discussion and supervising power. Therefore, the principles of accuracy, objectivity and balance are not just journalistic technical standards but are a tangible form of the press's ethical commitment to the public interest. In this context, press freedom must always be accompanied by awareness of the social impact of every news so that the function of the press as a support for democracy can be carried out optimally (Hampton & Lane, 2015).

The social responsibility carried out by the press is not solely individual ethical but reflects its strategic role in carrying out the function of social control in society. Through independent journalistic practices based on standards of professionalism, the press acts as a counterweight to power as well as a reliable source of information for the public. This role provides a solid foundation for the public to form opinions rationally, critically and based on verifiable data and facts. In this perspective, the function of the press is not only an implementation of the constitutional right to freedom of expression and information but also contains a dimension of moral responsibility inherent in the journalism profession. The press is required to maintain the integrity of democracy by encouraging the formation of an open, transparent and accountable government. In line with that, social responsibility theory places the press as a democratic institution that does not just move in the logic of the information market, but has a mission to uphold truth and social justice. Therefore, any journalistic product should consider the social impact that may arise, in order to remain in harmony with the principles of the constitution and the human rights values that are the foundation of a democratic state (Spiller et al., 2024). To comprehensively understand how the social responsibility of journalists plays a role in the framework of Indonesian constitutionality, it is necessary to map the relationship between the constitutional basis of press freedom, its derivative regulations, the normative function of the press, and the ethical role carried out by journalists. The following diagram systematically presents the position of social responsibility in the ecosystem of the constitutional function of the press, as follows:

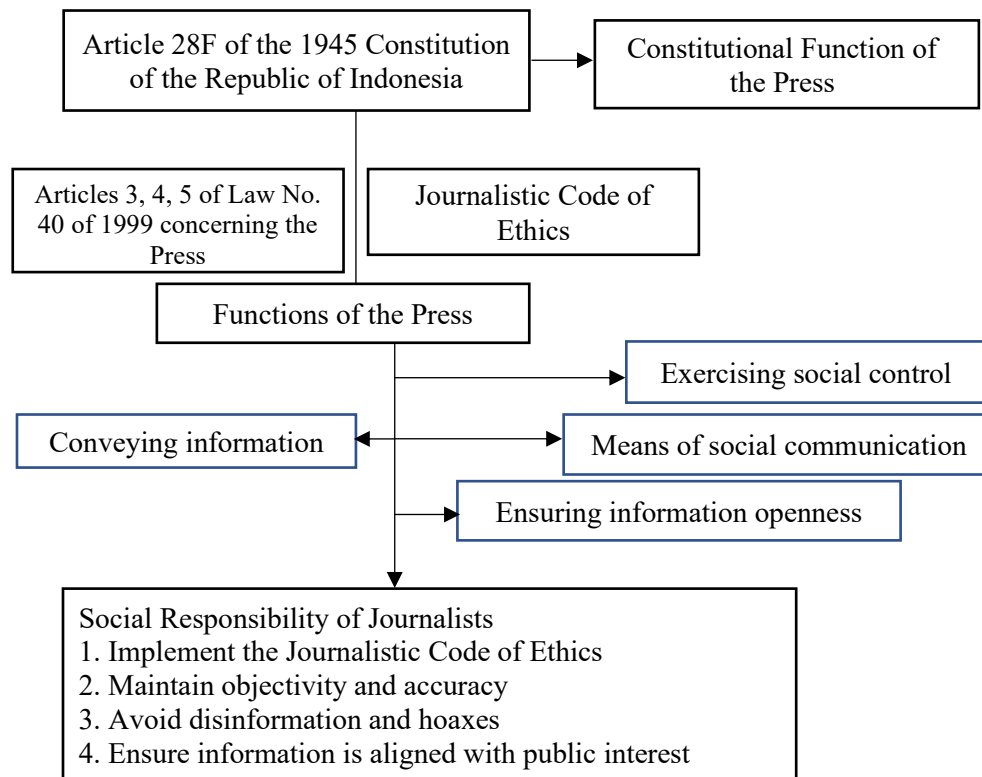


Figure 1. Framework of Social Responsibility of Journalists in the Constitutional Function of the Press

