

Research Article

Criminal Responsibility on Fake News Report on Social Media

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Abstract: Article 7 paragraph (2) of Law Number 40 of 1999 concerning Press states that journalists have and adhere to the Journalistic Code of Ethics. The Journalistic Code of Ethics is the Code of Ethics agreed upon by journalist organizations and determined by the Press Council. In a sense, journalists are bound by the Code of Ethics as signs, guiding rules, and directions about what should and should not be done in carrying out journalistic tasks. This study discusses the criminal responsibility on a fake news report on social media in and the concept of fraudulent spread of news carried out by the social media or press in Aceh Province, Indonesia using a normative juridical approach. The study found that, on the basis of the Article 18, Paragraph (1) of the Press Law of 1999, for the press that violated the stipulated provisions, it could be punished according to the applicable criminal provisions. The study also showed that there was fake written news by the press as a press offense categorized as a crime or violation of law by the press.

Keywords: Criminal Responsibility, Press, Fake news, Online Media.

INTRODUCTION

In Indonesia, social media or press plays an important role in ensuring democracy run smoothly. Law No. 40 of 1999 has been enacted to regulate the press, covering issues of the press, press companies, and journalists. The press is a social institution and a vehicle for mass communication that carries out journalistic activities including seeking, obtaining, possessing, storing, and conveying information in the forms of writing, voice, images, sound and images, data and graphics, and other forms using printed media, electronic media, cyber media and all types of channels available. Meanwhile, press companies are Indonesian legal entities that hold press businesses including print media companies, electronic media, and news agencies, and other media companies that specifically organize, broadcast, or distribute information. Finally, journalists are people who regularly carry out journalistic activities.

The press is the pillar of the democratic state. Etymologically, the notion of democracy comes from Greek. It consists of two words, namely *demos*, which means the people and *kratos*, which means power. Thus, democracy means that power is in the hands of the people or the people in power. In a democracy, the

people determine how the pattern of power and its implementation will be carried out (Rais, 1986). To fulfil it, the government or the ruler who runs the state must listen to the voices of the people, pay attention to the wishes of the people, and carry out what is the will of the people. In order for the voices, desires, and will of the people to be heard by state administrators, there must be independent to express their opinions. There needs to be facilities or media that will be used in participation. One of the tools that can be used by the public in political and government participation in the press.

In social media or press, reporters or journalists are the most important actor. In the Indonesian context, journalists are people who search and compile news to be sent and published in newspapers, magazines, radio, and television. The type of media is now increasing for online or internet media. The term journalist is actually the same as the news reporter. Meanwhile, a news agency is a journalist organization that reports the news to social media such as newspapers, magazines, and radio and television broadcasts. This agent is also referred to as network services, news networks, or news services.

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There are two types of reporters that have been known in the social media. First, a common journalist, namely: who is bound to work for companies or press organizations. Usually, this type of reporter has a fixed salary and other benefits as well as company employees. In their duties, it could be devoted to certain fields such as criminal journalists, economics, politics, culture, and so on. Second, a freelance journalist, that is who does not work specifically for certain companies or press organizations. He works for whomever or which press company pays it. He is not bound by company rules and regulations unless bound by regulations and provisions regarding the press and work agreements on news' contracts. Similar to the first type of reporter, there are freelance reporters who specialize in certain fields or sometimes she/he tends to preach anybody who pays her/him.

According to legal experts, the press offense is every announcement and/or dissemination of the mind through press publishing. There are three elements or criteria that must be fulfilled so that action carried out through the press can be classified as a press offense (Sumadria, 2005), namely: (a). there are announcements of thoughts and feelings made through printed material; (b). the thoughts and feelings that are announced or disseminated through printed matter must be acts that can be punished according to law; and (c). announcement of thoughts and feelings that can be convicted and carried out through printed material must be proven to have been broadcast to the general public or published. So, it is the most important condition or element is publication.

Along with the development of the needs of the people in the world, information technology plays a very important role. As a result of these developments, information technology will gradually change the behaviour of people and human civilization globally. The development of information technology has also caused the world to become borderless and cause significant social change.

The rapid development in internet technology has caused new crimes in that field to emerge, namely fake or hoax news, which is a report aimed at individuals or groups by the press that contains invalid elements or is a lie and incitement which results in material losses and immaterial for the intended individuals and groups. Another new crime is the racial-related hate speech in social media is one phenomenon that cannot be denied. These hate speeches can lead to collective hatred, exclusion, incitement, discrimination, violence, and even at the most horrible level, ethnic cleansing against the people in groups of culture, ethnicity, race, and religion, which are the targets of hate speech.

