



State's Protective Measure towards Criminalization of Investigative Journalists

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Abstract

Investigative journalism is a form of news covering activities where the journalists are investigating deeply the information and/or events. Investigative journalism utilizes investigation technique because general methods of journalistic would not suffice, due to the nature of objects being investigated. To that extent, the journalists often face threats and dangers that arise the importance of protective measure by Indonesian State authorities. Using normative-empirical legal research method, this research was conducted to describe the design of legal protection towards investigative journalists. The protective measure towards investigative journalists substantially covered by Journalistic Ethical Code and The Press Law; Registered press company, particularly press company founded as legal entity; Strong role of Press Council in advocating investigative journalists; Article 50 of Indonesian Penal Code as legitimacy of freedom of press; MoUs between Press Council and law enforcers. The implementation in the field requires investigative journalists to uphold carefulness due to the culture of law enforcement in particular and society in general that is still putting criminal law as *primum remedium* towards press.

Keyword: Criminalization; Freedom of Press; Investigative Journalism; State's Protection

INTRODUCTION

Journalism has contributed in social changing. In Indonesia, journalism witnessed the political transformation and took pivotal role in disseminating information for public since Dutch colonization era. The design of rules and regulation regarding press has been changing through some regime Indonesia have implemented. Through these times, it can be seen the changing of perspectives towards the protection of freedom of press and its implication

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towards journalists in general and investigative journalists in particular.

The development of press, in 1828, was contributed by the circulation of *Javasche Courant* to circulate piece of news related to government that was published in Europe. In Surabaya, 1835, there was *Soerabajash Niews en Advertentieblad*. The role of these editorials were only advertisement-like and non-political. The colonial ruler would supervise and decide every publishing, including native-language publishers. As a mean of supervision, in 1856, through *Reglement op de Drukwerken in Nederlandsch-Indie* regulated that every printed journalistic products, before being published, one exemplar of the document had to be delivered to the administrative head of government for evaluation. If not, the document would be (Rahmania, 2014).

In 1906, the *Koninklijk Besluit 19 March 106 Ind.Stb.No.270* amended the fore regulation in a way it was deemed more repressive than preventive. The narration stated that within 24 hours the copies of the editorial had to be examined by the administrative government. The set up of regulation related to press, then, had been declining by the implementation of *Wetboek van Strafrechts* in 1918. The *WvS 1918* established some provisions in its articles that created new excuses to shut press, inter alia, article 154-157 of *WvS*.

After the independence declaration in 1945, the dynamic of press started to arise. Fter independence, few more publishers company were established. When the capital city were being relocated from Jakarta to Yogyakarta, journalists took this event to advantage where they were gathered in Yogyakarta as well and form an alliance called *Indonesian Journalists Alliance (Persatuan Wartawan Indonesia/PWI)*. This event became a milestone in the struggle of press in Indonesia to secure full freedom of press. The gathering place is now called *Indonesian Press Monument (Monumen Pers Indonesia)*.

As the regime changed, the position of press in the social system changed accordingly. In the old order regime (1945-1965), the freedom of press was facing external challenge where press move was suppressed. This era of press also known as *Guided Press Era*. A minister at the time, Maladi, stated that individual freedom rights must be in accordance with social-collective rights. Freedom of expression as stated on *The Constitution* must be limited by social moral interest. Moreover, in the early 1960, Maladi stated that disciplinary action would be taken for any publishers who violated rules and endangering social control (Ulya, 2012).

The repressive regulation towards press was replaced by *Law Number 23 Year 1954 on the Revocation of Presbreidel Ordonnantie (The revocation of press-banning rules)*. The fight *PWI* arose for the freedom of press continued until the early of new order regime, it had brought the birth of *The 1966 Press Law*. It can be seen from *Article 3 of The Press Law version year 1966* that “Press has rights to control, to criticize, and to correct in a corrective and constructive way”. This Article was strengthen by the penal sanction provided by *Article 19 of the same law*, which stated “Every subject, in any way, directly and indirectly commit any action that limiting the spirit of article 2 and 3 of this law, will be sanctioned with maximum 1 year of imprisonment”.

