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From regulated Press to Press Freedom

The Challenge of the Electronic Media to Freedom of Information in Indonesia

Regional seminar on “Right to Information”
Bangkok, May 8-10, 2000

Asian Media Information and Communication Centre (AMIC)
Regulated to guaranteed freedom

Indonesia’s 1945 Constitution, underlines in its Article 28 that the freedom to express thoughts verbally and written is being regulated by the law. Yet, the word “regulated” has brought different interpretations. Instead of to guarantee, it is interpreted as to control. As a result, for more than 50 years ever since our independence (1945-1998), Freedom of Expression and Press Freedom was very much controlled by the rulers, except during only two periods of “honeymoons” -the beginning of our independence and the beginning of Suharto’s New Order regime in 1966.

As a result, the Press Law No. 11/1966 and its by-laws and regulations (e.g. Ministry of Information) provide extensive restrictions and government control over the press, such as:

- Licensing system
- Government control over Press Council
- Extensive restriction on the content of what may be published
- Restriction on who may practice journalism and on journalist’s associations

Fortunately, the reform movement spearheaded by the students in May of 1997, which have blown an unexpected political wind of change for democracy in Indonesia, succeeded to bring down Retired Army General Suharto from the Presidency. He was replaced by Vice President B.J. Habibie. The phenomenon have forced B.J. Habibie and the People’s Consultative Assembly (MPR), the highest legislative body in the country, the need to respect and guarantee basic human rights, as stipulated in the 1945 Constitution and the Universal Declaration on Human Rights, which includes Freedom of Information.

In its Special Session, the MPR issued Decree No. XVI/1998 on Human Rights, which includes two articles that guarantee Freedom of Information:

Article 20: “Every person has the right to communicate and to obtain information in order to develop his or her personal and social environment”.

Article 21: “Every person has the right to seek, obtain, possess, hold, process, and convey information through any type of means available”.

Consequently, this Decree served as an umbrella for Press Freedom when the House of Representatives (DPR) and the Government deliberated and agreed to issue a new Press Law No.40/1999, in September 23, 1999.

It is interesting to note, that both the government and the parliament had prepared their own versions of the bill. The government’s version was submitted to the house while the parliament’s version was only used as a means of comparison. The Ministry of Information took serious efforts in the preparation of the draft, consulting with many interest groups, including the Association of Indonesian Journalists (PWI), the Indonesian Press and Broadcasters Society (MPPI) and the Indonesian Commercial Radio Association (PRSSNI). It also consulted with UNESCO and a British based NGO, Article 19.
On the other hand, the house also consulted with many groups and NGOs including those mentioned earlier.

The result was a much brief and concise Press Law compared to the previous, and more substantially, it guarantees Press Freedom, which are as follows:

- Instead of obligations, the law sets out a number of rights for the press, including the right
  - to seek and obtain information;
  - to be free of censorship and banning;
  - to be free of oppressive regulations; and
  - offer an environment in which the press can flourish.

- Licensing has been replaced with a technical registration system under which a registration certificate must be issued within 15 working days of completing the appropriate forms.

- Significantly, the law establishes an independent Press Council, with members selected by journalists and media organisations rather than the government.

- Sanctions are directed primarily to those who interfere with press freedom rather than journalists and editors.

Flourish of the Print

As a result, hundreds of print media sporadically emerged within a couple of months. From around 289 licensed publications in 1997 to more than 1,600 licensed publications in 1999 with a total circulation of around 16.7 million nationwide. No data is available for the present number of publications and circulation as the result of the lifting of the licensing system.

