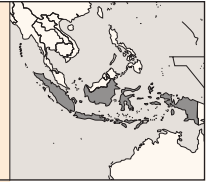


# MONITORING AND DEFENDING FREEDOM OF EXPRESSION AND ASSOCIATION ON THE INTERNET IN INDONESIA



Ferdiansyah Thajib  
EngageMedia

## Background

The Indonesian experience in 1998, marked by the end of a repressive era under Soeharto's administration, has often been seen as one of the most vibrant political turning points in the Southeast Asian region. The media environment has become a central indicator in gauging the degree of openness, equality, and democratisation that has occurred since that change.

The media sector blossomed following the post-Soeharto social and political reform period (or *Reformasi*) in the country. It has transformed the national culture of public expression, both in the way Indonesian people relate to the conventional and "mainstream" press, as well as to the internet and social media. But in terms of freedom of expression and assembly as well as other fundamental rights, the narrative has far from a happy ending.

Contingencies of power, capital and historical contexts remain pertinent factors in the dynamic between the internet and democracy in Indonesia. For instance, although Freedom House in 2011 described Indonesia as a "free" country in terms of political rights and civil liberties, the country's status of press freedom and internet freedom is deemed only "partly free".<sup>1</sup> This ambiguous position can be attributed to the precarious terrain of recognising human rights in the country's historical trajectory.

A long list of human rights violations has left ominous patterns that frame the everyday realities of the country. It includes the brutal mass killing which marked the beginning of Soeharto's dictatorship and its anti-communist propaganda drive in the late 1960s; prolonged violent military campaigns in the conflict areas such as Timor Timur (now Timor Leste), Aceh and Papua; and many incidences of censorship and the muting of political expression across the media landscape. Entering the so-called democratic era, popular elections may run fairly

smoothly, but justice and reconciliation efforts to address past abuses remain half-hearted at best, and evidence of military-sanctioned torture continues to emerge. In addition to abuses still committed by security forces, overtly or behind the scenes, the nation is now facing an array of conflicting interests, including religious and class interests, and attitudes to sexuality and sexual identity. In various instances, such as the Ahmadiyah case in West Java, frictions between community members lead to violent outbreaks, or in extreme cases, death.<sup>2</sup>

The early adoption and use of the internet by human rights activists has played a crucial role in facilitating social change, both during the authoritarian era under Soeharto and today. During the upheaval, the internet provided a more democratic space compared to conventional media. Highly unregulated, it attracted political dissidents who created networks and disseminated knowledge. It became a medium that civil society movements could use to mobilise. Awareness about universal human rights, particularly the right to freedom of expression, were quickly circulated between activists and gradually spread to the rest of society. Through the net, human rights activists working both online and offline were introduced to new means for monitoring, defending and advancing freedom of expression and association.

The explosive growth of internet use (from 30 million in 2009 to 45 million in 2010, or approximately 18.5% of the total population)<sup>3</sup> has opened the flow and exchange of information across

1. Freedom House, *Freedom on the Net Report* (New York: Freedom House, 2011)

2. Ahmadis, who practice the Ahmadiyah form of Islam, have been subject to various forms of persecution since the movement's inception in 1889. Ahmadiyah is a controversial religious minority in Indonesia that rose sharply in the 2000s with the rise of Islamic fundamentalism. As of 2011, the sect faces widespread calls for a total "ban" in Indonesia. In February 2011, hundreds of villagers in Banten province, west of Jakarta, marched to a house where twenty Ahmadis had met. Three Ahmadi men were then stripped and beaten to death. Alexandra Crosby, "Documenting Torture, the Responsibilities of Activists" in *Global Information Society Watch 2011* (APC and HIVOS, 2011), 138

3. Ardhi Suryadhi, "Pengguna Internet Indonesia Capai 45 Juta" [Indonesian Internet Users Reach 45 Million] *Detikinet*, 9 June 2010, [us.detikinet.com/read/2010/06/09/121652/1374756/398/pengguna-internet-indonesia-capai-45-juta](http://us.detikinet.com/read/2010/06/09/121652/1374756/398/pengguna-internet-indonesia-capai-45-juta)

boundaries and elevated civic engagement in political, social, and economic issues. Given the total size of the country's population, however, the density of internet users who have landline access in Indonesia is still low by global standards, with only 5.61 users per 100 citizens.<sup>4</sup> Available broadband connections remain prohibitively expensive.<sup>5</sup> In 2009 only 0.8 per 100 people had home connections to the internet, making cybercafés the main point of access, where 64% of internet users access the web.<sup>6</sup>

However, the urban-rural access divide is gradually diminishing due to the rapid spread of mobile technology. Based on an Intermedia report in 2010<sup>7</sup> mobile penetration is over 88%, with the total number of mobile phones reaching 211 million.

