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Media Laws And Regulations In Indonesia

By

Ina R Mariani Suparto
MEDIA LAWS AND REGULATIONS
IN INDONESIA

By Ina R. Mariani Suparto

The freedom and right to express one's opinion in Indonesia, either verbally or in writing, is guaranteed within the country's constitution (1945 Constitution, Article 28). But, as the case in other countries, this freedom cannot be regarded as absolute. To ensure the welfare and well being of the society, several laws and regulations have been formalized to provide control or direction towards the implementation of this freedom of speech. They include Presidential and Ministrial Decrees, instructions or decisions. A Code of Ethics and Code of Conduct have also proved useful in efforts to maintain law and order in the field.

This article will try to give a general view of what regulations and laws are valid and implemented in the field of the mass media in today's Indonesia. These laws and regulations have been published and made public by the Department of Information, and a number of writers have also succeeded in compiling them into one collection. Yet, though Mass Media Law is taught in most of the universities possessing
departments or faculties of communication, there has not been any effort to gather all the laws and regulations dealing with the mass media into one book.

One additional point that must be made clear before discussions begin, is the fact that a large portion of this article will focus on print media. This is unavoidable when we take into consideration the fact that it is the oldest form of media known to mankind, thus understandably has more documentation and material pertaining to it. Discussions will mainly present the more important laws and regulations which have the greatest influence on Indonesia’s mass media.

1. Public Law

In relation to Public Law in Indonesia, there are two main matters which are often connected with the mass media, that being libel and obscenity (pornography). Article 155 of the Indonesia Penal Code (KUHP – Kitab Undang-Undang Hukum Pidana) states that anyone who publicly broadcasts, presents or distributes letters or pictures which contain feelings or emotions of hatred or insults concerning the government will be subject to jail sentencing.

Anything to do with obscenity/pornography falls under Article 282, which basically says that anyone who broadcasts, presents or distributes writings or pictures which
do not fall into accordance with socially acceptable values will be subject to punishment.

Throughout the history of printed media in Indonesia there have been quite a few published dailies, weeklies and monthlies that have had to close down due to violation of these regulations.

2. Law and the Press

A law concerning the press was initially issued in 1966, that being Regulation Number 11/1966. Since then it has twice been revised, once in 1967 and once in 1982. In 1984, there was yet a new section added concerning the procedures and prerequisites needed in applying for a Business Licence for Press Publication.

Article 13 states that all press media publishers must be legal bodies or corporations which base their activities on the 1945 Constitution, which would include stressing certain characteristics mentioned in the constitution; for instance ideal, carried out through mutual aid and a family spirit and follows regulations covered under Article 33 of the Constitution.

The capital used by the publishing company must be totally national capital and all founders and company executives must be of Indonesian nationality. It is forbidden for any press company to receive aid from foreign parties.
unless otherwise agreed so by the government after considering advice brought forth by the Press Council.

In a chapter which discusses the jobs, functions, rights and obligations of the press, it is stated that the national press must fight for truth and justice, based on the premise of a free and responsible press. Aside from that there must be efforts to build a New International Information and Communication Order based on national interests and belief of the country's own strength in stepping up regional, inter-regional and international cooperation in the field of the press (Article 2).

Article 3 mentions that the press possesses the right of constructive control, critic and correction. Pertaining to this, President Suharto has repeatedly said that the government is willing to accept criticism as long as it is conveyed in a constructive and polite manner, and follows the norms of the eastern way of life.

If we go on, we see that Article 4 covers the matter that the National Press is not subject to censorship or cannot be forced to cease publishing. In line with this, the government has also repeatedly said that the press is free to print anything at all as long as it does not negatively touch upon the matters of ethnic, religious and/or racial differences between the many social groups found within the society. Reference to these matters is regarded very sensi-
tive due to the fact that it could possibly lead to social dissatisfaction which could disturb national security and peace.

The Press Council was formed to work hand in hand with the government in constructing and planning the development of the national press. Its members comprises representatives of press organizations, the government and community which are specialists in the field of the press as well as other sectors. The council is headed by the Minister of Information, and all other administrators and executives are elected by the council members themselves (article 6).

In Chapter IV which covers the matter of publishing rights and press facilities, it is said that every Indonesian citizen has the right to work in cooperation with another in forming and producing published material as long as it is based on the principle of family spirit and falls in line with the nature of the Pancasila Democracy. If these prerequisites are fulfilled, a Liscence for Publication is not needed.

Regulation 11/1966 also has a section which elaborates on publishing rights. In a period of transition, liscences are necessary until determined otherwise by the government or Parliament. During this time of transition, publishing rights are handled by the government in cooperation with the Press Council.
In the 1982 revision of the regulation, Article 13, it was added that every publishing company must hold publishing licences issued by the government. Other determining factors will be decided by the government after taking into account considerations brought forth by the Press Council.

The following article deals with the management of a press company. It is explained that the management is headed by a publisher, an editor-in-chief and business manager. The publisher is responsible for external as well as internal matters that have to do with the company. This responsibility may be delegated to chief editor in the case that problems arise concerning the contents published; or to the business manager in the case that the problem should be about the company itself. An editor-in-chief is responsible for the carrying out of routine editorial activities. He must also answer any questions directed to the company or handle editorial corrections; in this case he may delegate the responsibility to a member of his staff who is directly responsible for a certain article. It is added that professional reporters have the obligation to keep names, status, addresses and identities off the record if requested so by their sources. Other prerequisites that must be fulfilled to become a reporter can be found in Article 16.
This article further states that an Indonesian reporter must possess Indonesian citizenship, live by the state ideology-Pancasila, and never have gone against the nation's revolution.