Source: Processed Author, 2025

From the diagram, it can be concluded that press freedom and the social responsibility of journalists are two pillars that cannot be separated but must run in harmony within the framework of constitutional democracy. In this context, the social responsibility of journalists acts as a normative link between the constitutional right to freedom of information and the noble goals of substantive democracy. Without a foundation of social responsibility, press freedom has the potential to experience distortion of meaning, become uncontrollable freedom and lose direction in the delivery of information. On the other hand, when freedom is reduced, the critical and independent function of the press as a guardian of the public interest will be structurally hampered.

Referring to the theory of press social responsibility, the freedom guaranteed by the constitution as stated in Article 28F of the 1945 Constitution of the Republic of Indonesia, does not stand alone but entrusts professional ethics, information accuracy, and journalist integrity as normative prerequisites. Thus, only through a balance between constitutional rights and ethical-professional responsibilities can the press play its role as a pillar of democracy: encouraging transparent and accountable governance, strengthening public literacy, and realizing a democracy that is not only procedural but also fair and participatory.

The Impact of Digital Criminalization on Journalistic Freedom and Responsibility

Digital criminalization occurs when journalists or media are subject to legal sanctions for content that is legally published within the journalistic framework. In Indonesia, multi-interpretation articles in the ITE Law such as Article 27 paragraph (3) concerning defamation or forms of physical violence, psychological pressure and digital attacks are often used to ensnare journalists. This practice creates a climate of fear that has an impact on silencing criticism of public officials, security forces or state institutions. The threat of violence and harassment experienced by journalists is a form of serious harassment that directly threatens the existence of press freedom (Gerbrandt, 2023). Juridically, these actions reflect the practice of collective censorship by society in which journalists are subjected to arbitrary actions by individuals or groups of citizens who act outside of formal legal mechanisms under the pretext of controlling or disciplining journalistic activities (Waisbord, 2020). Media professional organizations often experience limitations in providing effective protection for journalists who are victims of online harassment, so the responses that arise tend to be individual and situational, rather than a systematic collective effort (Malcorps et al., 2022).

Freedom of the press is one of the pillars of democracy. If journalists are unable to carry out their profession independently due to criminal threats, the role of the media as an institution of social control will be weakened and the fear of criminalization will also encourage the emergence of self-censorship where journalists choose not to report on sensitive issues to avoid legal risks. The phenomenon of self-censorship has emerged in a number of countries, including Mexico, where journalists have chosen to limit their reporting activities in the field as well as withhold the publication of sensitive information as a form of risk mitigation. These actions are generally triggered by the rampant violence against journalists, the high risk of conflict-related news, and the unstable economic conditions of the media (Hughes & Márquez-Ramírez, 2017). These facts show that potential legal traps and threats to individual safety can encourage journalists to stay away from reporting on sensitive topics or potentially have serious consequences.

On the other hand, the threat of digital criminalization can also trigger an increase in awareness of professionalism in journalistic practice. Journalists are encouraged to be more careful in verifying facts, maintaining a balance of news, and adhering to the journalistic code of ethics. However, this condition becomes counterproductive if the legal boundaries are not clear, and journalists do not receive strict legal protection for journalistic work carried out in accordance with professional ethics. Many cases show that journalists who reveal facts or data-based criticism are still subject to criminal prosecution. This uncertainty shows a weak legal understanding of the function of the press as a means of delivering information guaranteed by the constitution. In practice, digital criminalization is often used as a tool of political repression or retaliation against critical media.