In Article 6 of Law No. 40 of 1999 concerning the Press, it is stated that the national press carries out its role as follows:

- To fulfil the community's right to know;
- To uphold the basic values of democracy, encouraging the realization of the rule of law, and human rights, and respecting diversity;
- To develop a public opinion based on accurate, valid, and correct information;
- To supervise, criticize, correct, and advise on matters relating to the public interest; and
- To uphold and fight for justice and truth;

In the Press law, the role of the press is very clearly stated, that is to disseminate the news based on accurate and correct information. However, in reality, many of the news delivered has been not in accordance with the actual data. This is very detrimental to the individuals or groups reported. In Article 18 of Law No. 40 of 1999 concerning the Press, there are criminal provisions which state:

- Anyone who unlawfully intentionally carries out an action that results in hindering or obstructing the implementation of the provisions of Article 4 Paragraphs (2) and (3) shall be punished with a maximum of two years imprisonment or a maximum fine of IDR500 million.
- Press companies that violate the provisions of Article 5 Paragraphs (1) and (2), and Article 13 shall be punished with a fine of a maximum of IDR500 million.
- Press companies that violate the provisions of Article 9 Paragraph (2) and Article 12 are punished with a fine of at most IDR100 million.

Based on the Article 18 of the 1999 Press Law, it can be concluded that for the press that does things outside the stipulated provisions, in Paragraph (1) can be punished according to the applicable criminal provisions. However, the press is an actor who cannot be proven wrong personally, but the attachment of the status of the press to someone's individual, which is an obstacle to legal proceedings for violating an offense he committed.

Procedure for settlement by the press council for the press that violates the code of ethics is to safeguard the independence and life of the national press; it is not only the role of the press or journalist but also the responsibility of everyone and the press council. In the provisions of Law No. 40 of 1999 concerning Press, Article 17, it is stated that the public can develop the freedom of the press by monitoring and reporting analysis on violations of the law and technical errors in the news carried out by the press. Settlement of violations relating to journalistic activities is conveyed to the press council as an independent institution that oversees press activities. This is in accordance with the provisions of the Press Council

Statute Article 20, Paragraph 5 that the procedure for resolving complaints of press cases concerning ethics and law is regulated in the regulations of the press council (Surahman, 2017).

Completion of the journalistic code of ethics violations, in accordance with complaints procedures on the press council, is regulated in Press Council Regulation No. 3/Regulation-DP/VII/2013. In an effort to develop press freedom and to improve the life of the national press, an independent press council was formed, to protect the freedom of the press, establish and supervise the implementation of the journalistic code of ethics and provide consideration and strive to resolve public complaints on cases relating to press coverage. Therefore, in order to supervise the implementation of the journalistic code of ethics, the press council receives and processes complaints and follows up information from the public regarding the alleged violation of the journalistic code of ethics and the principles of press freedom.

In the Criminal Code, there is no special offense regarding the Press, for the existence of legal certainty and legal protection for the types of abuse of the press function, in relation to criminal offenses provided for in the Criminal Code the relationship will be sought in accordance with this offense, especially the articles on communication dissemination of information and mass media.

Regulations concerning fake or hoax news in the Criminal Code are stated in Articles 14 and 15:

- Whoever, by broadcasting news or false notices, intentionally issues confusion among the people, is punished with a prison sentence as high as ten years high, and
- Anyone who broadcasts news or issues a notification that can issue a disturbance among the people, while he should be able to think that the news or notification is a lie, is punished with a maximum of three years in prison.

However, in the case of criminal liability carried out by the press, there is no personal or individual liability, but it is borne by the press company. This is certainly not in accordance with the elements in the mistakes of people in criminal law. If carried out in an organization that carries the name of the press, there is collaboration in committing criminal acts as stated in Articles 55 and 56 of the Criminal Code as follows:

- Sentenced as a person who commits a criminal event. This includes the person who commits, who instructs, or participates in the act and people who by giving, agreement, wrong use of power or influence, violence, threat or deception or by giving

opportunity, effort or information, or intentionally persuade to do something.