In the development of the new order regime (which was the longest period of regime in Indonesia), the Press Law was also transitioned. The 1966 Press Law was amended through Law Number 21 Year 1982 (The 1982 Press Law). The 1982 Press Law amended the Article 19 into more multi-interpretable, that is “Every subjects, with full conscious and intentionally uses press publishing for personal or particular party interest, and causes misuses and/or barriers towards press’ work, function, and duty....”

The provision’s elements are designed to be more harming press publishers instead of providing full protection. This law is also criminalizing more of journalistic products, including journalists themselves and everyone who uses journalistic products.

Moreover, The 1966 Press Law only stated that press publishers must be a legal entity, but The 1982 Press Law through Article 13 Paragraph (5) and (6) added that press publisher must, not only a legal entity, but also obtain permit from the government. This was seen as a control power from the sovereign.

In the regime of reformation (reform era) (1998-2004), the press law referred to Law Number 40 Year 1999 on Press (The 1999 Press Law). This press law is also the current press law (Post-reform regime, 2004-present).

The 1999 Press Law, as an initiative under the ruling of President B.J. Habibie, accommodates press rights better than its predecessor. For example, stated in Article 4 Paragraph (2) of this law “National press are not to be censored, breidel, and publishing prohibition”. Article 4 Paragraph (3), “National press obtain rights to investigate, to receive, and to disseminate ideas and information”.

The 1999 Press Law is also, by all means, diminishing the permit conception to establish press publisher company. This Law is also stating the concept of freedom of press, which is not regulated specifically in Indonesian Constitution 1945. The role of Press Council along with the Journalistic Ethical Code, is also strengthened to provide legal basis for freedom of press protection.

However, in its implementation, the journalistic activities in Indonesia are still under the shadow of risk of legal dispute. To be more alarming, not only civil dispute, but also criminal law accusation (criminalization). Amidst current society development that enhance the use of digital platform, the challenge for journalists in legal corridor is also inclining. Investigative journalists, in particular, are surrounded by vulnerable work scope and environment in which very possible to thrust them in criminal law dispute. This is due to the method they use to investigate for information, together with the characteristics, kind of information they are collecting. Wahyu Dyatmika, journalist of Tempo, stated that Indonesian ecosystem does not provide oxigen for investigative journalism (admin_jaring, 2016). Moreover, Dyatmika stated that one of the problems is in a scope of State’s regulation. Indonesia, does have The Press Law which provide adequate protection towards criminalization of investigative journalists. However, the implementation of protection towards whistleblower is still lacking, therefore, the encouragement of motivation for journalists to conduct investigative journalism is not sufficient (admin_jaring, 2016).

The insufficiency of protection towards investigative journalists is evidently because of other regulations in Indonesia. Indonesian Penal Code for instance. *Wetboek van strafrechts* was adopted as the Indonesian Penal Code, the umbrella law for criminal conduct. Until today, The Penal Code is often used to sanction people regarding publicly expressed opinion. This is due to the nature of journalistic work that is disseminating information to public, that law provisions regarding defamation is often applicable towards journalists (Dermansyah, 2015). Article 310, 311, and 316 stating about defamation are the more related articles in The Penal Code to sanction the press (Dermansyah, 2015).

Outside The Penal Code, below are some provisions that surround investigative journalists in doing investigative journalistic work:

Article 5 j.o. Article 18 Paragraph (2) of The 1999 Press Law, stating that every press publishers is obliged to obey the principles of religious norms, decency norms, and presumption of innocence in disseminating news. Violation shall be sanctioned with 500 million rupiah of fine.

Article 54 j.o. Article 17 Law Number 15 Year 2008 of The Public Information stating that accessing a non-public information (this includes an on-going criminal investigation) shall be sanctioned with two years' imprisonment and maximum ten million rupiah fine.