Nevertheless, as elsewhere across the global south, the looming challenge in Indonesia is uneven digital connectivity, marked by increasing yet unequal access to information. This has partly contributed to the division of society based on knowledge-power relations. This is defined by the unequal rate of content produced in urban versus rural settings and by broadband service which is prohibitively expensive for most people. Language also negatively affects access. With most online content still in English, most Indonesians are limited in their ability to appropriate the advantages of digital media into their daily lives. Despite the pervasiveness of the cybercafé and the massive uptake of convergence media (thanks to low-cost smart phone technology and a cultural readiness to interact with new technologies), these layered barriers to participation continue to effect the social formation of who gets to the internet, from where, as well as what is being expressed once they are present.

### Internet regulatory framework in Indonesia

Concerns are often raised over the return of media censorship and surveillance, including of the internet. This is despite the *Reformasi* promise, which was heralded with the enactments of positive media policies such as the Press Law and Broadcasting

Act, as well as the constitutional amendments and the subsequent bylaws introduced during the shifting political climate between 1998-2002. With the guarantee of a free press by the Press Law and better media access by the Broadcasting Law, stepping stones towards citizens' right to media were laid.<sup>8</sup>

Currently the internet falls under the purview of the Ministry of Communication and Informatics (MCI). The institution was a renewed version of the Ministry of Information, which was formed in 1945 during the early formation of the Indonesian Republic. Under Soeharto's rule the ministry acted to maintain and extend state control and to censor public expression. After being dissolved during the *Reformasi* in 1998, the ministry was reinstated in 2001 under the new name of State Ministry of Communication and Information, and reintroduced once again in 2005 under its current name.

There are two main bodies working under the MCI jurisdiction: the Directorate General of Post and Telecommunication (DGPT) and the Indonesia Telecommunication Regulation Body (BRTI). In charge of overseeing telephone and internet services, the directorate is responsible for issuing licenses for ISPs, cybercafés, and mobile-phone service providers. BRTI exercises regulation, supervision, and control functions related to telecommunications services and networking. In practice however the Freedom House report stated that the extent of BRTI's independence and effectiveness remains questionable as it is led by the DGPT director, and its budget draws from DGPT allocations.<sup>9</sup>

One of the ministry's key mandates is the development of a democratic media landscape – but on many occasions its policies (or lack of policies) have been counterproductive in this regard. Examples include censorship, content blocking and filtering, and intervening in the operations of ISPs and search engines. This is largely attributed to the spectrum of vague legislation, contingent political gestures, and a lack of policies and governance based on human rights principles.

Another official authority that regulates the media sector is the Indonesian Broadcasting Commission (KPI), an independent body established by the Broadcasting Law. However, the KPI has not been able to solve many of the problems mentioned above. Firstly, its focus is on television broadcasting, and it does not have jurisdiction over the internet. Secondly, KPI's authority and credibility as an independent controlling body are eroded by current allegations of corruption and backdoor policies.

4. Yanuar Nugroho, Muhammad Fajri Siregar and Shita Laksmi, *Mapping Media Policy in Indonesia* (Jakarta: CIPG and HIVOS, 2012)

5. Merlyna Lim (2011) reported that currently, personal broadband users in average spend 200,000-500,000 Indonesian rupiahs (USD23-59) per month. By comparison, the monthly per capita income among the poor is less than 355,000 rupiah (USD41). In Jakarta the minimum wage for workers is about 1.29 million rupiah (around USD151) per month

6. Merlyna Lim, @crossroads: *Democratization & Corporatization of Media in Indonesia* (Jakarta: Participatory Media Lab at Arizona State University & Ford Foundation Indonesia, 2011)

7. Ibid

8. Nugroho, Siregar and Laksmi, *Mapping Media Policy*

9. Freedom House, *Freedom on the Net Report*

This leaves the job of independent oversight and monitoring to a handful of businesses that take an active interest, and, increasingly, to civic agencies. They have become some of the most active proponents of upholding freedom of expression online.

With multiple stakeholders and interests involved, tensions over control of the internet continue to linger, particularly evident in the authorities' tendency to limit the flow of information and free expression, as well as the influence over regulation by private interests and local pressure groups. The next section takes a closer look at the internet's pivotal status as an arena that enables struggles for human rights and fundamental freedoms in Indonesia.

### Consolidating power and control

Since 2008 the regulation of the internet has been built around the Electronic Information and Transactions (ITE) Law. First proposed in 2003 by the MCI, its main purpose is to protect electronic business transactions and internet-based activities. But the law also contains vague definitions on defamation which inhibit online expression and expose netizens to heavier penalties than those set out by the Penal Code. Anyone convicted of committing defamation online may face up to a six-year prison term, and a fine of up to one billion rupiah (USD 111,000).