Article 17 is about foreign reporters. This article clearly states that the printing of any foreign press publication is forbidden within Indonesian territory, but may be distributed as long as the company has government permission. The same policy goes for foreign news agencies. Those that would like to set up branch offices in Indonesia, must first obtain government permission, then report to the Press Council. Foreign journalists representing foreign press companies, may pursue their profession in Indonesia, as long as they are not against the Indonesian revolution, they have government approval and they have registered themselves with the Press Council.

3. Regulation on Rural Newspapers (Koran Masuk Desa)

The Minister of Information with his decision numbered 203 which he issued in 1979 has set policies which have to do with increasing the flow of information into the rural areas. The project, abbreviated KMD, means to increase rural press distribution to villages, which falls in line with the national development orientation. It is hoped that KMD will not only increase the flow of information into the village areas, but will also broaden the market of regional press readers. This will in turn result in an increase of sales and strengthen the regional press system as a whole.
The Press Council is responsible for supervising KMD on a national level. To supervise KMD activities at headquarters, a special guidance team is formed, consisting of representatives from the Department of Information, Department of Home Affairs, the Press Council and the Indonesian Journalists Association. This team is responsible for giving general guidance pertaining to contents, format and other matters which have to do with successfully reaching the program's set mission, goal and aim. Similar teams are formed for regional areas, which are mainly concerned with technical and operational matters and take responsibility to make sure that contents accords with individual regional conditions. The carrying out of KMD activities in the regional areas are conducted by local national press publisher. These publishers are selected by governor of the areas after taking into considerations counciling and advice from local press organizations.

The KMD project distributes weeklies in the form of newspapers or magazines which are either special editions, separate from published material already in distribution; supplements in material now being published; special sections of published material which are directed towards the rural community; or in other forms. Total distribution would depend on the size of the area, but numbers run from approximately 3000 to 5000 exemplars per regency.

The government has provided financial aid for the KMD project to be used for production as well as distribution costs for a minimal one year. Certain adaptations have been made lay-
out and contents wise to fulfil and cater to the rural communities wants and tastes. For instance the using of larger type and more photographs for educational, informational as well as entertaining items. If it is felt that the usage of regional dialects would be more effective in conveying a certain message, then it is allowed, aside from the national language.

4. Regulations on Video Cassettes

With Presidential Decision Number 13/1983, the government has formed policies regarding video recording. This decision states that all video recording activities which includes importing - exporting, producing, distributing, broadcasting/showing, the issuing of licenses and supervision, is the responsibility of the Minister of Information.

Importing of video recordings are only permissible in the form of mastertapes, brought in through airports, seaports or post offices located in the same city as the Film Censoring Body. Importing activities are allowed only after permission from the Minister of trade has been obtained. This is proceeded by consideration by the Minister of Information and the Attorney General. Before duplication, distribution or showing, every video recording must first pass censorship which is conducted by the Film Censoring Body. It is also stated that duplication may only be carried out by PT Lokananta, under the National Film Production Center and the Republic of Indonesia Television Network (TVRI). Exporting activities must
be agreed upon by the Minister of Trade after consultation with the Minister of Information and the Attorney General.

5. Regulation on Non-Government Radio Broadcasting

Ever since the New Order took over the political scene, more and more private radio stations have begun operating aside from the government owned radio network (Radio Republika Indonesia, RRI).

To regulate the execution of these non-government radio broadcasts the government has issued Regulation Number 55/1970. This regulation states that radio broadcasting function as educator, informer as well as entertainer. The using of radio broadcasts for political reasons and activities is not allowed.

Every Indonesian citizen is entitled to set up an organizing body of Radio Broadcasting in the form of a legal body or corporation. Staff members are not allowed to be active government officials or active members of any particular political/community organization. Aside from this, all capital must be national capital: donations or services from foreign parties are not permitted. The regulation goes on to state that broadcasting licences are issued by the Minister of Communication after conferring with Chairman of the Telecommunication Council.

6. Regulation on Film

As stated in the Presidential Provision Number 1/1964, films are not to be regarded as only trade commodity, but as instrument for educating and informing. Indonesian films must
be protected from foreign film competition to ensure development in the field. One method of protectionism is the setting of a quota. According to Information Ministrial Decree Number 224/1978, the quota is set on April 1, after taking into consideration the development and production rate of national films.

All importing/purchasing/transacting and distributing of films is conducted by the Film Importers Association which is divided into the Association for Europe-United States Films; for Mandarin Films; and Association for Non-Mandarin Asian Films. Corporation which are allowed memberships into the associations are determined by the Minister of Information. These memberships are held for a five-year term.

Other measures taken to ensure protection for national film production include the decision that it is compulsory for every theater to show at least two national films monthly. This is formalized in a joint decree made by the Minister of Information, Minister of Home Affairs, and Minister of Education and Culture(1975).

Before distributing and showing, all films(foreign / national) are subject to censorship by the Film Censoring Body, which is headed by the Director General for Radio, Television and Film, under the Department of Information.

For foreign producers who wish to make film in Indonesia according to Information Ministrial Decree Number 13A/1973, each production must include Indonesia employees/workers and artists. Aside from this, an official from the Department of Information must also be appointed as supervisor.
7. Code of Ethics

Aside from the laws and regulations issued by the government, every organization which moves in the field of the mass-media has formed their own code of ethics. These include the Journalistic, Press corporation and Advertising code of ethics.

Jakarta January 1985