Article 27 Paragraph (3) jo. Article 45 Paragraph (1) Law Number 11 Year 2008 of Electronic Information and Transaction stating defamation that distributed through online/digital platform.

Authors have categorized some legal matters that are criminalizing investigative journalists. Those are:

The dissemination of the exception from public information based on The Public Information Law

Article 17 of this law stated that there is 3 (three) years imprisonment sanction for everyone who disseminate any classified information to public. This is subjected to investigative journalists too. This rule applies to on-going criminal cases, which in consequence, has made on-going criminal cases as classified information. Meanwhile, that is kind of information investigative journalists work on (BBC News Indonesia, 2010).

Defamation based on Penal Code and online defamation based on The Law Number 11 Year 2008

Article 310, 311, and 316 of Indonesian Penal Code stating about defamation are often accused towards investigative journalists (Dermansyah, 2015). Example case is the arrestment of *Obor Rakyat* Editor in Chief and Journalists for their article about Jokowi (Kurniawati, 2018). Journalists Sulawesi Tenggara (Sultra) were reported based on defamation as stated in Article 310 Penal Code as well as Article 27 Paragraph (3) The Law Number 11 Year 2008 (Amali, 2019).

Unlawful arrestment towards investigative journalists during information collecting process.

During riots that occurred in 2019 (protest against government decision to legalize Draft of Penal Code) and in 2020 (protest against government

decision to legalize Job Creation Law) journalists therein were arrested and restrained for 24 hours without clear legal basis. Mostly they were arrested while recording mass and police officers action amidst riot. Not only arrested, their gadgets along with the recordings were seized.

In addition, investigative journalists are trained to protect pieces of information they possess. It is written in their manual book (Nazakat, 2016). In a situation when investigative journalists possess piece of criminal evidence, they may use it for their reports. Meanwhile, based on The Law No. 8 Year 1981 on Criminal Procedural Code Article 1 Paragraph (16) and Article 5 Paragraph (1) point b 1, evidence can be seized for investigation. Journalist capacity in observing the evidence is limited by the authority of investigator to seize evidences.

In investigative journalism, other principle is also intersecting with the principle in criminal law enforcement, that is, investigative journalists bear the right called right to decline. This right is stated in The 1999 Press Law Article 1 Paragraph (10) and Article 4 Paragraph (4). Right to decline is allowing journalists, based on their attribute, not to disclose the identity, and any other information, of their sources. However, if it is based on criminal procedure enforcement principle, everyone must provide information and evidences to police investigators. Article 221 Paragraph (1) of The Law No. 8 Year 1981 prohibit anyone to hide a suspect (including hiding information of the suspect's identity and/or his whereabouts). This provision is subjected to investigative journalists as well.

Lastly, The 1999 Press Law provides protection and minimum sanction for investigative journalists. However, other laws as stated on the paragraph above, provide other channel to put investigative journalists in criminal accusation. This is the most endangering freedom of press among all three legal aspects mention in this article.

The evidences has shown vulnerability of investigative journalist as a profession. The regulations therein, should provide protective mechanism for investigative journalist. However, the whole system of state's protective measure is not wholly working. This is due to some factors that lessen the assurance of protection towards investigative journalists. Hypothetically, the aforementioned cause factors are, inter alia, the laws themselves; law enforcers; society members that are not upholding freedom of press as their spirit chant. These cause factors are going to be analyzed thoroughly through this research article.

Therefore, to provide the grand design of the protective measure state's has provided and where it is lacking in securing the profession of investigative journalist, the author attempted to compose this article, entitled **State's Protective Measure towards Criminalization of Investigative Journalists**.

RESEARCH METHOD

This article is composed as a result of legal research. Legal research is a process of finding legal rules, legal principles, and legal doctrines in order to answer legal issues faced (Marzuki, 2017).