Development of publications:

<table>
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<th>Period</th>
<th>Licenses</th>
<th>Press Publishers</th>
<th>Circulation</th>
</tr>
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<tr>
<td>until May 1997</td>
<td>289</td>
<td>289</td>
<td>14.4 million</td>
</tr>
<tr>
<td>1998</td>
<td>871</td>
<td>871</td>
<td>16.7 million</td>
</tr>
<tr>
<td>1999</td>
<td>1,687</td>
<td>1,687</td>
<td>n.d.a</td>
</tr>
<tr>
<td>Present</td>
<td>none</td>
<td>n.d.a</td>
<td>n.d.a</td>
</tr>
</tbody>
</table>

Source: Indonesian Newspaper Publishers Association (SPS)

Despite the increase of the number of publications, the total number of circulation and readership is assumed to remain the same. This means, that Indonesian readers have more choice to access information than ever before.
Control over the Electronic media

In the case of the electronic media, we see a different story. Currently, we have Law No. 24/1997, which regulates the broadcast. The Government, Parliament, and many professional and social organisations feel that the Law is no longer suitable for the present democratic environment. The Government, apparently was conscious of the new trend of change brought by the "reform movement" and decided to prepare a new Bill on Multimedia. The Bill basically combines and binds three (3) laws: Press, Broadcast, and Film.

The move was condemned by many professional organisations in the country and criticised by some members of the Indonesian parliament and observers. The Multimedia draft still provide extensive restrictions and government control. It contains many political jargons that could be interpreted in many ways by the regulators.

To counter the move, MPPI and other organisations have prepared two drafts, instead; Press and Broadcast, which were presented to the Parliament. The Government was aware of this "challenge" and decided to break down the Multimedia Bill and presented the Press Bill to be deliberated in the House. The result, we have a new press law, but the old "authoritarian" broadcast law still governs the electronic media in the country.

A tool to influence public opinion

According to the latest survey by Bureau of Statistic in 1995, there are nearly 20 million of TV sets and over 30 million of radio receivers.

<table>
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<th>Item owned in 1995</th>
<th>Household</th>
<th>Ratio</th>
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<tbody>
<tr>
<td>Radio/Tape recorder</td>
<td>31.59 million</td>
<td>69.4</td>
</tr>
<tr>
<td>TV</td>
<td>19.70 million</td>
<td>43.2</td>
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</table>

Source: Indonesian Bureau of Statistics 1995

Assuming that each TV sets is watched by 8 people, than the audience penetration reached around 150 million or nearly 80 percent of the 200 million population. The radio also has a significant penetration assuming that each radio is listened by five people or around 150 million listeners. Compare this with the penetration of the print, assuming that each copy is read by 5 people (66.8 million or 33 percent of the population), the electronic media has a much greater penetration.

<table>
<thead>
<tr>
<th>Media</th>
<th>Circulation/sets</th>
<th>Audience</th>
<th>Total Audience</th>
</tr>
</thead>
<tbody>
<tr>
<td>Print</td>
<td>18.7 million copies</td>
<td>5 person/copy</td>
<td>66.8 million</td>
</tr>
<tr>
<td>Radio</td>
<td>31.7 million sets</td>
<td>5 person/set</td>
<td>150 million</td>
</tr>
<tr>
<td>TV</td>
<td>19.7 million sets</td>
<td>8 person/set</td>
<td>160 million</td>
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Despite its significant degree of penetration, the electronic media as a source of information is still considered limited. The Indonesian Commercial Radio Association (PRSSNI) has 770 members, and there are 5 (five) Commercial TV stations. The Government owns the State Television (TVRI) and State Radio (RRI). But these electronic media is still very much controlled by the Government.

**Controlling the electronic media**

There are three (3) laws that regulate the electronic media: Law No. 36/1999 on Telecommunication (frequencies for TV and radio), Press Law No. 40/1999, and Law No. 24/1997 on Broadcast.

Ever since its "inception" the Broadcast Bill has caused controversies. It was deliberated and agreed by the House with the Government, but was turned down by the President (Suharto). It was revised and deliberated in the House again, until it was finalised on September 29, 1997 as Law No. 24/1997. Nevertheless, the law still contains many flaws and far from offering any freedom. In fact it is very restricted, reflecting the regime where the law was born.

The Law No. 24/1997 contains 12 Chapters with 78 Articles, requiring 26 Government Regulations, 9 Presidential Decrees, and 5 Ministerial Decrees. It is very restrictive and does not have a single article which guarantees press freedom or freedom of information.

The law stipulates extensive control by the government, starting from recommendations, licensing, to control of the content of material being broadcast. The law carries, in total, fifty seven (57) administrative sanctions and 25 criminal sanctions. Sanctions vary from fine to revoke of license to 10 years of prison.