#### *The case of Prita Mulyasari*

By mid-2010 there were at least eight people prosecuted under ITE Law, the most notable being Prita Mulyasari. Her case was built upon the alleged circulation of defamatory statements online about a private hospital in Java in 2009, which culminated in a 204 million rupiah fine. Her case sparked a great deal of public sympathy: a Facebook page was set up that led to one of the biggest online campaigns ever in Indonesia, both in terms of moral support and donations. Concurrently, Mulyasari was also charged under at least two articles of the Criminal Code on defamation. Later, the hospital dropped the lawsuit against Mulyasari for online defamation, but two years after her acquittal, in 2011, the Supreme Court found her guilty under the Criminal Code and convicted her with one-year probation.<sup>10</sup>

Mulyasari's case illustrates how online expression is curtailed by heavier punishments for libel than those found in conventional media, and how a second layer of legal restrictions exposes internet activities to severe penalties. The abuse of defamation charges enabled by the only existing Indonesian cyberlaw (the ITE), combined with

criminal codes and at times contradictory court rulings over online cases, threatens to create an environment where self-censorship is a regular practice on the internet.

#### *The Anti-Pornography Law and The Informational Technology Crime Bill*

To a great extent existing restrictions that negatively affect internet freedoms rely on general state law such as the Criminal Code. Another example is the 2008 Anti-Pornography Law. Exploiting the broad-sweeping terms of "public morality", the law stipulates that possessing or downloading pornography is liable to a four-year prison sentence and a "sexually enticing" performance may result in a twelve-year sentence. In the years following its introduction, the law garnered strong criticism from social and cultural activists due to its apparent neglect of individual rights and its discriminative stance to women's rights. It also throws into question the diverse forms of cultural expression, which represent the various ethnicities in Indonesia. For example, the traditional dress of many ethnic groups in Indonesia includes exposed breasts for women, made illegal under the law. Needless to say, the law has been ineffective in actually stopping the viewing of pornography, which is bought easily from unofficial distributors.

The use of moral injunctions as a basis for legal arguments and action is pervasive and multi-layered. This is seen, for example, by MCI's statement in 2011 claiming that it has to "clean out" the web of morally inappropriate content. It began by blocking 300 websites, allegedly publishing radical content and promoting terrorism.<sup>11</sup> The number continued to grow to almost one million websites in 2012, including numerous sites for their alleged pornographic content.<sup>12</sup> The Minister, Tifatul Sembiring, also made a public statement about the draft of Multimedia Content Ministerial Decree which he described as an attempt to control the use of social media and the internet. The proposed decree failed to reach formal deliberation, however, as it was immediately met with a strong public reaction.<sup>13</sup>

10. Lim, @crossroads

11. "Kominfo Blokir 300 Situs Kekerasan" [Ministry of Communication and Informatics Block 300 Violent Sites] *Republika*, 26 September 2011 [www.republika.co.id/berita/nasional/umum/11/09/26/l55147-kominfo-blokir-300-situs-kekerasan](http://www.republika.co.id/berita/nasional/umum/11/09/26/l55147-kominfo-blokir-300-situs-kekerasan); also cited in Nugroho, Siregar and Laksmi, *Mapping Media Policy*

12. "We've Blocked 1 Million Porn Sites, Government Claims", *The Jakarta Post*, 6 February 2012, [www.thejakartapost.com/news/2012/02/06/we-ve-blocked-1m-porn-sites-govt-claims.html](http://www.thejakartapost.com/news/2012/02/06/we-ve-blocked-1m-porn-sites-govt-claims.html)

13. Freedom House, *Freedom on the Net Report*, 180

The democratically elected President, Susilo Bambang Yudhoyono, recently set up an anti-pornography task force as an extension to the existing law. Its tasks would include clamping down on women wearing miniskirts.<sup>14</sup> The State's gender discriminatory practices also trickle down to local governance levels, reflected in the ordinances of various local administrations.<sup>15</sup>

Concerns are running high over more legal repercussions and violations of users' rights with two upcoming pieces of legislation: the Informational Technology Crime (TIPTI) and Media Convergence bills. Critics have warned that TIPTI will control digital activities to a greater extent than the ITE. The bill is considered more repressive and vague than the ITE, as charges will not be sufficiently based on digital evidence and bears harsher penalties for online offences. Meanwhile the Media Convergence Bill is an integration of the ITE, broadcasting, and telecommunications laws. At the same time it will merge the three media regulating bodies, namely the Broadcasting Commission, the Information Commission, and the Indonesian Telecommunications Regulatory Body into a single commission. The bill has received heavy criticism, and has been accused of trying to create a monolithic body whose intervention could apply across all media and telecommunications platforms.

