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Legal Review of Reporting Opinions and Academic Activities as a Form of Obstruction of Justice

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Abstract

This study examines the legal conflict between constitutional guarantees of freedom of expression, press, and academia with the need to protect the judicial process from obstruction of justice. In the digital age, media narratives and public opinion exert increasing pressure on law enforcement. This study answers two questions: (1) How has the regulation of obstruction of justice developed in Indonesian criminal law? and (2) How are news reports, opinions, and academic activities categorized as forms of obstruction of justice in the investigation process? Using a normative legal method, the study analyzes regulations, legal principles, and case studies. The results show the evolution of regulations from physical offenses in the old Criminal Code (Article 221) to non-physical offenses in the Corruption Eradication Law (Article 21), to systematic codification in the National Criminal Code. The key finding shows that the fundamental demarcation between ligitimate criticism (including academic opinion) and criminal intervention (OOJ) lies in the proof of malicious intent (mens rea) and the exixtence of malicious (transactional) conspiracy. The Tian Bahtiar case set a precedent that transactional media activities ("obstruction-for-hire") lose the protection of the Press Law. It is concluded that regulatory ambiguity, especially the phrase "indirectly," has the potential to create legal uncertainty and a chilling effect that threatens the social control function of the press and the academic freedom essential to a rule of law state.

Keywords: Obstruction of Justice, Freedom of the Press, Academic Freedom, Mens Rea.

A. Introduction

As a country that recognizes that law is the main foundation of national and social life, law should be the highest authority. This is stated in Article 1 paragraph 3 of the 1945 Constitution of the Republic of Indonesia and is based on the theory of State Sovereignty. Then it is further emphasized that every citizen has the right to get equal opportunities in government.[1] The existence of this article and theory implies that all elements of the Indonesian state have an obligation to obey, respect, and uphold the supremacy of law without exception. This includes law enforcement agencies, namely the police, the attorney general's office, the judiciary, lawyers, and correctional institutions, which are required to carry out essential judicial functions. Therefore, law enforcement officials have an obligation to ensure the rule of law so that a fair, transparent, and accountable criminal justice system can be implemented.

[1] Carolina Da Cruz et al., "The Implementation of Good Governance Principles in Admission of Prospective Civil Servants," *Jurnal Daulat Hukum* 5, no. 1 (2022): 40–48.

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Fundamentally, law is a manifestation of belief.[2] By definition, a criminal act is an act that is formulated in legislation as a prohibited act and is punishable by criminal sanctions and/or legal action. This means that anyone who commits a criminal offense, whether intentionally or through negligence, must be held accountable before the law. Because of this element of formulation in law, judges are prohibited from using analogies to create new laws. However, to maintain a sense of justice, Indonesia judges can apply criminal law in accordance with prevailing laws in society throught interpreatation.[3]

Before a case reaches the judiciary for interpretatio, a valid legal process must first establish the fact. Investigation is a crucial stage in uncovering the truth of a criminal act. In order for the legal facts obtained to be clear and to prove the criminal act clearly, an investigator must work without interference. Therefore, protecting investigators from threats that hinder their activities is very important. To protect this investigation process, there are provisions regarding obstruction of justice. Simply put, obstruction of justice is an act of deliberately removing or destroying evidence, intimidating witnesses, leaking confidential investigation information, or performing other acts aimed at hindering the search for the truth. If left unaddressed, these issues could undermine public confidence in the criminal justice system.[4] Therefore, the application of criminal provisions regarding obstruction of justice cannot be enforced arbitrarily without restrictions; there must be clear boundaries so that it is known to what extent an act can be considered obstruction of justice.

In the digital age, which is characterized by freedom of expression and information disclosure, forms of interference with investigations have become more subtle but significant. The mass media, academic discourse, and even social media posts can shape narratives that have the potential to influence legal processes, either directly or indirectly. Freedom of expression is guaranteed in Article 28E paragraph 3 of the 1945 Constitution of the Republic of Indonesia, which states that every person shall have the right to freedom of association, assembly, and expression.[5] However, this phenomenon creates a dilemma between protecting the legal process and guaranteeing freedom of expression. The absence of clear boundaries is problematic, as the offense of obstruction of justice, which has no definite benchmark for determining whether someone has committed this offense, causes legal uncertainty and will undoubtedly harm various parties.[6] Therefore, when public expression has the potential to eliminate or alter evidence, there needs to be stricter legal regulations against actions that lead to obstruction of justice.

In this case, strengthening regulations against obstruction of investigations is a strategic step. The state has an obligation to clearly distinguish between legitimate criticism protected by the constitution and forms of interference that can undermine the neutrality and effectiveness of legal processes. The issue is closely related to the sub judice rule doctrine, which limits public commentary on ongoing court proceedings to protect judicial independence. The challenge lies in ensuring that the application of this doctrine does not stifle essential public criticism. In the digital age, where opinions are formed

[2] S H Barda Nawawi Arief, *Masalah Penegakan Hukum Dan Kebijakan Hukum Pidana Dalam Penanggulangan Kejahatan* (Prenada Media, 2018).