- Regarding the persons mentioned in Article 2, Point e, those who are accountable to him are only acts that are deliberately persuaded by them, as well as their consequences. Meanwhile, Article 56 of the Criminal Code states that punished as a person who helps carry out the crime of a person who intentionally helps to commit the crime and who intentionally gives an opportunity, effort, or statement to commit the crime.

Based on the above background, this study aims to discuss criminal liability in the spread of hoaxes carried out by the press in the perspective of criminal law. This study also aims to highlight the types of offenses for criminal acts committed by the press in criminal law in Indonesia. The findings of this study are hoped to shed some lights for policy-makers as references in promoting press independence and its contribution to enhancing the democratic state of Indonesia.

The rest of this study discusses the research method in Section 3, followed by the discussion of the findings. Finally, Section 4 concludes the paper.

RESEARCH METHOD

To analyze the research issues, this study uses a normative juridical approach. This approach covers discussion of principles of law, legal systematic, legal history, comparison of laws, and the level of legal synchronization (Sunggono, 2007). In this context, normative juridical is a research approach to highlights, describe, systematize, and evaluate the positive laws that apply in society and consequently strive to find juridical solutions to legal problems (Irianto, 2009). In addition, this approach is also used to find out the views of criminal liability by the press against fake news on social media.

To gather the data, both primary and secondary legal materials are referred. The primary legal materials referred in the study are the binding legal materials consisting of the 1945 Constitution of the Republic of Indonesia, the Criminal Procedure Code, the Criminal Code, the Law No. 40 of 1999 concerning the Press; and the Law No. 11 of 2008 concerning the Information on Electronic Transactions (IET). Meanwhile, the secondary legal materials, which are the explanation of the primary legal materials including reviewing laws relating to problems, such as jurisprudence and doctrine are also referred. These collected data are then analyzed inductively and comparatively. Inductive analysis is an analytical method that displays specific statements which are then drawn to general conclusions (Sumantri, 1984).

FINDINGS AND DISCUSSION

In this section, the findings on criminal liability by the press in spreading fake news or hoaxes on social media and the concept of fraudulent spread of news carried out by the press will be discussed, based on the objectives of this research.

The Criminal Responsibility on Fake News by Social Media

Unpleasant news about the Governor of Aceh, Indonesia for the period 2008-2022, Irwandi Yusuf about alleged involvement in corruption in 2018 had become popular news in Aceh Province, Indonesia. The editor in chief of the local media, Modus Aceh, Muhammad Saleh claimed to have been reported to the Banda Aceh Police Headquarters by Aceh Governor Irwandi Yusuf. The report is known after he received an Investigation Warrant No. Sp. Sidik/273/V/RES.1.14/2018, on May 8, 2018, signed by the Head of the Banda Aceh Regional Police Office, AKBP Trisno Rianto. In the letter it was also known that Irwandi Yusuf had reported himself on Tuesday, April 4, 2018, to investigator Criminal Investigation Unit of the Police of Banda Aceh, No. LP.B/192/IV/YAN25/2018/SPKT, dated April 4, 2018 (Irianto, 2009).

Although it cannot be ascertained regarding the report on what forms of bribery or corrupted actions Irwandi Yusuf was involved, but Muhammad Saleh, as he was named, alleged that the report was related to the alleged flow of funds of IDR14 billion from the case of CT-3 Pier of Sabang Free Trade and Free Port Trade Zone Management Agency Sabang (*Badan Pengusahaan Kawasan Perdagangan Bebas dan Pelabuhan Bebas Sabang*, BKPS), which was written and published in Modus Aceh local newspaper in April 2018. By notifying the commencement of the investigation on May 14, 2018, the copy sent to the Head of the media is known. Irwandi Yusuf's report related to allegations of defamation/slander as referred to in Article 28 Jo Article 27, Law No. 11 of 2008 concerning the Information and Electronic Transactions (IET) Jo Article 311 of the Criminal Code Jo Article 310 of the Criminal Code. However, it was not explained what caused Irwandi Yusuf's name to be defiled. The Modus Aceh also confirmed the news.

The chief editor of the Modus Aceh, Muhammad Saleh said that it was the right of citizens if they felt disadvantaged by the press. Muhammad Saleh said that, on his side, he did not understand and know for certain, related to the accusation of defamation and slander that was intended by Irwandi Yusuf. Press are social institutions and mass communication vehicles that carry out journalistic activities including searching, obtaining, possessing, storing, processing, and convey information in the form of writing, voice, image, sound and image, as well as data and graphics and other forms using print media, electronic media, and all types of

channels available (the Article 1, Paragraph (1) of the Law No. 40 of 1999 concerning the Press).