The law itself gives two years to the Government and interest parties to "adjust itself" with the new law until September 29, 1999. But until this date, none of the "requirements" stipulated in the law has ever been implemented. In other words, the law exists but does not exists.

In fact, the new cabinet under President Abdurachman Wahid has abolished the Ministry of Information, one of the key "enforcer" of the law.

Nevertheless, the law exists, and at any given time, the government can enforce the law at will. These are some of the articles of Law No. 24 /1997 which could restrict press freedom and freedom of information:

- **Article 5**: "Broadcast carries the function as a media of information and dissemination, education, and entertainment, to strengthen ideology, politic, economy, social culture, and defence and security"

- **Article 6, paragraph b**: (Broadcast are directed for the purpose of) "transmitting public opinion which are constructive to the life of the society, the nation, and statehood, and to increase the active participation of the people in the development"

The above articles carries many political jargons, with vague meaning, and can be interpreted in many ways to suit the interest of the government or rulers.
Article 7, paragraph 1: "Broadcast belong to the state, whose guidance and control is executed by the Government"

Article 7, paragraph 2: "For the execution of guidance and control, the Government is accompanied by BP3N"

BP3N is probably the highest executive body which, controls, administers, and manages the broadcast system in the country, through recommendations to the Minister (of information). The Secretary of BP3N is the Director General of the Ministry which is responsible for broadcast.

Article 10, paragraph 1: "State broadcast is a unit under the Ministry of Information"

Article 10, paragraph 3: "State broadcast are Radio Republik Indonesia, Televisi Republik Indonesia"

Article 35, paragraph 1: "Programs which are broadcast in a centralised manner by the State Broadcast are compelled to be broadcast by all commercial broadcast.

Article 35, paragraph 2: "The programs which are broadcast in a centralised manner as stipulated in paragraph 1, includes state ceremonies, news at certain hours, and other important programs or announcement which the public should know immediately"

Article 37, paragraph 2, section a: (Broadcast service are not allowed to broadcast) "audio recordings that has the nature to instigate, to make an issue out of, or/and in defiance of a religion, or disgraceful to human dignity and the culture of the nation, or containing issues suspected to disrupt national union and unity".

These articles reflect the government's wish to control the content of material being broadcast, of news and information being conveyed to the audience and viewers, of "what and what not" the public should know or allowed to know. In fact, Article 37, paragraph 2, section a, which stipulates that "Broadcast service are not allowed to broadcast audio recordings ..... containing issues suspected to disrupt national union and unity", could be used at anytime for almost any case to intimidate press freedom or freedom of expression. For instance a statement by an individual voicing his or her aspiration for separatism could be easily fall into this article and carries a penalty up to 7 (seven) years in prison (Article 64, Law No. 24/1997)

The obligation to relay "simultaneously" government's TV and Radio could be seen as a mean to monopolise, to control, to direct, to manipulate, and to force information and opinion to the public, in a centralised and authoritarian manner.

Almost everyday, at 07:00 and 09:00 PM, most of the 80 percent of the whole population of the country, are "forced" to watch and listen to the government's "version" of the news, information and opinion in the state-controlled TVRI. Regardless of what the newspaper and the electronic media have published, at the end off the day, the government will have the final word and version of the issue.

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1 BP3N is an abbreviation for Badan Pertimbangan dan Pengendalian Penyiaran Nasional = The National Broadcast Guiding and Control Agency. The duty and function of this Agency is stipulated in Article 57 of Law No. 24/1997. According to Article 57, paragraph 6, the Agency will be established through a Government Regulation.
Another disturbing trend in this regard, is the tendency of certain individuals and groups in the society "to force" information and opinion through "on-air relay" programs in all the commercial TV in a centralised and simultaneous form across the nation. With only five commercial TV stations, it is possible and feasible for anybody to "buy" the "Air-time" (say of 30 or 60 minutes) of the TV channels, and use the media as their mean of campaigning their interest. And because it is broadcast simultaneously, the public have no choice but to listen and watch the program.

Any form of monopoly violates freedom, because the public does not have the right to choose. Monopoly of information violates freedom of information.