The implementation of digital criminalization through legal instruments and strict oversight mechanisms has had a significant impact on the practice of press freedom, while also burdening journalists' professional responsibilities in carrying out their functions. The criminalization of the profession against journalists is a global phenomenon that does not only occur in Indonesia, but also in various countries such as Egypt, the Philippines, Bulgaria and Poland, each of which shows a pattern of repression through different legal instruments. In Egypt, the existence of the Anti-Cybercrime and Information Technology Law No. 175 of 2018 and the Personal Data Protection Law No. 151 have been used as instruments to supervise and limit journalistic activities. The use of these regulations negatively impacts press freedom and opens up space for the practice of digital

information censorship by the government (AlAshry, 2022). In the Philippines, the enactment of the Cybercrime Prevention Act in 2012 has sparked widespread concern because it is considered to restrict freedom of expression and intervene in online privacy, drawing comparisons to authoritarian practices during the martial law period under President Marcos (Robie & Abcede, 2015). In Bulgaria, Poland and Romania, state surveillance measures are seen as undermining the principle of source confidentiality in journalistic practice which is an important element in the protection of press freedom. Violations of this principle also threaten the fundamental rights to privacy and freedom of expression (Glowacka et al., 2018).

This phenomenon shows that journalists in various parts of the world are increasingly exposed to serious digital risks, such as online harassment and monitoring that have the potential to have psychological and physical impacts, tarnish professional reputations and substantially limit press freedom space. A similar condition also occurs in Indonesia, where a number of regulations such as the Electronic Information and Transaction Law (UU ITE) and the Criminal Code (KUHP) have always been a source of fear for journalists in carrying out their professional duties. On the other hand, Law Number 40 of 1999 concerning the Press has not been able to provide effective legal protection for press freedom and journalist safety. This not only affects journalists individually but also impacts the media ecosystem as a whole. The media tends to be more conservative in its coverage of political and legal issues, while alternative media and ordinary citizens on social media grow up without adequate ethical controls. This creates a paradox where professional media is limited but the dissemination of information without verification is increasingly widespread. The following diagram illustrates the impact of digital criminalization on press freedom and journalistic responsibility, which is a crucial issue in today's digital era.

Based on the illustration of the diagram above, it can be concluded that digital criminalization has a dualistic impact on journalistic practices. On the one hand, it significantly limits press freedom by suppressing the space for journalists to express information and report freely, especially on critical or sensitive issues. On the other hand, this condition also raises demands for improving the standards of professionalism of journalists, especially in carrying out ethical responsibilities, accuracy and verification of information before publication. This situation puts journalists in a dilemma between freedom of expression and legal prudence. Therefore, one of the relevant solutions is the need for regulations that provide fair and non-repressive legal protection for press personnel. At the same time, it is necessary to strengthen the capacity of journalists to uphold professional ethics and develop accountable, transparent and socially responsible journalistic practices.

The principles of journalistic ethics cannot be separated from the social responsibility of journalists, because they support each other in ensuring that the information conveyed is not only accurate, but also useful and not detrimental to the public interest. Journalistic ethics plays an important role in guiding the complexity between public interests, individual rights and the collective needs of society. In practice, editorial decisions made by journalists are generally based on ethical principles that serve as normative guidelines. This ethical framework provides a moral justification for any journalistic action taking into account upheld values such as truth, justice, social responsibility and respect for privacy (Zran, 2021). Ethical journalism is reflected in its commitment to professional norms, including integrity in the search for truth, rigor in presenting information accurately, and efforts to maintain objectivity in reporting. To ensure these standards are consistently enforced, the existence of accountability mechanisms is crucial. Instruments such as journalistic codes of ethics play an important role in monitoring, assessing and providing ethical

direction to responsible media practices (Sanders, 2010). Journalistic responsibility based on the journalistic code of ethics actually aims to maintain the continuity of democracy by ensuring a balance between rights and obligations which include exposing corrupt practices and demanding accountability from officials, which ultimately provides benefits to society (Zran, 2021).