Both printed and electronic media and press are important instruments in community life that are vital for improving the quality of life of their citizens. The press is a reflection of the identity of the community because what is stated in the press presentation is essentially the pulse of the life of the community in which the press is located (Wahidin, 2006). In the results of a study written by Herawati (2016) entitled "Press Law as *Lex Specialis* in Resolving the Issue of Press News" stated that the realization of freedom in expressing opinions in Indonesia, one of them is carried out by those involved in the field of journalism. Provisions regarding matters relating to journalism are regulated in the Law No. 40 of 1999 concerning the Press. According to her, press news can be divided into five categories, namely:

- Crime against public order (*hatzaai Pasalen*);
- Insulting crime, consisting of two parts of humiliation, that is insulting the president and the general humiliation that is regulated;
- Crime commits incitement, this crime is often referred to as provocation, that is in the form of an effort or action to encourage, invite, arouse or burn other people to do an act;
- Evil broadcasts false news; and
- The crime of decency.

When the Press Law No. 40 of 1999 was issued, the criminal provisions stipulated in Article 18 regulate the following issues:

- Anyone who unlawfully intentionally carries out an action that results in hindering or obstructing the implementation of the provisions of Article 4, Paragraph (2) and (3) is punishable by imprisonment of a maximum of 2 (two) years or a maximum fine of IDR500 million;
- Companies that violate the provisions of the Article 5 Paragraphs (1) and (2), and Article 13 in criminal cases with a fine of at most IDR500 million;
- Press companies that violate the provisions of Article 9 Paragraph (2) and Article 12 are punished with a fine of at most IDR100 million.

In addition, the provisions regarding the spread of fake or hoax news that can issue confusion among citizens are regulated in two provisions through Law No. 1 of 1946 concerning Criminal Law. Article 14 of the Law a quo affirms that:

- Whoever, by broadcasting news or false notices, intentionally issues confusion among the people, is punished with a maximum of ten years in prison; and
- Whoever issues a notification that can issue confusion among the people, while he should be

able to think that the news or notification is a lie, sentenced to a maximum of three years in prison (Siddiq, 2017).

Hoax news dissemination that can cause hatred towards a group, the provisions are regulated in Article 28, Paragraph (2) of the Electronic Information and Transaction Law states that "every person intentionally and without the right to disseminate information intended to cause hatred or individual hostility and/or certain community groups based on ethnicity, religion, race, and between groups".

The press in broadcasting or disseminating news must be accurate and can be accounted for in accordance with data and facts. In the case of news in the local media of Modus Aceh, Irwandi Yusuf felt defiled by the news. He made a complaint to the police to be followed up in accordance with applicable law.

In Law No. 40 of 1999 concerning the Press, the news releases by the Press can be divided into five categories:

- Crime against public order (*hatzaai Pasalen*);
- Humiliation crime consists of two parts of humiliation, namely: insulting the president and the general humiliation regulated;
- Crime commits incitement, this crime is often referred to as provocation, that is in the form of an effort or action to encourage, invite, arouse or burn other people to do an act;
- Evil broadcasts false news; and
- The crime of decency.

Based on the above delineation, it can be identified in Point 4, that in broadcasting news carried out by the Press it is not permissible to spread false news or that there is no factual clarity. Article 18 of the Law No. 40 of 1999 concerning the Press, states that:

- Anyone who unlawfully intentionally carries out an action that results in hindering or obstructing the implementation of the provisions of Article 4, Paragraphs (2) and (3) is punishable by imprisonment of a maximum of 2 (two) years or a maximum fine of IDR500 million;
- Companies that violate the provisions of Article 5, Paragraphs (1) and (2), and Article 13 in criminal cases with a fine of at most IDR 500 million;
- Press companies that violate the provisions of Article 9, Paragraph (2) and Article 12 are punished with a fine of at most IDR100 million.