[3] Andi Hamzah, *Hukum Pidana Indonesia* (Sinar Grafika, 2017).

[4] E. Saputra, *Peran Penegak Hukum dalam Sistem Pidana Indonesia* (PT MAFY MEDIA LITERASI INDONESIA, 2025)

[5] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 28E, ayat (3).

[6] A. Arfiani, S. Syofyan, dan S. Delyarahmi, "Problematika Penegakan Hukum Delik Obstruction Of Justice Dalam Undang-Undang Pemberantasan Tindak Pidana Korupsi," *Unes Journal of Swara Justisia* 6, no.4 (2023).

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rapidly, the media and academics play a vital social control role. Although this term is not explicitly regulated in the Criminal Code, the act of obstructing the legal process is reflected in Article 221 of the Criminal Code and Article 21 of Law No. 31 of 1999 concerning Eradication of Corruption. Therefore, regulations that distinguish between legitimate criticism and interference with investigators need to be strengthened so that freedom of expression and law enforcement are balanced.[7]

The recent naming of JAK TV News Director Tian Bahtiar as a suspect is an example of how the mass media can be involved in alleged obstruction of justice. In this case, the news broadcast by the media allegedly contained narratives that influenced public opinion and had the potential to interfere with the investigation of alleged extortion by the KPK leadership. The Attorney General's Office considers that the broadcast not only shaped public perception, but also hindered the objectivity and effectiveness of the investigators' work. The case has sparked a discourse on the boundaries between freedom of the press and the potential criminalization of the media, while also underlining the importance of clear regulations to protect legal processes from external interference without compromising the right to freedom of expression.[8]

In addition, the Attorney General's Office also named Junaedi Saibih, a law lecturer and advocate who is active in academia and often speaks at scientific forums and legal seminars, as a suspect in the obstruction of investigation case. In this case, Junaedi is suspected of conspiring with Marcella Santoso and Tian Bahtiar (Director of News at JAK TV) with the aim of obstructing the investigation of corruption in the tin trade and sugar import sectors. He is accused of providing funds to the media to spread narratives that could undermine the credibility of the Attorney General's Office, as well as organizing seminars, podcasts, and demonstrations containing legal opinions and criticism of the ongoing investigation.

The naming of an academic who expressed his opinion through scientific activities as a suspect raises serious questions about the line between legitimate academic activity and obstruction of justice. Given Junaedi's position as part of the scientific community, this case reflects concerns about the potential criminalization of freedom of thought, discussion, and criticism of legal policy within an academic framework. Without clear legal boundaries, scientific spaces and intellectual discourse may be threatened by repressive interpretations of criminal articles.[9]

The importance of clear legal boundaries for actions that can be classified as obstruction of justice is a crucial issue in a modern constitutional state. Without legal clarity on the interpretation of actions that obstruct the investigation process, it could lead to the criminalization of freedom of expression, especially in public spaces such as the media and academic forums.[10] Fair law enforcement requires normative guidelines that distinguish between legitimate criticism and actions that actually hinder the criminal justice process. Therefore, regulations are needed that not only affirm the elements of obstruction of investigation, but also guarantee the protection of citizens' constitutional

[7] A. P. Sari, A. Munawar, dan L. Y. Rahmathoni, "Analisis Hukum terhadap Perlindungan Whistleblower dalam Mendukung Kebebasan Berpendapat di Indonesia," Jurnal Hukum Lex Generalis 4, no. 7 (2023).

[8] CNN Indonesia, "IJTI Pertanyakan Penetapan Tersangka Direktur TV Di Kasus OOJ," CNN Indonesia, 2024, https://www.cnnindonesia.com/nasional/20250422202329-12-1221471/ijti-pertanyakan-penetapan-tersangka-direktur-tv-di-kasus-ooj.

[9] HUDA Samsul et al., "Reconstruction Of 'Obstruction Of Justice' As A Criminal Act In The Law On Eradicating Corruption In Indonesia," *International Journal of Environmental, Sustainability, and Social Science* 3, no. 3 (2022): 606–28.

[10] Agus Siagian, *Hukum Pers: Menjamin Kebebasan Pers Berbasis Keadilan* (Padang: CV. Gita Lentera, 2025).

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rights as stipulated in Article 28E of the 1945 Constitution and the principle of due process of law.[11] Positioning this research as a critical contribution to the debate, this article aims to analyze how the application of the Article 21 of the Corruption Eradication Law and related regulations should be interpreted, or even reformed, in the era of digitalized public opinion. This is to ensure the protection of the social control function and academic freedom, while simultaneously safeguarding the intergrity of the legal process.