Understanding the magnitude of the responsibility borne by journalists, press freedom must be maintained and should not be limited through the practice of digital criminalization. This emphasis on freedom has the potential to hinder society from obtaining clear, transparent, and accountable information. As a result, public access to objective information becomes hampered, including making decisions that serve the public interest without infringing on individual rights (Glasser & Weiland, 2020). So that the public space as an arena for healthy discussion and a means of supervision of power has also disappeared. This condition not only harms the public's right to information, but also risks eroding the foundations of democracy that relies heavily on openness and active participation of citizens in overseeing the administration of power. Therefore, to minimize the risk of criminalization of journalists, the digital space needs to be filled by journalists who have high credibility. With the presence of strong professionalism in the presentation of information, the opportunity for irresponsible parties to criminalize journalists can be minimized. This is important so that the quality and integrity of news are maintained while protecting press freedom from harmful pressure.

Press Dispute Resolution Is Still Dominant Carried Out Repressively

In the literature of legal science, the principle is known *lex specialis derogat legi generali* which is still an important handle to resolve norm conflicts. This principle puts forward the principle that special provisions must take precedence over general provisions. (Cvetković, 2022) However, not all cases can be simplified with a one-article approach to all problems. At the international level, this principle has been practiced by the International Court of Justice, especially in cases involving human rights in the context of humanitarian law. (Borelli, 2015) Meanwhile, in Russia, the same principle is also used in criminal cases. The pattern of application can vary, but the basic principle remains: a particular norm should override a general norm when the two intersect. (Petrov, 2019) We also see a similar pattern in Indonesia. In many criminal cases, both corruption and other general crimes, judges often put this principle forward to ensure substantive justice. Thus, *lex specialis* It is not just a normative principle, but has become a judicial tool in responding to the complexity of modern cases.

Interestingly, in judicial practice, not many judges apply this principle when handling press disputes in the digital space, even though the position of this principle in the national legal system is quite clear. The settlement of press unions is often resolved through a repressive criminal law approach. This approach indicates that there is already a desire to criminalize journalistic products as well as to pamper journalists as an effort to take revenge on journalistic work. The revenge was carried out through the application of several articles on the use of the ITE Law and the Criminal Code, including articles related to defamation, broadcasting fake news or the dissemination of information that is considered to violate morality. From a journalistic perspective, these articles fall into the category of "rubber articles" because of their prone interpretation to silence criticism. According to Ichlasul Amal, in Hınca IP Panjaitan and Effendi Siregar, these articles cannot be linked to the media's duty to disseminate information for the public interest, because the articles of the Criminal Code are related to criminal activities. Therefore, articles related to the dissemination of information should refer to the Press Law as a legal foothold in resolving press

dispute problems. (Panjaitan & Siregar, 2004) The same thought was conveyed by Hince Panjaitan and Effendi Siregar who emphasized that the Press Law is *lex specialis* because it is intended to regulate and solve problems that arise due to the role and function of the press carrying out journalistic activities.

Panjaitan and Siregar's affirmation refers to Article 1 number 1 of the Press Law related to press terminology, which states: "The press is a social institution and a vehicle for mass communication that carries out journalistic activities including searching, obtaining, possessing, storing, processing, and conveying information both in the form of writing, voice, images, sounds and images, as well as data and graphics and in other forms using print media, electronic media, and any type of available channels". This means that the journalistic activities in question are only limited to activities that include searching, obtaining, possessing, storing, processing, and conveying information. The means used to disseminate these activities can be in the form of print media, electronic media, and all types of available channels. In the sense that both the type of activity and the form of means used are actually intellectual work that far contains elements of violence, and therefore in accordance with article 8 of the Press Law, it is emphasized that in carrying out their profession, journalists receive legal protection. In addition to receiving legal protection, the Press Law also gives several rights to journalists, namely the right of reply, the right of correction and the right of refusal. These three rights can be a shield for journalists in carrying out their profession as well as resolving press disputes if their journalistic products invite legal problems. According to Bagir Manan, according to Bagir Manan, the settlement of press disputes should ideally prioritize the internal mechanisms that have been regulated in the Press Law, namely through the right of reply, the right of correction, and mediation facilitated by the Press Council. These three instruments are not just an option, but are an important prerequisite before a press case is brought to another legal realm. In his view, law enforcement officials who handle cases related to the world of the press should first assess whether the internal settlement mechanism has been taken. If not, then the matter should be declared unacceptable or considered unfit for legal processing. (Pemenang Hadiah, 2010)