In making, the news is the task of a journalist or often called a reporter (press), which is sheltered under a press company. A press in making news must go through the leadership agreement and the results of the news can be accounted for by the author. In the case of Irwandi Yusuf's news of his alleged involvement in

corruption, journalists or the Press should have the obligation to confirm the news he had written to the person reported, in this case, Irwandi Yusuf. In journalism writing techniques begins with coverage, collecting data, interviews, and others. Likewise, with the journalistic code of ethics, the only difference is the process of conveying and presenting news to the public. To realize the independence of the press, an Indonesian journalist should be aware of the social responsibility and diversity of the community, in order to ensure the establishment of press freedom and fulfil the rights of the people, a moral foundation or professional ethics that can become a profession. Journalists in carrying out their duties are limited by legal provisions such as the Press Law No. 40 of 1999 and adhere to the journalistic code of ethics. Irwandi Yusuf felt that his good name had been tainted by the Modus Aceh Daily which was led by Muhammad Saleh, then complained to Banda Aceh Police. It should be the editor in chief who was responsible for the news. In a press company, there is an arrangement of positions that regulates all the workings of the company, including Assistant Editor, Editor, Managing Editor Assistant, Managing Editor, Deputy Chief Editor, and Editor in Chief. In this case, an editor in chief has to be responsible for all contents in the media. He is the one who has the final decision about whether news' content should be published or not. He also has to face when content is questioned. A news written by a journalist or the press has a printed agreement from an editor in chief, personally the Press is also charged with various responsibilities by media companies that give them jobs, such as the task of covering the news, searching for and depositing news based on assignments, then the work will be accountable to the public, government, editors, and media owners.

From the above explanation, it is clear that the mistakes made by the press personally cannot be held accountable to the head of the press, because each press must personally obey the Journalistic Code of Ethics that has been agreed upon. In criminal responsibility, of course, individuals must be liable for their speech, including in the case of Irwandi Yusuf's defamation by the Modus Aceh. Irwandi's report related to allegations of defamation as referred to in the Article 28 Jo Article 27, Law No. 11 of 2008, concerning information and electronic transactions (IET) Jo Article 311 of the Criminal Code Jo Article 310 of the Criminal Code.

By rule of the Article 28 of the IET Law states that "everyone intentionally and without the right to disseminate information aimed at arousing hatred or hostility of certain individuals and/or groups based on ethnicity, religion, race, and between groups. Obviously, this is a rule that is addressed to individuals and not legal entities, that is the press companies.

Article 27 paragraph (3) of the IET Law states that it prohibits anyone intentionally and without rights to distribute and/or transmit and/or make access to Electronic Information and/or Electronic Documents that have content of insult and/or defamation. Articles 14 and 15 further states:

- Whoever, by broadcasting news or false notices, intentionally issues confusion among the people, is punished with a prison sentence as high as ten years high.
- Anyone who broadcasts news or issues a notification that can issue a disturbance among the people, while he should be able to think that the news or notification is a lie, is punished with a maximum of three years in prison.

Article 310 of the Criminal Code states that:

- Anyone who intentionally attacks someone's honor or good name by accusing something, which means clearly so that it is publicly known, is threatened because of pollution with a maximum imprisonment of nine months or a fine of at most IDR500 thousand.
- If this is done in writing or a picture that is broadcast, displayed or posted in public, then it is threatened because of written pollution with imprisonment for at most one year and four months or a fine of at most IDR400 thousand.
- It does not constitute written pollution or pollution, if the act is clearly carried out in the public interest or because it is forced to defend itself.

Furthermore, Article 311 of the Criminal Code actually explains slander. Article 311 of the Criminal Code states that if the person who commits a crime of pollution or written pollution is allowed to prove what is alleged to be true, does not prove it, and the accusation is contrary to what is known, he is threatened with slander with a maximum of four years in prison.

Based on the Article 310 paragraph (1) of the Criminal Code, the insult that can be punished must be done by "accusing someone of committing a certain act, with the intention that the accusation will be spread (known to many people)". Certain actions are intended, not limited to acts that are prohibited by law, meaning that any action can be an accusation.

The accusation must be made verbally if done with writing (letters) or pictures, and then the insult is called "insulting/insulting with a letter (in writing)" and can be subject to Article 310 paragraph (2) of the Criminal Code.

Criminal acts of verbal abuse, writing, and slander, as described above can only be prosecuted if there are complaints from the insulted person, which in criminal law is known as complaint offense. Whereas

the object of the insult must be an individual human being, meaning the government, an association, the community group, and others. Insults according to Article 310 cannot be punished if the accusation or insult is carried out to defend the "public interest" or is forced to "defend". Meanwhile, as for the crime of slander as regulated under Article 311 of the Criminal Code, it does not need to be done in public, it is sufficient if it can be proven that there is an intention to broadcast the allegations.