### *The role of business*

The country's intricate regulatory framework has also shaped the dynamic of internet-related businesses. After the first waves of reform in 1998, the Indonesia media industry moved further towards market liberalisation, resulting in media conglomeration and a concentration of ownership amongst several major players. In the telecommunication sector, as of 2007, there were six main players dominating the market, controlling around 300 ISPs operating across Indonesia. They are Bakrie Telecom, Indosat, Indosat Mega Media, Telkom, Telkomsel, and XL Axiata.<sup>16</sup> Reportedly, in 2010, the mobile phone service provider industry was joined by nine companies, with Telkomsel leading the market with a 50% share.

Aside from unfavourable market competition, restrictive policies inhibit the activities of smaller ISPs in the market, such as instructions to filter information, including information that has political ramifications. In 2008, the Minister of Communication and Informatics ordered ISPs to block the circulation of the Dutch film *Fitna* in Indonesia due to its anti-Islamic sentiments. As a consequence, ISPs across the country blocked access to content-sharing sites including YouTube, MySpace, and Multiply. This decision sparked a public outcry, forcing the minister to retract the ban the following week.<sup>17</sup> Another potential setback in infrastructure provision of the internet is the concentration of network access providers (NAP) to only a handful of institutions, including the abovementioned big players. With NAPs acting as gatekeepers, linking local ISPs to the internet backbone, the system is exposed to government intervention, as in the controversy surrounding *Fitna*.

The liberalisation of the market has, however, also opened up possibilities for businesses to protect their consumers, and in turn, to join efforts to endorse wider public interest priorities. For example, in mid 2010, the Indonesian Association of Internet Cafe Entrepreneurs (APIII) and several other ISPs dismissed a government request to restrict access towards certain Facebook group accounts which had held a competition for artists to submit drawings of the prophet Muhammad. APIII has also started the Indonesian Internet Governance Forum (IDIGF), a multi-stakeholder platform for collaborative policy-making, which pushes for an open internet environment.

Local content providers play a significant role in the Indonesian internet environment despite the domination by global giants such as Facebook, Google and Yahoo!. The popularity of online media such as Detik.com, Kompas.com, Vivanews.com and Okezones.com can be attributed to language preferences and their news offerings, which are immediate and close to unfolding events. The removal of content has been carried out under government directives and in some cases after pressure from private actors, as was the case with the Okezone online news website in 2008. The website, owned by one of Indonesia's largest media corporations, MNC, had to change its coverage on a corruption scandal after the company owner, who had financial ties with high political figures, stepped in.<sup>18</sup>

14. "Indonesia Considering Banning Short Skirts", *The Jakarta Globe*, 28 March 2012, [www.thejakartaglobe.com/home/indonesiaconsidering-banning-short-skirts/507630](http://www.thejakartaglobe.com/home/indonesiaconsidering-banning-short-skirts/507630)

15. See also Ferdiansyah Thajib, "Indonesia" in *The Greenwood Encyclopedia of LGBT Issues Worldwide Vol.1*, ed. Chuck Stewart (Santa Barbara, CA: ABC CLIO, 2010), 411-412

16. Arif Wismadi and David N. Townsend, "Country Case Study Indonesia Draft 1", Asian Development Bank-International Telecommunication Union Project on Rural ICT Policy Advocacy, Knowledge Sharing and Capacity Building, 9 September 2010, [www.scribd.com/doc/78526279/ITU-ADB-Interrim-Indonesia-Country-Report](http://www.scribd.com/doc/78526279/ITU-ADB-Interrim-Indonesia-Country-Report)

17. Freedom House, *Freedom on the Net Report*, 177

18. "Geger di Sisminbakum, Sunyi di RCTI dan Okezone", in *Wajah Retak Media: Kumpulan Laporan Penelusuran*, [Dispute in Sisminbakum, Quiet at RCTI and Okezone, the Negative Face of Media: Fact Finding Report] (Jakarta: AJI Indonesia, 2009)

The drastic changes that come about with the advancement of media technology and shifting political realities have made the government and media industry strange bedfellows with sometimes conflicting and other times mutually beneficial measures to control, regulate, and censor expressions online. In the face of sophisticated censorship and filtering methods, a more controlled society seems inevitable. At stake here is the sustainability of diversity of views, opinions and content. In such a large country made up of so many different groups, diversity is essential for peace and human rights.

The next section explores how notions of diversity are being negotiated in the online sphere.