Methods used in this research was normative-empirical legal research. This method is done by conducting legal analysis towards legislations and policies regarding investigative journalism. Data used in this research consist of secondary data, which included primary legal materials and secondary legal materials.

This research also used the help of empirical research method that requires the use of primary data. In this method, researchers gathered first-hand information through interview. Interview was conducted towards senior investigative journalist from top tier media in Jakarta, Indonesia, the Executive Director of Indonesian Press Legal Aid, and a faculty member in President University that experts in journalism and digital media.

Focus group discussion (FGD) was conducted prior in order to gain preliminary critical argumentation for the problem proposed. The FGD invited two journalists to propose journalists' point of views. One legal practitioner was also invited to contest the journalists' point of views with legal experts'.

Data analysis was conducted through statutory approach towards legislations. Statute approach is the most essential approach that generally used by a juridical normative legal research (Ibrahim, 2007). The aim was to gain better view whether Indonesian legislations related to press, already providing sufficient protection for press rights. The result is put side by side with the problems arisen in the field. This way, it is clearer to see in what aspect the legal protection towards investigative journalists in particular, and journalists in general, need to be enhanced

FINDING AND DISCUSSION

Investigative journalism is a form of news covering activities where the journalists are investigating deeply the information and/or events, possibly related to corruption, government's or corporation's policy, disclosing economic trend, politics, and cultures (Ansell, G., & Groenink, 2016). An investigative journalist may takes months even years, to dig upon one topic with purpose to disclose public interest that being covered by certain party (Ansell, G., & Groenink, 2016). Investigative journalism is a journalistic method that combines journalistic and investigation that is similar to law enforcement procedure. Therefore, investigative journalism must possess spirit, ideology and mission (Yudhapramesti, 2015). Investigative journalism utilizes investigation technique because general methods of journalistic would not suffice, due to the nature of objects being investigated (Dirgahayu, 2015). In carrying out the investigative journalistic work, plenty of challenges and obstacles surround investigative journalists, inter alia, risk of being sued and/or accused, like what Tommy Winata did (Dirgahayu, 2015).

Original investigative reporting includes reportes himself in disclosing and documenting the subject's activity, that initially was undisclosed from public. In this case, journalists utilize technique similar to police investigators (Dirgahayu, 2015). In international scale, Panama Papers was one of the

investigative journalistic result.

In national scale, legal aspects of investigative journalism basically started with the fact that press and journalists in Indonesia are regulated through state's law. The aspects of press has been in the law and regulation since the early Indonesia and also when Indonesia was still named The Netherlands-Indie under the colonism of the Dutch.

The colonism era is the era that introduced The Netherlands-Indie (NEI) to modern media and journalism. Press was begun as a method to claim power and authority by the colonial, and, in its development, it was used by the natives as a mean to rebel and to take over power from the colonial (Triwardani, 2010). National press focused on the national movement issues and this had resulted in a long history of national press, as an institution to drive national reform against colonial party (Triwardani, 2010).

As mentioned in the introduction section, after its independence, Indonesia had gained full to the extent of press regulation. After the independence declaration in 1945, the dynamic of press started to arise. The strengthening of the power of the national press was marked by the establishment of an alliance called Indonesian Journalists Alliance (Persatuan Wartawan Indonesia/PWI). This event became a milestone in the struggle of press in Indonesia to secure full freedom of press. The gathering place in Yogyakarta, where this alliance was first assembled, is now called Indonesian Press Monument (Monumen Pers Indonesia).

As the regime changed, the position of press in the social system changed accordingly. In the old order regime (1945-1965), the freedom of press was facing external challenge where press move was suppressed. This era of press also known as Guided Press Era (Era pers terpimpin). A minister at the time, Maladi, stated that individual freedom rights must be in accordance with social-collective rights. Freedom of expression as stated on The Constitution must be limited by social moral interest. Moreover, in the early 1960, Maladi stated that disciplinary action would be taken for any publishers who violated rules and endangering social control (Ulya, 2012).