Under Articles 27 and 28 of the IET Law, Article 310 and Article 311 of the Criminal Code, Articles 14 and 15 of the Criminal Code, there were not any phrases stating that the head of a legal entity, in this case, is a press company led by the Editor in Chief responsible for fake news issued through his company, but the rules of the article above clearly give punishment to individuals, namely individuals.

In Article 18 of Law No. 40 of 1999 concerning the Press, there are criminal provisions which state:

- Anyone who unlawfully intentionally carries out an action that results in hindering or obstructing the implementation of the provisions of the Article 4 paragraphs (2) and (3) shall be punished with a maximum of 2 (two) years imprisonment or a maximum fine of IDR500 million.
- Press companies that violate the provisions of the Articles 5 paragraph (1) and (2), and Article 13 shall be punished with a fine of a maximum of IDR500 million.
- Press companies that violate the provisions of the Article 9 paragraph (2) and Article 12 are punished with a fine of at most IDR100 million.

Referring to the Article 18 of the 1999 Press Law, it can be concluded that for the press that does things outside the stipulated provisions, in paragraph (1) it is said that individual or group of individuals can be punished according to the applicable criminal provisions. However, the press is an actor who cannot be proven wrong personally, but the attachment of the status of the press to someone's individual, which is an obstacle to legal proceedings for violating an offense he committed and procedure for settlement by the press council for the press that violates the code of ethics. In order to safeguard the independence and life of the national press, it is not only the role of the press or journalist but also the responsibility of everyone and the press council. In the provisions of the Article 17 of the Law No. 40 of 1999 concerning the Press, it is stated that the public can develop the freedom of the press by monitoring and reporting analysis on violations of the law and technical errors in the news carried out by the press. Settlement of violations relating to journalistic activities is conveyed to the press council as an independent institution that oversees press activities.

This is in accordance with the provisions in the Press Council Statute Article 20 Paragraph 5, that the procedure for resolving complaints of press cases concerning ethics and law is regulated in the regulations of the press council. Completion of the journalistic code of ethics violations, in accordance with complaints procedures on the press council, is regulated in Press Council Regulation No. 3/Regulation-DP/VII/2013. In an effort to develop press freedom and to improve the life of the national press an independent press council was formed, to protect the freedom of the press, establish and supervise the implementation of the journalistic code of ethics and provide consideration and strive to resolve public complaints on cases relating to press coverage.

Therefore, in order to supervise the implementation of the journalistic code of ethics, the press council receives and processes complaints and follows up information from the public regarding the alleged violation of the journalistic code of ethics and the principles of press freedom. The Press Act should have been changed to a more specific direction, namely in criminal liability. In legal terms, the press company is given a penalty in the form of administrative sanctions, namely in the form of a warning, paying a fine, even dissolving or closing a press company that violates. And in a journalistic code of ethics, perpetrators of criminal acts of pollution of hoaxes carried out by journalists or the press personally are carried out to release the responsibility or status of the press in his position as a press.

Criminally, a press should be given responsibility as a legal person for his responsibilities as a press after making a mistake in writing the news. Personally, the punishment under the journalistic code of ethics from warnings to dismissals and when committing a crime such as a good name or spreading false news should be punished according to the applicable penalties, namely the IET Law and the Criminal Code. Because so far many presses have made mistakes that either intentionally or unintentionally brought losses to the press companies. As a result, penalties are not serious and get lessons from their actions; a press can easily spread false news to make interesting news so that it harms the side of the party that is the fruit of the news.

The Delict Concept of News Dissemination by the Press

Delict or criminal act is an act that can be punished, is a human being who contradicts the law carried out intentionally (with intention, there is an error) by someone who can be accounted for (Dwiyatmi, 2006). Simons formulated the offense (*strafbaar fei*) unanimously. *Strafbaar feit* is a behaviour or action that is threatened with a criminal offense that relates to an error and is carried out by someone who is capable of being responsible. Jonkers and Utrecht see that the Simons formula is a complete

formula, including threatened by crime by law, contrary to law, conducted by a guilty person, and the person is deemed responsible for his actions.