B. Research Method

This study employs a normative-empirical legal research method. This method was chosen to not only analyze the coherence of legal norms regarding obstruction of justice but also to examine the application of these norms in concrete cases occurring in society. According to Soejono Soekanto, the scope of normative legal research includes research on legal principles, research on legal systematics, research on the level of vertical and horizontal legal synchronization, comparative law, and legal history.[12] This study is a library research study that relies on secondary data. The approaches used include the statute approach to examine the regulatory framework such as the 1945 Constitution, the Criminal Code, the Corruption Eradication Law, and the Press Law; the case approach to analyze relevant legal precedents; and the conceptual approach to explore relevant legal doctrines. The legal materials used consisted of primary legal materials in the form of legislation and secondary legal materials including books, scientific journals, theses, and other relevant sources. All data collected was analyzed using descriptive qualitative methods, namely by describing or illustrating the data collected to answer the research questions that had been formulated.

C. Results and Discussion

a. The Development of Regulation and Application of Obstruction of Justice in Indonesian Criminal Law

A person who deliberately obstructs, hinders, or interferes with law enforcement or judicial proceedings is committing an act known as obstruction of justice. According to Oemar Seno Adji and Indriyanto Seno Indriyanto Adji in Peradilan Bebas Negara Hukum dan Contempt Of Court (Free State Court and Contempt of Court), obstruction of justice is an act that is intended to or has the effect of subverting the legal process, while also disrupting the proper functioning of the judicial process.[13] Theoretically, three main elements must be fulfilled: (1) pending judicial proceedings; (2) knowledge of pending proceedings; and (3) acting corruptly with intent (mens reaO to influence the administration of justice.

In criminal law theory, there are three main elements that must be fulfilled for obstruction of justice, namely pending judicial proceedings or acts that cause delays or disruptions to ongoing legal proceedings, knowledge of pending proceedings, which means that the perpetrator knows and is aware of the actions taken and their impact on the course of legal proceedings, and acting corruptly with intent, meaning that the

[11] Mahkamah Konstitusi Republik Indonesia, *Putusan Nomor 105/PUU-XXII/2024 Tentang Jaminan Perlindungan Terhadap Kebebasan Berekspresi Sebagai Hak Konstitusional* (Jakarta: Sekretariat Jenderal & Kepaniteraan Mahkamah Konstitusi RI, 2024), https://mkri.id.

[12] Soerjono Soekanto, Pengantar Penelitian Hukum (Jakarta: UI Press, 2020), hlm 10.

[13] Hukum Online, "Pengertian, Kedudukan, Dan Unsur Obstruction of Justice Dalam Proses Hukum," Hukum Online, 2022, https://www.hukumonline.com/berita/a/pengertian--kedudukan--dan-unsur-obstruction-of-justice-dalam-proses-hukum-lt634e124548acb/.

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perpetrator commits or attempts to commit deviant acts with the aim of influencing, intervening in, or obstructing the course of court administration. In the United States, the practice of law adds one more element, namely motive, meaning that in order for someone to be convicted of obstruction of justice, it must be proven that the perpetrator had a specific intent, such as wanting to avoid criminal charges or reduce the legal threats they face. Then, according to the Indonesian legal context, these elements can be analyzed through the framework of mens rea (intentional elements in accordance with Article 15 of the Criminal Code), actus reus (physical acts of obstruction), and nexus causalis (the causal relationship between the act and the disturbance caused).[14]

Historically, the regulation of obstruction of justice in Indonesia was rooted in Article 221 of the old Criminal Code (KUHP). Paragraph 2 point 2 of this article states that "anyone who, after committing a crime and with the intention of covering it up, or to obstruct or complicate the investigation or cover-up, destroys, removes, or conceals objects related to the crime or other traces of the crime, or withdraws them from examination by judicial or police officials or by other persons who, according to the provisions of the law, are permanently or temporarily assigned to perform police duties."[15] This formulation served as the main legal basis limited to physical obstruction.

Complementary provisions in the old Criminal code further established the framework for addressing interference with judicial processes. Article 222 of the Criminal Code, which regulates the destruction or removal of evidence, and Article 226 of the Criminal Code, which addresses the absence of witnesses without a valid reason. These articles are interrelated in law enforcement practice, showing that the Criminal Code has anticipated various forms of interference with the legal process, albeit with formulations that are still limited in addressing modern challenges.[16]

However, currently, the word "obstruct" in this article faces limitations in keeping up with the times. The author considers that this is not yet able to cover modern forms of obstruction, especially those involving digital technology and mass media. The narrow scope of physical obstruction proved inadequate for addressing the evolving nature of judicial interference.