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conception to establish press publisher company. This Law is also stating the concept of freedom of press, which is not regulated specifically in Indonesian Constitution 1945. The role of Press Council along with the Journalistic Ethical Code, is also strengthened to provide legal basis for freedom of press protection.

However, the concept of protection for investigative journalists is not as ideal as stated in the consideration of the Press Law. The 1999 Press Law encourages more opportunity for press the establishment of press corporations, one of which, by erasing permit policy for press corporation. After the revoke of permit policy, the Indonesian government was almost agreed to a barcode system, in which constituting legitimacy of any press corporations based on a barcode. This way is seen as similar with the idea of permit policy, therefore it was not done. Nowadays, press corporation only need to be established as a legal entity, without obtaining permit nor barcode from the government.

To provide clear information of the changes in The Press Law, below is the list of press laws from the Old Order Era until the Reform Era.

Table 1. Press Law in Indonesia

| Old Order | New Order | Reformation Order |
|---|--|---|
| Presidential Decree of Republic of Indonesia No. 6/1963 on Press Development | Law No. 4/1967 on the addendum of Law No. 11/1966 | Law No. 40/1999 on Press |
| People’s Representatives Assembly Decision No. XXXII/MPRS/1966 on Press Development | Law No. 21/1982 on the amendment of Law No. 11/1966 as amended by Law No. 4 Year 1967 (The 1982 Press Law) | Law No. 32/2002 on Broadcasting |
| Law No. 11/1966 on Essential Provisions of Press (The 1966 Press Law) | | Law No. 11/2008 on Electronic Transaction and Information (The ITE Law) |
| | | Law No. 14/2008 on the Public Information |

The current regulations are referring to the reformation order. Though it is more exactly as post-reformation era. The 1999 Press Law bears a spirit of press freedom through its provisions. Stated in the law’s consideration,

“...freedom of press is a manifestation of people’s sovereignty and is a crucial element to establish democracy, therefore, the freedom of expression as mandated by Article 28 of Indonesian Constitution must be guaranteed)”

The narration of freedom of press, however, is not specifically mentioned in the state’s constitution. The Constitution Year 1945 does mention freedom of expression in general context, that may include freedom of press. Such freedom has been regulated in explicitly in The Press Law. Moreover it is

also stated that freedom of expression and rights to information are the fundamental human rights. However, in the context of legal aspects of investigative journalism, the guarantee to uphold freedom of press through national law instruments has created a double-edged-sword situation towards journalists (Ni'matun, 2020). The regulations therein are both protecting and criminalizing journalists.

In the legal system, according to Friedmann, legal substance as formulated in laws and policies also complementary with other sub-system, namely legal structure and legal culture (Goesniadhie, 2006). The 1999 Press Law is relatively suitable to protect freedom of press for it is not putting any sanction for press (except for press corporation and anyone who blockade and discriminate freedom of press). This law is deemed adequate so that the amendment for this law is kept at bay, due to mistrust the society has towards the legislative body. However, other laws are opening the gate for opportunity to sue and/or accuse journalists for law breach. Those opportunities are automatically an attempt to limit the freedom of press, freedom of expression and public rights of information. The said laws are, inter alia, Article 310-311 of Indonesia Penal Code regarding defamation, ITE Law (specifically Article 27 Paragraph (3) regarding the distribution of content that has defamation element in digital platform), and The Law of Public Information that contains criteria of classified information in which anyone who publish classified information will be sanctioned.