### Negotiating diversity online

Vague and normative legal frameworks, as noted previously, have restricted the circulation and expression of ideas on the net in the form of self-censorship among content producers. With fierce market competition, national and multinational enterprises have also worked to extend the government's control and monitoring, mobilized by their own vested interests.

However, the internet remains relatively free compared to film distributed in cinema or printed newspapers, for instance, and enables a high degree of content diversity in comparison to conventional media. Unlike persistent cases against the Indonesian press, there has been no report of extralegal repercussions for internet users. The online sphere in Indonesia manages to harbour a broad spectrum of political differences, ideologies and behaviours ranging from sexual minority groups to radical religious ones, from environmental activism to online shopping. In this open environment, heated debates between conflicting interests flow through various outlets, mainly email groups, online forums and chatrooms and on social media. While it is not uncommon for exchanges to result in hate speech, the MCI as the government monitoring unit continues to take a role as arbitrator, and in some cases, given enough political weight, they interfere by blocking or removing content.

There are national policies that support freedom of expression online, such as the Human Rights Law 39/1999 and Freedom of Information Law 14/2008, but the realities of policy-making in Indonesia have made it difficult to ensure consistent implementation. In terms of infrastructural development of the ICT sector, the MCI came up with a clearer policy towards closing down the disparities in connection, such as the issuance of Ministerial Regulation

32/2008 on Universal Service Obligation (USO) that pertains to ICT businesses' involvement in supporting infrastructure provisions based on the USO agreement. In addition actual measures to broaden internet connections across the region have been stepped up as part of the positive obligations of the State.

The discourse on internet freedom in the civic realm has shown a more vibrant outlook in recent years. ICTs have been catering to both civil and democratic organisations and the individual's need to express and share ideas and opinions. Accompanying the dramatic shift is the popularisation of social-networking applications with Indonesia becoming home to the second largest number of Facebook users – approximately 40 million – just below the United States. This number represents some 15% of the country's total population. Besides Facebook, the use of Twitter has also risen exponentially. Reportedly 20% of Twitter subscribers globally are based in Indonesia, with 60% concentrated in urban centres such as Jakarta, Bandung, Medan and Yogyakarta.<sup>19</sup>

Both these social media platforms have generally developed without significant interference while successfully hosting several civic movements. Aside from the Prita Mulyasari case mentioned earlier, another prominent example is the “One Million Support for Bibit-Chandra” which started in 2009 when a Facebook campaign was started to challenge the politically motivated arrests of the two deputy chairs of the Corruption Eradication Commission (KPK).<sup>20</sup> The online protests garnered 1.3 million supporters by August 2010 and the charges were dropped not long after that. Both cases (Prita Mulyasari and Bibit-Chandra) are exceptional examples of critical rifts in the political landscape due to the use of the internet. This can be partly attributed to the degree of exposure the campaigns received in the mainstream media, mainly through television. This demonstrates the need for links between different forms of media for effective activism.

Without an acknowledgement of these links, campaigns tend to fail. Other stories of the violations of fundamental human rights had limited circulation amongst concerned groups, despite various attempts to attract broader public support through online participation. Among these is the Lapindo case in East Java. In 2006, more than 10,000

19. Lim, @crossroads

20. Wikipedia, “Corruption Eradication Commission”, accessed 2 May 2012, en.wikipedia.org/wiki/Corruption\_Eradication\_Commission

residents of Sidoarjo village and the surrounding area where affected by mudflows due to excessive natural gas exploitation by Lapindo Brantas Corporation. Until now, there has been no reported settlement between the victims and the corporation – although rumours of backdoor settlements persist – which is partly owned by Indonesia's current Coordinating Minister of Welfare, Aburizal Bakrie. While the online response to Lapindo was widespread, there has not been a clear and coordinated campaign that integrates with conventional media. Another major violation of human rights that has failed to gain critical mobilisation despite an online presence is the circulated video of the fatal attack on Ahmadiyah Islamic followers by a militant Islamist group in West Java in early 2011.<sup>21</sup> Despite this, social networking continues to become an important tool in mobilising solidarity for socio-political causes. During the writing of this report in May 2012, social networks were flooded by criticism of the silencing of Canadian author and Muslim activist Irshad Manji who conducted a tour in Java to launch her latest publication. The public gathering with the openly lesbian Muslim activist turned sour when Islamist hardliners succeeded in pressuring the Indonesian police force to stop the book launch in Jakarta. In Yogyakarta the event ended in a wave of attacks by another Islamist radical group called Majelis Mujahidin Indonesian (Indonesian Mujahedeen Council), leaving a number of people injured.