Recognizing the limitations of the old Criminal Code, significant changes were made, where by the Indonesian legislature developed specific regulations containing articles on obstruction of justice in a more specific and comprehensive manner. This significant development is recorded in Law Number 31 of 1999 as amended by Law Number 20 of 2001 concerning the Eradication of Corruption Crimes (Anti-Corruption Law). Article 21 of the Anti-Corruption Law explicitly formulates the offense of obstruction of investigation with a broader scope. This article states: "Any person who deliberately prevents, obstructs, or thwarts, directly or indirectly, the investigation, prosecution, and examination in court of suspects and defendants or witnesses in corruption cases shall be punished with imprisonment of at least 3 (three) years and at most 12 (twelve) years and/or a fine of at least Rp. 150,000,000.00 (one hundred and fifty million rupiah) and a maximum of Rp. 600,000,000.00 (six hundred million rupiah)."[17] This provision is the main weapon for the Corruption Eradication Commission (KPK) in prosecuting parties

[14] Lamintang PAF, "Dasar-Dasar Hukum Pidana Indonesia," *Bandung: Citra Aditya Bakti*, 2014.

[15] Kitab Undang-Undang Hukum Pidana (KUHP), pasal 221.

[16] Wirjono Prodjodikoro, "Tindak-Tindak Pidana Tertentu Di Indonesia, Bandung: PT," *Refika Aditama*, 2017.

[17] Undang-Undang tentang Pemberantasan Tindak Pidana Korupsi, UU No. 31 Tahun 1999 sebagaimana telah diubah dengan UU No. 20 Tahun 2001, pasal 21.

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who attempt to obstruct the legal process in corruption cases. The advantage of Article 21 of the Anti-Corruption Law is that its scope is not limited to physical actions (such as hiding fugitives), but also includes non-physical actions such as directing witnesses to give false testimony or fabricating alibis.

However, behind the advantages of this article, there phrase “directly or indirectly” has become quite ambiguous due to the lack of clear explanation in the law itself. This ambiguity is critical because obstruction of justice not only undermines the integrity of the judicial system, but also threatens the basic principles of the rule of law and due process as stated in Article 28D paragraph (1) of the 1945 Constitution regarding the guarantee of fair legal certainty.[18] Without clear boundaries, the application of this article risks creating legal uncertainty and abuse in the future.

To address this ambiguity, Indonesia can learn form the Sub Judice Rule applied in the United Kingdom and United States. In these countries, regulation are strict: speech or media reports are only criminalized if they create a “substantial risk of serious prejudice" to the trial (Fair Trial). This comparison highlights that the phrase "indirectly" in Indonesia must be interpreted carefully so as not to violate the constitutional rights of citizens.

The model of obstruction of justice introduced in the Anti-Corruption Law was then adopted and replicated, with various modifications, in a number of other specific laws governing serious crimes.[19] This fact demonstrates widespread legislative recognition that obstruction of justice is an inherent threat that must be anticipated in the handling of extraordinary crimes. Other specific criminal provisions include Law No. 12 of 2022 on Sexual Violence Crimes (TPKS Law), the Law on the Eradication of Criminal Acts of Terrorism, and Law No. 21 of 2007 on the Eradication of Criminal Acts of Trafficking in Persons.

The culmination of this development is the National Criminal Code (KUHP) Law No. 1 of 2023. Chapter VI of the new Code regulates ”Criminal Acts Against the Judicial Process” systematically, consisting of misleading the judicial process (Article 278), distupting the judicial process (Article 279-292), destruction of court facilities (Article 293), and protection of witnesses (Articles 294-200). This new Criminal Code marks an ambitious effort to reform, systematize, and harmonize various criminal provisions that were previously scattered and fragmented. However, the author argues that behind the noble effort to create order, the new Criminal Code also gives rise to a series of challenges and controversies, particularly regarding its potential to conflict with special laws (lex specialis) and the risk of weakening the agenda to eradicate extraordinary crimes, especially corruption.

One of the innovations in the new Criminal Code is the dedication of a special chapter, Chapter VI, to regulate “Criminal Acts Against the Judicial Process.” This method substantially changes the previously scattered and partial regulatory landscape. The legislators sought to create a more systematic, logical, and integrated framework by combining various forms of obstruction of the judicial process into one consistent chapter. Chapter VI consists of several main sections:

a. Section one: misleading the judicial process (Article 278). This section criminalizes acts intended to mislead the judicial process, such as falsifying or submitting false

[18] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, pasal 28D, ayat (1).

[19] Dina Arum Fadila Surahman, Achmad Irwan Hamzani, and Kus Rizkianto, “Pertanggungjawaban Pidana Pada Kasus Obstruction of Justice,” *Social, Educational, Learning and Language (SELL)* 2, no. 1 (2024): 1–20.

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evidence, directing witnesses to give false testimony, or destroying and concealing evidence.

b. Second section: disrupting and obstructing the judicial process (Articles 279-292). This is the core of the obstruction of justice provisions in the new Criminal Code. It contains various formulations of offenses, ranging from causing a disturbance in court (Article 279), attacking the integrity of law enforcement officials (Article 280), obstructing or intimidating officials carrying out judicial duties (Article 281), to concealing perpetrators of crimes (Article 282).
c. Part three: destruction of court buildings, courtrooms, and court equipment (Article 293). This part specifically regulates offenses related to the destruction of physical judicial infrastructure.
d. Part four: protection of witnesses and victims (Articles 294-299). The integration of provisions regarding the protection of witnesses and victims into the same chapter demonstrates a comprehensive awareness that efforts to combat obstruction of justice must go hand in hand with efforts to protect vulnerable parties in the judicial process.[20]

The evolution of these regulations is now faced with a new battlefield: the digital age. Advances in information technology have changed the landscape of crime from physical intimidation to narrative wars and digital manipulation. Challenges include Artificial Intelligence (AI), big data analysis, and data wiping. Social media platforms have become effective tools for indirect obstruction through disinformation campaigns designed to shape public opinion and pressure the independence of judges (Trial by the Press).