Regulations and essays by experts, there is no one understanding of press offenses. This resulted in the understanding of the press always developing, so that the notion of the press offense could be from a narrow understanding and developed into a broad meaning. According to the *Ex Regulation Deuk Pers Reglement* 1856, the notion of press offense is a crime or violation by using printed goods in the form of doubling the writing, the results of paintings and music texts produced by machine work or chemicals (Poernomo, 1984). Meanwhile, the notion of press offense follows WvS, so the notion of press offense is a crime committed by a printing press (Poernomo, 1984).

Crime through the press can be formulated as a press offense not found in the Criminal Code which is certain. Thus to find out the criteria that must be met by crime through the press can be said as an offense to the press, it can be seen some of the opinions of scholars as follows (Hamzah, 1987):

- Adji (1973) argues that an offense is declared to be offended by the press must meet several requirements. The requirements for press offenses, including: (a) It must be done with printed material; (b) Penal action must consist of statements of thoughts or feelings; and (c) From the formulation of the offense it must be evident that publication is a condition for growing a crime, if this fact is done with an article.
- Vos and Jonkers stated that the notion of press offense is an offense carried out using a printer and its implementation has occurred in publications (Poernomo, 1984).
- Moegono states that there are criteria for a crime through the press. The criteria that must be met by a crime through the print press must meet the conditions: (a) Acts that are threatened with punishment must consist of statements of people's thoughts and feelings; (b) Must be done with printed material; and (c) There must be publications (Manalu, 1987).

Based on the definitions of press offenses that have been described, it can be concluded that there are some limitations regarding the press offense. The limitations that can be concluded as press offenses, namely:

- In the general sense, press offenses are crimes or violations committed through the press;
- In terms of regulations (juridical) as stated in the *Reglement op de Druksw erken* 1856, press offenses are crimes or violations by using printed goods in the form of doubling the writing, the

results of paintings and music texts produced by machine work or chemicals;

- In a limited sense according to legal experts, with the requirements: (a) a statement of people's thoughts or opinions; (b) it is done through a press or press; and (c) there must be the publication of offenses.

The offense is specifically regulated in chapter XVI of the Criminal Code (KUHP), which consists of 12 Articles, namely Article 310 to Article 321 of the Criminal Code. Insult is a deviating one's good name and honour, which is not in a sexual sense, so that the person feels aggrieved (Armada, 1989). The definition of press offense according to legal experts limited by the three conditions mentioned above brings the consequences, that if it does not fulfil the first requirement first then it is not included in the press offense category (Poernomo, 1984). Thus, based on the explanation of the elements of the offense above, it is very clear that the news reported by the press regarding the case of Irwandi Yusuf involved in a corruption case in the Aceh Mode is an offense by the press.

CONCLUSION

This study discussed the criminal responsibility on a fake news report on social media in and the concept of fraudulent spread of news carried out by the social media or press in Aceh Province, Indonesia using a normative juridical approach. The study found that, on the basis of the Article 18, Paragraph (1) of the Press Law of 1999, for the press that violated the stipulated provisions, it could be punished according to the applicable criminal provisions. The study also showed that there was fake written news by the press as a press offense categorized as a crime or violation of law by the press.

In article 18 of the 1999 Press Law, it can be concluded that for the press that does things outside the stipulated provisions, in paragraph (1) it is said that individuals or individuals can be punished according to the applicable criminal provisions. However, the press is an actor who cannot be proven wrong personally, but the attachment of the status of the press to someone's individual, which is an obstacle to legal proceedings for violating an offense he committed.

In the case of news about Irwandi Yusuf made by Modus Aceh there were limitations which prove that the written news or written by the press is a press offense, namely In the general sense, the press offense is a crime or violation committed through the press, in the sense according to the regulations (juridical) as stated in the *Reg. op de Druksw erken* 1856, press offenses are crimes or violations by using printed goods in the form of doubling the writing, the results of paintings and music texts produced by machine work or chemicals, in a restricted sense according to legal experts, with Requirements In the form of statements of

thoughts or opinions of people, carried out by means of printing or press, and the existence of publications has occurred.

A press should be given responsibility as a legal person for his responsibilities as a press after making a mistake in writing news, and personally a journalistic code of ethics from warning to dismissal and if committing a crime such as defamation or spreading false news should be punished accordingly with the applicable penalties, namely the IET Law and the Criminal Code.

Based on these findings, the study suggests that the lawmakers (legislators) must pay attention to boundaries that constitute an offense in a crime so that they can make clear rules or regulations and apply penalties in accordance with applicable rules.

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