The Indonesian blogosphere is also active, although from the estimated number of 1.2 million bloggers in 2009, only 80 blogs, typically managed by activists, human rights defenders, or journalists, are devoted to good governance and the support of civil society causes<sup>22</sup>. NGOs have also increasingly adopted ICTs as platforms for civic activism, including social network applications. Groups such as Women's Solidarity for Human Rights (Solidaritas Perempuan), dedicated to fighting for women's rights in grassroots communities,<sup>23</sup> is also using offline and online strategies to achieve their mission.

Another positive development is seen in collective action, bridging organisational differences to reach a wider audience. Online video activism has been on the frontline in appropriating the advantages of ICTs as a platform for strategic alliances and tactical networking. Video activist groups like Kampung Halaman, the Kalyana Shira Foundation and

EngageMedia collaboratively explore the potential of online video as a medium for change focusing on youth issues, women's rights, and social justice, respectively.

Civic initiatives are also instrumental in affecting internet policy-making processes. The promotion of open knowledge circulation, free expression and ethical practice on the net have been the main foci of institutions like the Indonesian Telematics Society (Mastel), the SatuDunia Foundation and ICT Watch. Inventive ways to solve access limitations by civic agencies working in the technological sector can also be found. This is exemplified by the introduction of RT/RW-Net by Onno Purbo and his group in 2004. The RT/RW network system is designed using wireless technology to enable the sharing of broadband connectivity amongst multiple community members in the same location, thereby reducing the cost of access per household significantly.

In 2011, a strategic network initiative called Cipta Media Bersama (Creating Common Media) was introduced to the public as a means to promote media content diversity, equal access and media freedom. The initiative, involving Ford Foundation Indonesia, ICT Watch, Alliance of Independent Journalists (AJI), and Wikimedia Indonesia, has launched a nationwide call-out for participants in order to forge a generation of users aware of issues such as diversity, ethics and equity.

The term "diversity" has been a recurrent theme in Indonesia since the Republic was founded in 1945, seen in the adoption of the national motto *Bhinneka Tunggal Ika* (Unity in Diversity) – this to the extent that it was even abused by the New Order in forging a sense of national citizenship in which political dissent and criticism was ostracised. But with the free expression found on the internet, society has now been exposed to considerable challenges given the differences between ethnicities, ideologies, religion and political identities. If anything, the internet has shown that the notion of diversity needs to be constantly negotiated.

## Awareness

As mentioned, mainstream discourse in the Indonesian online sphere is still tainted by incitement to discrimination and hate speech, in part due to the capacity of the internet to accommodate a diversity of expression. While limitations to content are called for in some cases, such as those categorised as offences under international law (for example, child pornography and inciting intolerance or hatred), the government has not yet responded proportionally to the need for these limitations. Over-generalised

21. Angela Dewan, "Why We Should Support Indonesian Schools", *New Matilda*, 16 February 2011, [newmatilda.com/2011/02/16/why-we-should-support-indonesian-schools](http://newmatilda.com/2011/02/16/why-we-should-support-indonesian-schools)

22. Freedom House, *Freedom on the Net Report*

23. [www.solidaritasperempuan.org](http://www.solidaritasperempuan.org)

efforts to prohibit hate speech on the internet through the introduction of Defamation Codes in the ITE Law did not solve the problem.

On the other hand, human rights defenders and civil society organisations have been actively formulating and building ethical practices in producing and distributing online content. In terms of regulating the press and its use of social media, in 2012 the Cyber Media Code of Ethics (*Rancangan Pedoman Pemberitaan Media Siber*) was developed by the Press Council. Meanwhile ICT Watch Indonesia has been building a campaign on *Internet Sehat* (Wise Internet) since 2005. The programme promotes safe, secure and responsible practices on the internet. It recently gained nationwide recognition and was adopted as policy by various stakeholders.

Governmental bodies that formed following the *Reformasi*, such as the Indonesian National Human Rights Commission (Komnas HAM), have also been pushing a credible human rights agenda into the wider governmental sector. During her speech in the United Nations Expert Panel on Freedom of Expression and the Internet, Komnas HAM country representative Hesti Armiwulan called on the State to re-evaluate some of the regulatory frameworks that tend to criminalise public expression on the internet while stepping up educational measures for increasing content production and public access.<sup>24</sup>

Attempts to generate public awareness and organise support related to human rights issues are currently underway with various individuals and organisations using digital media to disseminate information. Two blogs dedicated to awareness raising, managed by Andreas Harsono and Anggara, stand out as exceptions in a blogosphere crowded with content on urban middle-class popular culture.<sup>25</sup> While the mainstreaming of the human rights agenda in public life still has a long way to go, there have been gradual improvements. For instance, the Indonesia Media Defense Litigation Network (IM-DLN) initiated a human rights blogger award, to spur Indonesian bloggers to produce and circulate content that respects, protects, and fulfils human rights principles. The initiative also runs a portal that archives related information.<sup>26</sup>