The paradigm shift from physical actions to the digital realm has created new forms of obstruction of justice that require adaptation of the Indonesian criminal law framework. The digital era of law enforcement faces additional challenges such as the emergence of artificial intelligence (AI), facial recognition, and big data analysis.[21] This has given rise to more sophisticated and difficult-to-track modus operandi, where the destruction of evidence is no longer limited to burning documents or disposing of weapons, but includes actions such as permanently deleting data from servers (data wiping), using strong encryption techniques to hide communication between perpetrators, or even creating convincing false evidence through deepfake technology. Proving these actions requires in-depth digital forensic expertise, which is often a challenge for law enforcement agencies.

Social media platforms have become a very effective tool for indirect obstruction on a massive scale. Various forms of obstruction can be carried out through this medium, including coordinated disinformation campaigns to spread false information or misleading narratives about a legal case. The goal is to shape public opinion, discredit witnesses or victims, and ultimately create public pressure on the independence of prosecutors and judges. The phenomenon of trial by the press/media also threatens the principle of presumption of innocence through intense and often premature media coverage, creating public judgment before the actual judicial process takes place and can

[20] Ismail Pettanasse et al., "Tindak Pidana 'Obstruction of Justice' Dalam Pengaturan Undang-Undang Nomor 1 Tahun 2023," *Journal of Sharia and Legal Science* 2, no. 2 (2024): 163–77.

[21] Gladys Trias Puspadewi et al., "Dilema Etika Dan Tanggung Jawab Profesi Hukum Dalam Era Digital: Studi Kasus Pelanggaran Kode Etik Oleh Oknum Penegak Hukum Pada Kasus Ferdy Sambo Dan Pembunuhan Brigadir J (2022)," *Media Hukum Indonesia (MHI)* 3, no. 2 (2025).

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indirectly influence the objectivity of the judges.[22]

One of the most challenging gray areas is the intersection between academic freedom and the judicial process. Academic freedom allows experts to convey opinions, but when widely publicized, these opinions can be interpreted as obstruction. The line between legitimate academic activities and actions with the intent (mens rea) to deliberately intervene is very thin. An expert opinion based on scientific methodology is different from an opinion that is deliberately "ordered" to benefit a party in a case.However, when these opinions concern ongoing legal cases and are widely publicized by the media, there is a risk that such academic activities could be interpreted as a form of obstruction of justice.[23]

The formal role of an expert in the criminal justice system is to provide testimony in court to shed light on a case in accordance with their expertise. However, when an academic or legal expert provides analysis, opinions, or even legal conclusions on an ongoing case through the mass media, this has the potential to create a trial by press. Unbalanced and judgmental reporting can shape public opinion that pressures the independence of judges, which can ultimately be categorized as an attempt to indirectly influence the judicial process.[24] The line between legitimate academic activities such as public education, policy analysis, or criticism of law enforcement and actions that have the intent (mens rea) to deliberately intervene in the course of a case is very thin. The element of intent to obstruct the legal process is the key differentiator. An expert opinion based on data analysis and scientific methodology for the sake of public discourse is certainly different from an opinion that is deliberately "ordered" or engineered to benefit one party in a case.

This modern challenge has also given rise to forms of online intimidation that target witnesses, whistleblowers, experts, and even law enforcement officials and their families through cyberbullying, doxing (the unauthorized disclosure of personal information), and other online threats. These modern forms of intimidation are just as effective, and can even be more psychologically damaging, than conventional physical threats. The gap between regulation and implementation remains a major challenge, where the existing legal framework, including the new Criminal Code and the Electronic Information and Transactions Law (EIT Law), may not yet specifically and comprehensively criminalize the use of technology for the purpose of obstruction of justice, while law enforcement officials are often one step behind criminals in terms of technological mastery.

Ultimately, the battle to maintain the integrity of the judiciary has shifted significantly. Whereas the main threat used to come from physical intervention in closed spaces, now the greatest threat comes from narrative warfare and information manipulation in the open cyberspace. This is no longer merely a procedural challenge, but an epistemological challenge of how the judicial system can find and uphold the truth amid a flood of disinformation, requiring Indonesian criminal law to continue to adapt to ensure that justice is not only blind, but also digitally savvy.

[22] Aulia Salman and Andi M Yusuf, "Integrasi Prinsip Keadilan Hukum Islam Dalam Mengatasi Fenomena No Viral No Justice Di Indonesia," *Siyasah Wa Qanuniyah: Jurnal Ilmiah Ma'had Aly Raudhatul Ma'arif* 2, no. 2 (2024): 71–94.