**Directorate General of Broadcast**

When forming the new Reform Cabinet, President Abdurachman Wahid abolished the Ministry of Information, saying that the "dissemination of information should be managed by the public themselves". The abolishment of the ministry also eliminates the Directorate General of Press and Graphics, and the Directorate General of Radio, Television and Film. During the New Order Regime of Suharto, these two offices were also "responsible" in oppressing Press Freedom. Recommendations, licenses, revoke of licences, barring, control, censorship of the press and broadcast were done through these two. The monopoly of information through state-controlled television TVRI and radio RRI were also managed through these offices, particularly the Directorate General of Radio, Television and Film.

The government, through its Decree of the Minister of Communication No. 4/2000 of January 26, 2000, announced the establishment of its new Directorate General of Broadcast. The Decree stipulates that the Directorate General carries the function, among others, to control broadcasting in the country.

Article 3: The Directorate General of Broadcast carries the function to execute part of the Ministry of Communication's duty in the sector of broadcasting based on the policy established by the Minister of Communication and standing laws and regulations.

Article 27: "The Sub-directorate for Radio and Television carries the function to provide facilities on broadcast content covering the preparation of guidance, development and control on radio, television and special broadcast.

Article 47: "With the issuance of this Decree, all operational and technical regulations and stipulations of the former Directorate General of Radio, Television and Film for the sector of radio and television will remain in force and under the Directorate General of Broadcast of the Ministry of Communication.

On February 28, 2000, a number of professional organisation: The Association of Indonesian National Commercial Radio (PRSSNI), The Indonesian Press & Broadcast Society (MPPI), Indonesian Commercial TV Forum, Indonesian TV Journalists Association (IJTI), and the Association of Indonesia Broadcasters (HPPI) issued a joint statement to the Minister of Communication, rejecting the establishment of the Directorate General of Broadcast.

The organisations, in its statement, accused the Ministerial Decree No 4/2000, as "endangering human rights (the right to obtain information), because it carries the intention to control radio, and television broadcast. Such character of controlling were
previously done by the New Order Regime to monopolise information, which ends into violating human rights, and creating an undemocratic environment”.

The organisations feel the issuance of the decree and the establishment of the directorate general as a very serious matter. On March 8, 2000, the organisations met with the President of the Parliament, to express their concern.

Independent Regulatory Body

The only relevant aspect of why the Ministry of Communication should carry the function of administering broadcast, is the fact, that the Ministry is responsible in the management and administration of radio frequencies. But because television and radio as a media to broadcast information to the public should be free of any interference, particularly from the Government, than the frequencies used by these media should also be free from Government interference. They are public domain, therefore, the public is the one who should administer the frequencies. Frequencies should be allocated on a “fit and proper*” approach, and not on whether “good or bad” to the interest of the Government. Administration and management of the frequencies should be transparent and fair. For this purpose, an independent regulatory body should be established.

State Radio and Television

Ever since its establishment, the state-controlled radio Radio Republik Indonesia (RRI) in 1945, and state-controlled television Televisi Republik Indonesia (TVRI) in 1963, carries the primary mission as a propaganda tool to strengthen and maintain the struggle for independence. During the New Order Regime (1965-1997) they were used as a tool to disseminate the success of development. Both, the Old Regime and the New Regime, tried to monopolise information as a tool to manipulate and control public opinion. They probably did succeed to some degree to maintain unity, and order and stability. But they did fail in developing and nurturing democracy.

President Abdurachman Wahid have said that the “dissemination of information should be managed by the public themselves”. This means that the State, or in this matter, the Government, should no longer be involved in disseminating information. Therefore, there is no reason why TVRI and RRI should be under the control of the Government. The abolishment of the Ministry of Information, also served as the elimination of the “patron” of TVRI and RRI.

At present, the Government is working on the fate and future of TVRI and RRI. Either converting the broadcast service into a state-owned corporation under the Ministry of Finance, or into a government agency under the Ministry of Communication. In both cases, they are still under the control of the Government.