Bagir Manan's view shows that in the Indonesian legal system; the Press Law has a position as a *lex specialis* that must be enforced first compared to other laws of a general nature (*lex generalis*). In other words, press disputes cannot necessarily be brought directly to court. On the contrary, the settlement must follow the path that has been determined by the Press Law, namely through the right of reply, clarification or correction as well as mediation facilitated by the Press Council. This approach also reflects the spirit of protecting press freedom and encouraging a more just, proportionate, and non-repressive settlement.

The settlement of press disputes through criminal channels will make the function of the press as a pillar of democracy threatened. In fact, on the contrary, the criminalization of journalists has the potential to create a deterrent effect that makes journalists raise important issues against power. On the contrary, the use of the right of reply, the right of correction and mediation is intended to maintain a balance between freedom of expression and the social responsibility of the press. So, it is very unfortunate if this mechanism for resolving ethical disputes is ignored by both the complainant and law enforcement officials.

As an institution mandated by the Press Law to resolve public complaints related to press reports, the Press Council has established a complaint procedure that can be submitted to the Press Council. The procedure is regulated by the Press Council through Press Council Regulation Number 03/Regulation-DP/VII/2017 which includes three stages, namely administrative stages,

verification, clarification, mediation, adjudication and finally plenary meeting. The settlement of public complaints is carried out by prioritizing the principles of due process and transparency with clarity of time and documentation. This procedure reflects the application of the principles of restorative justice administration, and is not punitive. Through this procedure, the Press Council encourages the media to be more responsible for the impact of the news, and if the media is found to be ethically guilty, it is obliged to contain clarifications, the right of reply, or an apology to the public. If this decision is not complied with by the media, the name of the media will be announced by the Press Council to the public to create a significant reputational effect.

The mechanism for resolving conflicts between the public and the media carried out by the Press Council reflects the principle of *lex specialis derogat legi generali*, which is the principle that special laws override general laws. In this context, Law Number 40 of 1999 concerning the Press acts as a *lex specialis* for criminal and civil law. Therefore, any dispute related to journalistic work must first be resolved through an ethical mechanism facilitated by the Press Council, before being brought to legal proceedings outside the press channel. This approach aims to maintain a balance between the protection of the public's right to harmful news and the protection of press freedom, as guaranteed in Article 2 which states, "*Freedom of the press is a form of people's sovereignty based on the principles of democracy, justice, and the rule of law*", and then Article 8 which affirms, "*In carrying out their profession, journalists receive legal protection*".

In practice, the Press Council does play a role as an ethical adjudication forum through the implementation of Press Council Regulation Number 03/Regulation-DP/VII/2017 concerning Complaint Procedures, which is a reference in resolving public complaints against media reports. The Supreme Court itself has affirmed the strength of *this lex specialis* principle in Decision No. 1608 K/Pid/2005, where it is emphasized that disputes concerning journalistic works cannot be directly processed through criminal mechanisms, but must go through procedures as stipulated in the Press Law. The (Supreme Court of Indonesia, 2005) Press Council's ethics adjudication forum was also strengthened by the presence of a Memory of Understanding (MoU) between the Press Council and the Indonesian National Police Number 03/DP/MoU/III/2022 and Number NK4/III/2022 concerning Coordination in the Protection of Press Freedom and Law Enforcement Related to the Abuse of the Journalist Profession. In the MoU, both the Press Council and the Indonesian Police agreed to coordinate with each other in protecting press freedom and coordinating law enforcement related to the abuse of the journalist profession. The understanding is contained in article 4, namely: (Press Council, 2022)

