



# DEWANPERS

Gedung Dewan Pers, Lantai 7-8, Jl. Kebon Sirih No. 32-34, Jakarta 10110  
Telp.: 021-3504874, 3504875, 3504877, 3521488, Fax.: 021-3452030  
Website: www.dewanpers.or.id E-mail: sekretariat@dewanpers.or.id

---

## Press Council Statement

### About

#### The Impact of the Bill on the Criminal Code towards Press Freedom

#### *“Criminal Law Should Not Interfere with Press Freedom and Criminalize Journalistic Works”.*

The Press Council has been and continues to pay close attention to the process of discussing the Criminal Code Bill (RUU KUHP) and has submitted a note IN September 2019 to the House of Representatives against a number of articles of the Criminal Code Bill. To fulfil one of the functions of the Press Council in accordance with Article 15 paragraph (2) of Law Number 40 of 1999 concerning the Press (Press Law), namely conducting an assessment for the development of press life, the Press Council provides views on the discussion process and some provisions in the Criminal Code Bill. The Press Council emphasizes **that journalistic work is not a crime that CAN be criminalized.**

Violations of journalistic ethics must be resolved first through procedures and mechanisms regulated in Law Number 40 of 1999 concerning the Press. The Press Council gave appreciation and award to the Government and the House of Representatives of the Republic of Indonesia for discussing the Criminal Code Bill. However, in order to realize good governance in the nation and state, as well as fulfilling the principles of the formation of laws and regulations as stipulated in the Law of the Republic of Indonesia Number 12 of 2011 concerning the Establishment of Laws and Regulations, then the decision-making of the determination of the Criminal Code Bill into law, should first hear the opinion of the public at large, not only based on consideration of the authority of the House of Representatives alone. This provision has been strengthened through the Decision of the Constitutional Court Number 79 / PUU-XVII / 2019 which in principle emphasizes that community participation in the formation of the Law needs to be carried out meaningfully (meaningful participation) so that serious public participation and involvement is created/ realized.

After studying the material of the last version of the Criminal Code Bill on July 4th, 2022, the Press Council declared that the articles below should be DELETED because they have the potential to threaten press independence, criminalize journalistic works and are contrary to the spirit contained in the Press Law 40/1999 concerning the Press, mainly article 2 which reads "Freedom of the press is a form of popular sovereignty based on the principles of democracy, justice, and the rule of law." The Criminal Code Bill also contains a number of articles that are multi-interpreted, contain "rubber articles", and overlap with existing laws.

The Criminal Code Bill threatens the independence of the press and criminalizes the journalistic work. The articles are:

- 1) Article 188 concerning Crimes against State Ideology;
- 2) Articles 218-220 concerning Criminal Acts of Assault on the Honor or Dignity of the President and Vice President,, needs to be abolished because it is the incarnation of provisions on contempt of the President and Vice President in the Criminal Code (KUHP) which has been revoked by the Constitutional Court (MK) based on Decision Number 013-022/PUU-IV/2006;
- 3) Articles 240 and 241 concerning Criminal Act of Contempt of The Legitimate Government, as well as Articles 246 and 248 (incitement to resist the general authorities) **MUST BE REMOVED** due to the rubber nature of the words "insult" and "incitement" thus threatening the freedom of the press, freedom of opinion and expression;
- 4) Articles 263 and 264 concerning Criminal Act of Broadcasting or Dissemination of False News or Notices;
- 5) Article 280 concerning Criminal Act of Interference and Misdirection of the Judicial Process;
- 6) Articles 302-304 concerning Crime against Religion and Belief;
- 7) Articles 351-352 concerning Criminal Offence against Contempt of Public Power and State Institutions;
- 8) Article 440 concerning Criminal Acts of Insult: defamation;
- 9) Articles 437, 443 concerning Criminal Defamation Act.

The Press Council hopes that members of the House of Representatives can fulfil the principle of openness as stipulated in Article 5 letter g of the Law of the Republic of Indonesia Number 12 of 2011 concerning the Establishment of Laws and Regulations in the process of the Criminal Code Bill by providing opportunities for all levels of society to provide input ranging from planning, drafting, discussing, ratifying or determining, and promulgating in a transparent and open manner.

Jakarta, July, 2022

Narahubung / *Contact Person*:

1. Arif Zulkifli, Press Council Member (0811929697)
2. Ninik Rahayu, Press Council Member (081380280350)