Currently there are only a handful of independent organisations with an online presence dedicated to human rights causes. Amongst these are: Kontras, the Commission for “Missing and Violence

Victims”,<sup>27</sup> which channels support and information to victims of human rights violations through its on-line portal; the Indonesian Human Rights Monitor or Imparsial,<sup>28</sup> which gathers and investigates abuses online; an organisation called West Papua Alerts,<sup>29</sup> which provides independent news in response to the constant threats experienced by journalists reporting on/from the conflict-prone Eastern provinces; and feminist groups like the Women’s Journal Foundation (YJP)<sup>30</sup> and the Kalyanamitra Foundation<sup>31</sup> that facilitate awareness campaigns about women’s rights, and build networks around women’s issues.

These activists engage with human rights goals largely through digital media. Although still limited in number, they have helped widen the interactions between different communities they work with and for. This is mainly achieved by linking the internet with grassroots issues and communities, including setting up structures to address the lack of access for many vulnerable groups. Strategic appropriation of social media by these agencies has the potential to keep pushing human rights issues into the public agenda.

### Impacts on other rights

The vague anti-pornography law introduced in 2008 was based on “public morality” and in practice is contingent on interpretation, a type of policy-making that is often conducted by the current Minister of Communication and Informatics, Tifatul Sembiring. Its primary impact has been the infringement of minority rights, particularly those of lesbian, gay, bisexual, and transgender (LGBT) people. The use of technical filtering that targets keywords and domain names related to sexualities under the category of “pornography”, including blanket terms like “lesbian” and “gay”, has severely limited the ability of LGBT people for organization and education.

Recently, the International Gay and Lesbian Human Rights Commission (IGLHRC) reported through a circulated email that its website had been banned by mobile phone operators Telkomsel and IM2. In the email, Cary Alan Johnson, IGLHRC Executive Director stated that “according to a spokesperson for... IM2, the order came from the Minister of Communication and Information who banned [the website] due to its

24. For Armiwulan’s complete statement, see [www.unmultimedia.org/tv/webcast/2012/02/hesti-armiwulan-panellist-panel-on-right-to-freedom-of-expression-19th-session-human-rights-council.html](http://www.unmultimedia.org/tv/webcast/2012/02/hesti-armiwulan-panellist-panel-on-right-to-freedom-of-expression-19th-session-human-rights-council.html)

25. Some prominent examples include [ndorokakung.com](http://ndorokakung.com), or see [saling-silang blogger directory: blogdir.salingsilang.com](http://saling-silang blogger directory: blogdir.salingsilang.com)

26. [hamblogger.org](http://hamblogger.org)

27. [kontras.org](http://kontras.org)

28. [www.imparsial.org](http://www.imparsial.org)

29. [westpapuamedia.info](http://westpapuamedia.info)

30. Founded in 1995 in Jakarta, YJP is working to produce and distribute knowledge, information and documents about women’s rights and issues through feminist approaches ([jurnalperempuan.com](http://jurnalperempuan.com))

31. Founded in 1985 Kalyanamitra Foundation works to promote awareness on women’s rights and with marginalised communities like women labourers and women who work in informal sector ([kalyanamitra.or.id](http://kalyanamitra.or.id))

content which, they determined contains pornography". The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) website also experienced the same fate. In 2010, an ILGA regional congress in Surabaya, East Java, was dispersed by police under local Islamist militant pressure. Critics warned that as these internet blocks appear to be systematically conducted to hamper communication between local and global LGBT rights activists, they run contrary to the Yogyakarta Principles for the Application of Human Rights Law in Relation to Sexual Orientation and Gender Identity.<sup>32</sup>

Moreover, the anti-pornography law enables police to abuse their power of surveillance by searching cybercafés without prior notice and often without warrant since these venues are suspected of facilitating the viewing, storing and distribution of pornographic material. The law also spurred similar campaigns carried out by non-state actors such as the Islamic vigilante group Islamic Defenders Front (FPI).

Little has been done to address the increasing religious-laden frictions currently preoccupying both online and offline spaces. The public sphere has had to bear witness to violence targeted at minority Islam communities, and conflicts among supporters of freedom and diversity and Islamic hardliners. Among the limited number of initiatives tackling this particular issue, there is Women's Solidarity for Human Rights, which initiated an ICT-based campaign called "Women and Religious Politicisation" in 2012 and the Institute for Research Policy and Advocacy (ELSAM), which promotes a dialogue between human rights and Islam on its website.