The legal structure of Indonesia is supposedly to also support law enforcement that emphasize on journalists rights empowerment. However, The annual report of Aliansi Jurnalis Independen (abv. AJI / Independent Journalist Alliance) reported that in a span of 2010-2011 period, 49 violence against journalists were reported. In 2019 and 2020, amidst riots that occurred by society against government decision regarding the controversy of two regulation legalization (the draft of penal code and job creation law), these were when violation towards journalists took place. Journalists who were gathering news on the spot were arrested by the authority. In this context, The Press Law has mentioned in the Article 4 Paragraph (3), "To secure the freedom of press, national press bears right to search, to collect, and to disseminate ideas and information"

Therefore, no investigative journalists shall be made difficult to do aforementioned activities. In a case of such difficulty occurs and investigative journalists are brought to criminal procedure, Press Council cooperated with Indonesian Police and Attorney Generals Office to establish MoU. MoU between Press Council and Indonesian Police covers a code of conduct where every journalistic dispute must be centralized to Press Council, as well as, accusation towards journalists must be coordinating with Press Council (Memorandum of Understanding between the Press Board and Police of the Republic of Indonesia No. 2/DP/MoU/II/2017 No. B/15/II/2017).

MoU between Press Council and Indonesian Attorney General basically covers that every prosecution must include expert witness appointed by Press Council (Memorandum of Understanding between the Press Board and attorney

of the Republic of Indonesia No. 01/DP/MoU/II/2019 No. KEP.040/A/JA/02/2019). Supreme Court of Indonesia also has established their circulation letter (SEMA) which states similarly that Press Council appointed expert witnesses for cases examined by courts.

Press Council of Indonesia possess a role as press rights empowerment. Based on the Memorandum of Understanding between Press Council and Indonesian National Police, every crime report that related to journalist and journalism products must be taken to Press Council to evaluate if the object disputed is actually a journalistic product and if there is any breach of Journalism Ethical Code. However, this concept has a hole. Press Council will provide mediation to reach settlement pact between the parties disputed. If the mediation does not reach settlement, the plaintiff may still proceed to litigation and use the Press Council's assessment as evidence.

To that extent, it is still a common practice to accuse investigative journalists for their publications in news and media, specifically if their publication covered information of some persons and/or institutions and deemed to defame the reputation of the subject. Article 310 and 311 of Indonesian Penal Code, as well as, Article 27 Paragraph (3) of The ITE Law are super flexible to target investigative journalists for their journalistic product. The ITE Law is potential to harm freedom of expression. Freedom of expression is as mandated by Article 28F Indonesian Constitution 1945 (Tashandra, 2015). Article 27 Paragraph (3) of ITE Law regulates defamation. The existence of The ITE Law and Indonesia Penal Code Art. 310 potentially criminalizing investigative journalists. Senior journalist, Asyari Usman, was arrested based on suspected defamation based on his article that was considered defaming a politician (Sohuturon, 2018). Asyari Usman was one of many journalists criminalized because of their articles.

The authors that in the extent of legal accusation towards investigative journalists, there are protective measure upheld by them. These protective measures, inter alia, investigative journalists, in investigating and producing news, works as a team. This team includes editor in chief, editor, administrator, and journalists. It is a myth that saying investigative journalists are lone wolves (Nazakat, 2016). The protective measure is strong especially if the press company is registered as legal entity. Therefore, if there is legal accusation, the press will be processed under The Press Law instead of other regulations.

Investigative journalists usually work together with law enforcers in doing their journalistic investigation. They use their connection with law enforcers they befriended with to also join obtaining data from the investigation together. This is a mutualistic relation between journalists and law enforcers. Police officers obtain evidences to build the case and investigative journalists receive information for their news report.

Journalistic Ethical Code (JEC) works as a bible for investigative journalists. They need to uphold the provisions therein to enforce protection among themselves. The JEC and The Press Law are self-regulating law to strengthen protection towards external risks, that include possible criminal accusation. The Penal Code, in the Article 50, provide a legal protection towards

investigative journalists. The provision therein stated that “Anyone’s conduct that is implemented to carry out the provisions of the law, shall not be sentenced”. Investigative journalists can be considered as carrying out provisions of the law, particularly under The Press Law. So that, investigative journalists cannot be prosecuted for doing their journalistic work, as well as, their journalistic products.