- (1) The Parties coordinate related to the protection of press freedom in the implementation of duties in the field of the press in accordance with the applicable laws and regulations;
- (2) Coordination as intended in paragraph (1) is carried out by the parties, if the Second Party (Police) receives a report/complaint of an alleged dispute/dispute including readers' letters or opinions/columns or other press products between journalists/media and the public, then the Second Party (Police) may direct the complainant/complainant to take steps gradually and in stages starting from using the right of reply, the right to correction and complaint to the First Party (Press Council);
- (3) Report/complaint as intended in paragraph (2), if the solution to the completion of the steps from the First Party (Press Council) cannot be accepted by the complainant/complainant and wants to take other legal proceedings, then the complainant/complainant is asked to fill out a statement form on a certified paper.

Meanwhile, the understanding in article 5 reads:

- (1) The First Party (Press Council) if it finds and/or receives a report/complaint from the public regarding suspected criminal acts related to the abuse of the journalist profession to coordinate with the Second Party (Police);
- (2) The Second Party (Police) if it receives a report/complaint from the public of suspected criminal acts related to the abuse of the journalist profession, an investigation is first carried out and the results are coordinated with the First Party (Press Council);
- (3) If from the results of the coordination as intended in paragraphs (1) and paragraph (2), it is concluded to be a criminal act, then the report/complaint shall be followed up by the Second Party (Police) with an investigation process in accordance with laws and regulations.

From articles 4 and 5 of this memorandum of understanding, it is concluded that the principle of *lex specialis derogat legi generali* remains the top priority for resolving press disputes as stipulated in the Press Law. Similarly, if we refer to the Indonesian legal system where disputes arising due to media reporting must first be resolved through ethics facilitated by the Press Council in accordance with its functions as stated in article 15 paragraph (2) letter c of the Press Law, which expressly states that one of the functions of the Press Council is to handle public complaints about alleged violations of journalistic ethics. From this explanation, journalistic work cannot necessarily become the object of criminal reporting before it is resolved through ethical mechanisms. It is very unfortunate that at an empirical level there are law enforcement officials who, in addition to not understanding this settlement mechanism, are also unaware of the existence of the Press Council MoU with the Indonesian Police. They immediately processed the press dispute without the guidance of the memorandum of understanding, because the MoU has provided a juridical basis for the police to act legally to take the initial steps to resolve press disputes based on constitutional values, namely the protection of freedom of opinion, freedom of the press, and the guarantee of legal certainty. From the perspective of constitutional law and media law, this MoU can be seen as a soft law instrument that strengthens the due process of law in press cases, while emphasizing the separation between ethical responsibility and criminal responsibility in journalistic practice.

CONCLUSION

The social responsibility of the press, as a core element of its constitutional function guaranteed by Article 28F of the 1945 Constitution of the Republic of Indonesia and Law Number 40 of 1999 concerning the Press, faces serious challenges in the digital era due to the criminalization of journalists under the multi-interpretative articles of the Electronic Information and Transaction Law (ITE Law). The legal disharmony between the Press Law and the ITE Law has created uncertainty and a chilling effect that restricts journalists from exercising their social control role. To address this, regulatory harmonization is essential to ensure that press freedom is protected while journalists can uphold their social responsibilities without the threat of unjust criminalization. Strengthening the Press Law as a *lex specialis* and improving education for law enforcement regarding press freedom principles are crucial steps toward safeguarding democracy and transparency. Future research should further explore mechanisms for digital-era legal harmonization and assess the long-term impact of regulatory reforms on journalistic independence and public trust in the media.

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