While further investigation still needs to be done regarding how the incitements to discrimination and hostility on the internet contribute to violence in the field, this report sees the urgency for a clear regulatory framework which underscores the protection of individuals from hostility, discrimination and violence, rather than to protect belief systems, religions or institutions from criticism. This is in line with a report by Frank La Rue, the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression.<sup>33</sup> La Rue argues that the endorsement of freedom of opinion and expression should accommodate open

debate and criticism, and ideas and opinions – including religious ones – as long as these do not advocate hatred or incite hostility, discrimination or violence against an individual or group.

## Conclusion

This report has framed some of the experiences that followed the 1998 reforms in terms of internet development and political mobilisation towards change in Indonesia. Today Indonesia faces the dynamic of increasing digital media use coupled with more layered and intricate challenges to internet and new media freedom. The country's infrastructural and political landscapes are key factors affecting the degree of freedom currently enjoyed on the internet. Despite rapid innovations in mobile technology and lower costs that have enabled higher levels of access, unequal distribution of digital connectivity still undermines many people living in the vast archipelago. The commitment to prioritise internet expansion has been demonstrated by the government, especially the MCI. However the pre-conditions for greater freedom of expression is not solely determined by technological provisions but also a regulatory framework that upholds democratic tenets and human rights.

The efforts of human rights defenders and media rights activists need to be directed at the pressure points of this regulatory framework. Such work is in line with the recommendations of the United Nations Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression to the General Assembly. In concluding his report, La Rue recommends that States take up the responsibility of guaranteeing the free flow of information online. He also points out that laws that prohibit the flow of content must be unambiguous and must pursue a legitimate purpose. In this vein, it is clear that a review of the Anti-Pornography Law in Indonesia is necessary as the evidence in this report demonstrates that it restricts the right to freedom of expression of minority groups, particularly LGBT people. It has become clear that the blocking of content by the State in Indonesia is a form of censorship that lacks both transparency and accountability.

Criminalisation of internet users based on vague legislation, and citing "public morality" arguments, should be reviewed in accordance with the diverse situations that constitute the Indonesian public sphere. With the still limited number of civic initiatives currently participating in policy-making processes, public awareness campaigns that highlight online control and censorship are required so that Indonesia's politically repressive history will not repeat

32. *Yogyakarta Principles on the Application of International Human Rights Law in Relation to Sexual Orientation and Gender Identity* (2007), [www.yogyakartaprinciples.org/principles\\_en.pdf](http://www.yogyakartaprinciples.org/principles_en.pdf)

33. Frank La Rue, *Report of the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression*, A/HRC/17/27 (Geneva: United Nations General Assembly, Human Rights Council, 2011), [www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27\\_en.pdf](http://www2.ohchr.org/english/bodies/hrcouncil/docs/17session/A.HRC.17.27_en.pdf)



itself. Collective action, such as that demonstrated by online video activists and media rights defenders in their use of the internet and social media, is potentially useful for raising human rights awareness in the mainstream. Creative technical solutions like those developed by groups such as Airputih<sup>34</sup> and the Combine Resource Institution (CRI)<sup>35</sup> are also relevant to this struggle. More understanding about the relation between new media advances and public welfare needs to be acquired among activists, media workers and civil servants alike, to move existing debates beyond ideas of the “excesses” of the internet towards pushing its advantages for the betterment of communities.

The fact that Indonesia is bidding as the host for the eighth annual meeting of the Internet Governance Forum in 2013, could elevate the discussion of freedom of expression on the internet in policy dialogues. On one side, local activists would gain substantial benefit from the event, including sensitising the public about the human rights agenda at the forum. Given the presence of transnational stakeholders working in the field of internet governance and freedom of expression, not only will such a forum serve as a platform for critical exchange between internet rights activists and initiatives from across the globe, it will also feed into future debates on human rights protection in the country.

More generally, Indonesian society needs to be vigilant about the escalation of discriminatory language and hate speech in the public sphere, both online and offline. Strategic responses to rising intolerance should include more education, in local languages, about cultural differences and diversity, more promotion of open and non-hostile ways of communicating, as well as more avenues for empowering minorities (ethnic, sexual and religious minorities, the economically disenfranchised, indigenous people, etc.) to voice and represent their rights online. Monitoring and identifying new, critical problems that are the result of increased online interaction is more productive if there is an emphasis on the creation of new ethics norms, instead of on control. In other words, what is needed is more freedom, not more restrictions. ■

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34. Airputih ([www.airputih.or.id](http://www.airputih.or.id)) is an institution that encourages Indonesians to become more literate in information technology. Airputih emphasises open source technology as the key to improving access. It collaborates with the Ministry of Research and Technology and the Indonesian Linux Mover Foundation

35. Combine Resource Institution (CRI) ([combine.or.id](http://combine.or.id)) is a community-based information network aiming to empower poor or marginalised communities through information-sharing