Therefore, it is safe to conclude that protective measure towards investigative journalists substantially covered by these aspects:

1. Investigative journalists work in the corridor of The JEC and The Press Law;
2. Registered press company, particularly press company founded as legal entity;
3. Investigative journalists who are certified in Uji Kompetensi Wartawan/UKW (Competency test for journalist);
4. Strong role of Press Council in advocating investigative journalists;
5. Article 50 of Indonesian Penal Code;
6. MoUs between Press Council and law enforcers.

Outside the aforementioned elements, the protective measure for investigative journalists is relatively weak, especially before the law. The competency of Press Council, as well as, The JEC and The Press Law is subjected to journalistic product and journalistic activity. Therefore, other than journalistic products and/or journalistic activities are subjected to other laws, including Penal Code. Hence, the possibility to be brought on criminal procedure is higher. In example, a journalist publish article under his competency as journalist. Later, he posted the link of his published article on his social media (e.g., Facebook). He, then, was being sued for his post on social media that was accused for defaming other person. This journalist later being prosecuted under The ITE Law and The Penal Code because his Facebook post was not considered as journalistic product, despite the fact that the post was originally from his journalistic article published previously.

Bottom line is, every investigative journalists must be aware of such threat and always impose carefulness in doing their work. Other spectrum that shows the possible threat for investigative journalists is regarding the nature of information being investigated. Law Number 14 Year 2008 on Public Information Disclosure grants public information access to all public agencies in Indonesia, unless information with exception (AJI Indonesia, 2019). It is intended to encourage public participation in decision-making process, to maintain good governance, as well as to boost service quality and management of public agencies (AJI Indonesia, 2019).

With this law, people are expected to become aware of the importance of public policies that affect the lives of many. Even though this “Freedom of Information Law” has been enacted for more than a decade, it is not widely known. The chairman of Indonesian Commission of Public Information, Gede Narayana, affirms that many people do not know they have the law that guarantees their rights to obtain public information, more over on the presence of Commission of Public Information (KIP)—an apparatus mandated to implement the law (AJI Indonesia, 2019).

Particularly for investigative journalists, it is very important to have knowledge on the kind of information they are investigating for. The manual book for investigative journalist mentioned that, in information gathering process, start with public information according to the law (Nazakat, 2016). Therefore, journalists would be working in due process of law. Other method that possible to utilize in gathering information, inter alia, hidden cameras and interviews must be only as an additional information to complete the puzzle (Nazakat, 2016).

Such evidences found in the process of investigations, must be stored very discreetly and carefully (Nazakat, 2016). In a process of investigation, journalists often find evidences. Evidences are still the domain of police investigators. Though, journalists may use the evidence for news reporting purposes. However, police investigators are bound to rules regarding treatment towards evidences, therefore, the use of evidence by journalists (or if the evidence is discovered by journalists) must not disturb the protection of the evidences. Journalists are better to work cooperatively with the law enforcers, if their investigation happened to be synchronous.

The kind of information journalists are allowed to obtain and disseminate is public information. The law mentioned that every entity are rightful of information. That is except classified information or as the law says, information that its distribution will potentially cause some undesired consequences. Based on Article 17 of this law, classified information includes:

1. Information that is potential to obstruct law enforcement process. This classification includes: obstructing criminal law enforcement; revealing identity of informant, rapporteur, witness, and/or victim of a crime; revealing data of criminal intelligence and any strategy blueprint related to prevention and settlement towards transnational crime; endangering safety of law enforcers and their family; endangering law enforcers' infrastructure.
2. Information that is potential to interfere protection of intellectual property rights and protection from unhealthy business competition.
3. Information that is potential to endanger the national security.
4. Information that is potential to disclose the natural resources of Indonesia.
5. Information that is potential to endanger state economic defense.
6. Information that is potential to endanger foreign affairs.
7. Information that is potential to disclose a private deed and a testament.
8. Information that is potential to disclose a person's personal information.
9. Memorandums or circulation letters between state institutions that are declared confidential.
10. Information that are classified according to law.