[23] Satria Unggul Wicaksana Prakasa, "Paradigm of Law and Human Rights as a Protection of Academic Freedom in Indonesia," *Human Rights in the Global South (HRGS)* 2, no. 1 (2023): 37–52.

[24] Roshita Anggun Trisnaningrum, "Perlindungan Hukum Bagi Pers Dalam Melaksanakan Kebebasan Pers Di Indonesia Dan Australia" (UPN Veteran Jawa Timur, 2024).

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b. Legal Parameters of Media Reporting, Opinions, and Academic Activities as Obstruction of Justice in the Investigation Process

Indonesia has a solid constitutional foundation for freedom of the press. Article 28F of the 1945 Constitution explicitly states that every person has the right to communicate and obtain information and the right to seek, obtain, possess, store, process, and convey information using all available channels. This constitutional provision is further reinforced by Law No. 40 of 1999 on the Press, which states that freedom of the press is a manifestation of people's sovereignty and an important element in a democratic state. The press plays a role in fulfilling the public's right to know and exercising social control, reflecting Indonesia as a democratic country.[25]

However, freedom of the press is not an absolute right. The constitution itself has provided clear limitations through Article 28J paragraph (2) of the 1945 Constitution, which states that every person must comply with the restrictions set forth by law.[26] These restrictions are solely intended to guarantee the recognition and respect of the rights and freedoms of others, as well as to fulfill fair demands in accordance with moral considerations, religious values, security, and public order. In the context of journalism, the Press Law requires respect for religious norms and public decency, as well as the principle of presumption of innocenc.[27]

Thus, the balance between freedom and responsibility is key to preventing the abuse of press freedom that could interfere with the legal process.One of the legal principles relevant in this context is the sub judice rule. This principle prohibits the publication of information or comments that could potentially cause prejudice or influence the independence of judges in a case that is currently under trial. The aim is to prevent "trial by media," where public opinion formed by media coverage precedes or even influences court decisions. The Indonesian legal system recognizes that the sub judice rule is a form of contempt of court. However, its legal status is still debated because there is no specific law on contempt of court that regulates its application comprehensively. This creates a conflict between the need to maintain the impartiality of the judiciary and the public's right to know and supervise, which is an important democratic principle. The absence of clear regulations often makes it difficult to distinguish between informative and prejudicial reporting.

Based on the legal framework and principles discussed above, media reporting can cross the line from legitimate journalistic activity to obstruction of justice if it meets the following criteria:

a. Publication of confidential information, i.e., leaking confidential investigation materials such as investigation reports, investigative strategies, or the identities of informants, which could thwart the collection of evidence.
b. Narratives that influence witnesses/suspects, where reporting is not objective, intimidating witnesses or providing information to suspects to flee and destroy evidence.
c. Publication that destroys evidence, i.e., revealing details of the location of evidence that has not been secured, allowing relevant parties to destroy or remove evidence

[25] Ikhwan Nasution and Icol Dianto, "Demokrasi Dan Kebebasan Pers: Negara, Demokrasi, Dan Kebebasan Pers Sebagai Pilar Demokrasi," *Ittishol: Jurnal Komunikasi Dan Dakwah* 1, no. 1 (2023): 90–107.

[26] Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, pasal 28.

[27] Trisnaningrum, "Perlindungan Hukum Bagi Pers Dalam Melaksanakan Kebebasan Pers Di Indonesia Dan Australia."

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before investigators secure it.

The case involving JAK TV News Director Tian Bahtiar is an important precedent in defining the line between journalism and obstruction of justice. This case shows a clear example of how the media can be misused as a means to commit a crime, giving rise to a new form of obstruction of the investigation process. In this case, Tian Bahtiar, along with two lawyers, Marcella Santoso and Junaedi Saibih, were named as suspects of obstruction of justice in the context of the investigation of a tin commodity trade corruption case at PT Timah Tbk. The results of the Attorney General's investigation revealed a systematic conspiracy between the three parties aimed at producing and distributing negative news content to discredit the credibility and integrity of the Jampidsus investigation team in a structured manner.

What distinguishes this case from merely biased reporting is the existence of a significant transactional dimension. The investigators' findings show concrete evidence in the form of payment documentation through a number of invoices, one of which is worth Rp153.5 million for the publication of news articles with predetermined topics, including responses to the sugar and tin import cases. Cumulatively, the total funds flowing into media operations reached Rp478.5 million for mainstream media publications, buzzer compensation, and TikTok content. The crucial aspect is that these funds went into Tian Bahtiar's personal account, not the media corporation's account. This changed the construction of the case from journalistic malpractice to a professional "Obstruction-for-hire" service that rented out media infrastructure as a criminal instrument.