Public Broadcast Service

Referring again to President Abdurachman Wahid’s policy that the “dissemination of information should be managed by the public themselves”, then the most viable and acceptable solution to the fate and future of TVRI and RRI, is converting these electronic media into Public Broadcast Services. The PBS has to be decentralised; meaning regional stations, which till now are still controlled by the “central” station in Jakarta will be converted into regional PBS. A board of governors for each PBS could be established, and will carry the responsibility to set up guidelines, policy and budget.
for the PBS. Member of the board are representatives of the society, and accountable
to the parliament. The board can assigned a professional executive to head the PBS,
and to prepare proposals, budgeting, and to carry out the daily operation of the PBS.

Local TV

The power to monopolise of information, can be practised not only by the rulers or
government through state-controlled television and radio, but also through the
commercial TVs in the country. With only 5 (five) commercial TVs and all with the
ability to broadcast nationwide, it is possible and feasible for the government to
“approach” these commercial TVs and use them for their needs and propaganda. In
fact the same “approach” can also be practised by private individuals, groups, and
organisations, to monopolise information.

In a free market society, it is probably difficult to bar any individuals from “buying air
time” in simultaneously on all TV channels. To avoid this, commercial TVs should
also be decentralised to local TVs, therefore giving broader access to local
communities to the media. Option to establish affiliation should be given, but limited
in order to avoid monopoly. In fact, the environment of the industry should be
improved so that more local TVs can flourish.

Indonesia is considered as the largest archipelago; with a population of 210 million of
people, 250 ethnic groups, each with their own language, culture, and way of life,
there is surely enough room and space for more local TVs in the country. The
existence of local TV can help local issues and aspirations to the surface, and be
dealt authorities and politicians at the local and national level. It will also foster the
flow of information of local issues to the local public, and not only of central policies to
the local communities. The development of local media, both print and electronic, will
nurture the process of democracy in the country, from the local to the national level.

The present Broadcast Law No. 24/1997, restrains the establishment of new TV
channels, not only because of its restrictive character and rigidity, but also because it
does not permit foreign capital in any form.

Article 14: “Commercial broadcast are not allowed to receive foreign capital”

With this article, it will be difficult for any local investor to participate in the
development of the local electronic media, particularly television. Furthermore, with
the current economic crisis, it is going to take some time for the Indonesian audience
to enjoy more channels in their TV sets. It was only the conglomerates and the
business magnates who had the privilege to set up the present TV channels.

Task and Challenges

One could say that Indonesia is now enjoying press freedom. The Press Law No.
40/1999 guarantees that freedom. But that freedom could be seen as merely a
“virtual reality”: The electronic media is still very much controlled by the government.
Moreover, the television, as the most “penetrative” media, could easily serve as a tool
for the rulers and elite group to monopolise information.

There are also a number of laws and by-laws that need to be revised and amended,
including the penal code, because they contain articles and stipulations which violates
press freedom, freedom of expression, freedom of information, and human rights in general.

There are many home-works and tasks to be done to uphold and guarantee democracy, particularly press freedom and freedom of information. Here are some of the priorities:

- To amend the 1945 Constitution, Article 28, where instead of word “regulated”, freedom of expression should be guaranteed by law.
- Enforce the People’s General Assembly’s (MPR) Decree No. 17, on Human Rights and Freedom of Information, as an “umbrella” to revise and amend all laws and by-laws to conform and abide with the Decree.
- Call for the Parliament to draft and deliberate Freedom of Information Act.
- Call for the Government and Parliament to immediately abolish Broadcast Law No. 24/1997, and deliberate on a new broadcast law, which is: less restrictive and oppressive, concise and clear, democratic, and offer a better environment where local radio and television can flourish.
- Reject Decree of the Minister of Communication No. 4/2000, on the establishment of Directorate General of Broadcast. A number of professional organisations are prepared to take legal actions if the decree is not lifted.
- Establish an independent regulatory body on broadcast.
- Convert the State-controlled TVRI and RRI into Public Broadcast Services

Probably the most important priority is to create public awareness on the issue. So far, the issue has not been able to attract public attention. The awareness of the media itself, either print or electronic, is still very low. Even most government officials and politicians in the regional and national lever are still unaware of the importance and urgency of the issue. And last but not least, education and campaigning to the member of the Parliament, since they will carry the responsibility to prepare and deliberate on the new broadcast law.

End.

References:


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