In the case of investigative journalists happen to be encountering these kind of information, they are obliged not to disclose such information. By that means, investigative journalist must aware of type information they are pursuing. Otherwise, legal sanctions await.

Mainly, it is safe to say that investigative journalists is working side by side with police investigators in investigating cases. Only that journalists pursuing information for news reporting instead of collecting evidences to

criminalize a suspect. The investigation process is done mostly harmoniously. Investigative journalists are bound by their code of conduct to make sure that the investigation works are done accordingly. Investigative journalists are also attributed with knowledge of law and regulations.

In addition, Indonesian journalists are still not immune from threats. Journalist is a vulnerable profession, for they often encounter with threats and dangers in the field. For example, RG, a TV journalist, once received a threat call from one of his sources. It was because RG's news report was aired on TV. The source who was covered in the news noticed that he was in the news and unhappy, so he sent RG a murder threat, despite RG did his investigation and report due process of journalism ethical code.

One investigative journalist was murdered with regard to his publication. News and media stated that in the era of President Joko Widodo, the freedom of press was not reaching its peak, if not going downfall (Widhana, 2019). Anak Agung Gede Prabangsa, a journalist of Radar Bali, was murdered in 2009. It was because of his three published reports that related to his investigation of budget manipulation for around 4 billion rupiahs in projects located in Bangli District. The perpetrator was Ir. Nyoman Susrama, a contractor in the same district that often related to the projects. The court, the, punished Susrama with life sentence. However, in 2018 based on Presidential Decision 29/2018, Joko Widodo grant Susrama with remission, in which the life sentence was turned into temporary imprisonment. Joko Widodo decision to grant remission is seen as hurting the justice for Prabangsa, who was threatened and murdered because of reporting facts.

In the past 15 years, Independent Journalist Alliance (Aliansi Jurnalis Independen/AJI) of Indonesia recorded that eight journalists died because of their profession as journalist. Prabangsa case was the only solved case while the rest seven cases are left cold. Those are, Fuad M. Syarifuddin (Udin), journalist of Harian Bernas Yogya (1996), Herliyanto, journalist of Harian Radar Surabaya (2006), Ardiansyah Matrais, journalist of Tabloid Jubi and Merauke TV (2010), and Alfrets Mirulewan, journalist of Tabloid Minggu Pelangi in Kisar Island, South-West Moluccas (2010).

CONCLUSION

The laws existed in the Indonesian legal system related to the investigative journalism is both protecting and criminalizing journalists. Through the current press law, it provides sufficient legal protection towards investigative journalists through its provisions and principles. However, other laws such as The ITE Law and Indonesian Penal Code are often used as legal basis to criminalize investigative journalists and threatening the freedom of expression. The protective measure towards investigative journalists substantially covered by these aspects:

1. Investigative journalists work in the corridor of The JEC and The Press Law;
2. Registered press company, particularly press company founded as legal entity;
3. Investigative journalists who are certified in Uji Kompetensi Wartawan/UKW

- (Competency test for journalist);
4. Strong role of Press Council in advocating investigative journalists;
 5. Article 50 of Indonesian Penal Code as legitimacy of freedom of press;
 6. MoUs between Press Council and law enforcers.

In the field, some evidences showed that law enforcers conducted violations towards investigative journalists in the middle of news gathering and reporting. Investigative journalists were also being sued and/or accused for their news publication. Therefore, freedom of press is still not inherently absorbed by some law enforcers and society members

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Criminal Justice Quotes

“There is no greater threat to a free and democratic nation than a government that fails to protect its citizen’s freedom and liberty as aggressively as it pursues justice.”

Bernard B. Kerik, From Jailer to Jailed: My Journey from Correction and Police Commissioner to Inmate #84888-054