After conducting an analysis, the Press Council issued a firm statement that the related content was not a journalistic product, but rather the result of a commercial collaboration between the TV station's marketing division and its clients. This ruling effectively revoked the legal protection guaranteed by the Press Law from Tian Bahtiar, so that his actions were categorized as individual responsibility outside the scope of legitimate journalistic activities. This ruling creates a clear boundary: when media activities are based on payments to obscure and interfere with law enforcement processes, such activities are no longer considered journalistic work and can be treated as part of a criminal conspiracy. As a result, law enforcement officials need to be more thorough in investigating the flow of funds behind suspicious media campaigns related to the handling of major cases, as PR companies, media consultants, or digital agencies can be tools for obstruction of justice.

This case has sparked a significant legal debate regarding the boundaries between journalistic products and criminal offenses. The Chairman of the Prosecutor's Commission, Prof. Pujiyono Suwandi, emphasized that journalistic products, even if they are very negative in tone, cannot be criminalized as obstruction of justice. According to him, the press functions as a crucial check and balance mechanism against the enormous power of law enforcement officials. In the context of the Tian Bahtiar case, the Prosecutor's Commission agreed with the Press Council that the basis for the criminal offense was not the journalistic content, but rather other evidence indicating a criminal conspiracy outside the realm of journalism. This view reinforces the principle that Press Law No. 40 of 1999 applies as lex specialis, whereby disputes arising purely from journalistic products must be resolved through the Press Council mechanism, not through the enforcement of general criminal law.

With regard to press protection, academic freedom also faces similar challenges in

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balancing the critical oversight function of power with applicable legal restrictions. The academic community plays an important role as an external watchdog of state power through scientific criticism and analysis. Academic freedom is guaranteed by Law No. 12 of 2012 on Higher Education, which through Articles 8 and 9 guarantees academic freedom, academic freedom of speech, and scientific autonomy for the academic community.[28] However, this freedom must be exercised responsibly through the implementation of the *Tridharma Perguruan Tinggi* (Three Pillars of Higher Education). Every academic activity must comply with universally applicable scientific principles, methodologies, and ethics. Academic freedom is not a license to express baseless opinions, but rather the right to conduct scientifically accountable critical analysis.

Ambiguity in legislation regarding obstruction of justice, such as Article 21 of the Corruption Eradication Law, which does not explicitly exclude academic activities from its scope, creates a latent risk. A sharp and critical legal analysis by an academic, which is then widely quoted by the media and used by the suspect's legal team, could theoretically be interpreted by investigators who feel pressured as an attempt to "indirectly obstruct the investigation." This threat of criminalization, even if ultimately not proven in court, is enough to create a chilling effect. To clarify this gray area, Indonesia can look to the United States legal framework regarding the protection of academic opinion. The US obstruction of justice statute (18 U.S.C. § 1503) uses the concept of "corrupt persuasion." This doctrine holds that influencing a legal proceeding through speech is only criminal if it is done "corruptly"—meaning with a specific, wrongful intent to subvert the truth for personal gain. Legitimate academic criticism, no matter how harsh, does not fall under this category because its primary intent is public education.

To distinguish between legitimate activities and obstruction of justice, a systematic legal framework is needed. This framework must be based on proving the basic elements of criminal law, namely the subjective element (mens rea), the objective element (actus reus), and in cases involving more than one perpetrator, the existence of a meeting of minds. The element of mens rea, or the perpetrator's inner attitude, is the key element in obstruction of justice offenses.[29] The public prosecutor must prove that the perpetrator had the intention or awareness that their actions were specifically aimed at preventing, obstructing, or delaying the investigation process. It is this element of mens rea that distinguishes obstruction of justice from legitimate criticism or reporting, even though both may have an impact on the investigation process. In addition to malicious intent, there must be concrete and unlawful acts (actus reus) that objectively interfere with the legal process, such as concealing evidence, giving false testimony, intimidating witnesses, or hiding suspects. There must also be a causal relationship between the act and the disruption of the investigation.

When obstruction of justice is committed by two or more persons, the element of conspiracy becomes relevant. Historically, the definition of conspiracy in Indonesian criminal law can be found in Article 88 of the old Criminal Code, located in Book I,

[28] Republik Indonesia, Undang-Undang Nomor 12 Tahun 2012 tentang Pendidikan Tinggi, (Lembaran Negara Republik Indonesia Tahun 2012 Nomor 158, Tambahan Lembaran Negara Republik Indonesia Nomor 5336).

[29] Ekky Aji Prasetyo, "Pertanggungjawaban Pidana Dan Penerapan Mens Rea Dalam Tindak Pidana Intersepsi Di Indonesia" (Magister Ilmu Hukum, 2024).

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Chapter IX, which states, "There is conspiracy if two or more persons have agreed to commit a crime.[30] For example, Article 1 point 15 of Law No. 8 of 2010 concerning the Prevention and Eradication of Money Laundering defines it as "the act of two or more persons who agree to commit the crime of money laundering." In proving the agreement, it does not have to be explicit or written. According to Eddy O.S. Hiariej, meeting of minds can be proven implicitly through analysis of body language, a series of meetings, indirect communication, and a common goal to commit a crime. However, Constitutional Court Decision No. 21/PUU-XIV/2016 raises legal issues. In filling the void in the definition of criminal conspiracy in Article 15 of the Anti-Corruption Law, the Constitutional Court added the condition that criminal conspiracy occurs "when two or more persons of the same quality mutually agree to commit a criminal act." The phrase "same quality" is not further explained, creating uncertainty as to whether it refers to equality in position, role, or background. This ambiguity has the potential to complicate the prosecution of conspiracy in future corruption cases.

The author concludes that an in-depth analysis of the categorization of media coverage, opinions, and academic activities as obstruction of justice yields several key findings. The fundamental parameter that distinguishes legitimate expression from obstruction of criminal investigation lies in the proof of subjective elements, namely the existence of malicious intent (mens rea) to interfere with legal proceedings and a meeting of minds in cases involving multiple perpetrators. The focus of the evidence must be on the intent and collusion of the perpetrators, not the impact of the expression on the investigation.

The author also analyzes that the Tian Bahtiar case can be categorized as obstruction of justice. The main distinguishing factor is the Press Council's conclusion that the content produced was not a journalistic product, but rather the result of commercial cooperation based on financial transactions for specific purposes. Thus, his actions fall outside the scope of protection under the lex specialis Press Law and fall within the realm of general criminal law. The alleged offense is not solely based on the content of the news report, but on the existence of a malicious agreement to systematically discredit investigators through various platforms, including paid media and buzzers.

In the context of the principle of causality, the author concludes that the causal relationship between the act and the obstruction of the investigation does not lie in legitimate journalistic or academic publications. Instead, causality is built from concrete acts (actus reus) in the form of the use of media infrastructure as a tool to commit crimes, based on malicious intent (mens rea). The investigation was obstructed not because of criticism, but because of a planned campaign to undermine the credibility of law enforcement, create biased public pressure, and disrupt the integrity of the legal process as a whole. The "product" produced was not a protected journalistic work, but an instrument in a conspiracy to obstruct justice.

The author analyzes that this case is an important precedent that confirms that media activities based on financial transactions with the aim of discrediting law enforcement lose the protection of the Press Law. This principle establishes a demarcation line that transactional journalism to obstruct investigations constitutes a criminal conspiracy. Although the New Criminal Code provides more specific regulations, ambiguities in existing regulations such as Article 21 of the Corruption

[30] Beniharmoni Harefa and Abdul Kholiq, *Hukum Pidana* (Jakarta: PT RajaGrafindo Persada, 2024).

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Eradication Law and the definition of conspiracy in Article 15 of the Corruption Eradication Law after the Constitutional Court's decision remain a threat. This ambiguity has the potential to create a chilling effect that paralyzes the essential social control functions of the media, the public, and the academic community.

D. Conclusion and Recommendations

The regulation of obstruction of justice offenses in Indonesia has undergone significant changes, from the physically oriented formulation in Article 221 of the old Criminal Code, expanding to include "indirect" acts in Article 21 of the Corruption Eradication Law, and reaching a more systematic codification in the National Criminal Code. However, this evolution has given rise to legal problems, particularly with regard to the phrase "indirectly," which is open to multiple interpretations and has the potential to be abused, thereby threatening the principle of legal certainty and the constitusional guarntee of Fair Trial.

Drawing from the comparative analysis with the United States ('corrupt persuasion') and the United Kingdom ('sub judice rule'), this study concludes that the fundamental parameter that distinguishes between legitimate expression (criticism, reporting, and academic analysis) and criminal offenses does not lie in the impact, but in the proof of subjective elements, namely malicious intent (mens rea) and malicious agreement (meeting of minds). The Tian Bahtiar case is a crucial precedent that shows that when media activities are transactional ("obstruction-for-hire") and part of a conspiracy to delegitimize law enforcement, such acts lose the protection of the lex specialis of the Press Law and can be charged under general criminal law.

The legal uncertainty arising from the ambiguity of these regulations has serious implications in the form of a chilling effect on journalists and academics, who are the pillars of external oversight of power. The case of the naming of academic Junaedi Saibih as a suspect is a clear example of how intellectual discourse can be interpreted as obstruction of an investigation, thereby potentially narrowing the space for academic freedom. This situation risks weakening the essential function of social control in a country governed by the rule of law. To that end, several policy measures are recommended. For the legislature, it is necessary to urgently revise Article 21 of the Corruption Eradication Law to provide a clearer and more limited definition of the phrase "indirectly," as well as to prioritize the passage of a comprehensive Contempt of Court Bill. For law enforcement officials, the focus of law enforcement must shift from analyzing the content of expressions to proving conspiracy and malicious intent through strengthening digital forensic capabilities. Finally, the academic community is encouraged to conduct further research on the practice of applying this offense in other countries as a basis for comparison for improving the legal framework in Indonesia.

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