

Indonesia: Impunity cases on the rise, draft laws threaten free expression

The level of press freedom in Indonesia took a more severe beating in 2010 compared to the previous year, reported the Alliance of Independent Journalists Indonesia (AJI-Indonesia). A number of factors have contributed to this trend: an increase in the number of violent acts committed against journalists, inadequate protection given to journalists and government regulations, and draft laws that are restrictive to press freedom.

Threats and violence

Based on AJI records, there were 47 cases of violence against journalists in 2010, up from 37 in 2009. During this period, there was one case of murder – Sun TV journalist Ridwan Salmun was killed while he was reporting a riot in Tual, South East Maluku. While there were other cases involving the deaths of journalists, it is still unclear if these were work-related. In 2009, the Committee to Protect Journalists (CPJ) included Indonesia in the list of "14 deadliest countries for journalists" because of the murder of Anak Agung Prabangsa, a "Radar Bali" daily journalist. In addition to the murder, there were 15 cases of physical assault and five on intimidation and terror. Other examples of violence against journalists were destruction of equipment, demonstration and mass mobilization, and raids on media offices.

AJI also monitored other threats against journalists where there were seven cases of dismissals and prohibition on reporting, six victimized through the legal channels and two cases of censorship.

The breakdown of the threats according to types, region and perpetrators is presented in the Appendix.

Protection for journalists

The high number of violent cases is an indication of the weak protection available for Indonesian journalists, especially for those working in conflict and vulnerable areas. The two main sources of protection should come from the employers and the state, but there are weaknesses in both these areas.

Protection from the employers (media companies)

1. Insufficient safety training for journalists working in vulnerable and/or conflict areas, and in reporting risky topics such as the environment, corruption and local elections.
2. No safety protocol is used as standard procedures for risky reporting. A safety protocol is very important in reducing the risks journalists face in reporting in vulnerable areas or covering risky topics.

3. Not all media outlets provide insurance policies for journalists. Journalists are not given insurance if ever they become victims of violence. There is also no financial support for their families.

4. Most of the media companies do not provide safety and protection equipment for journalists reporting in vulnerable areas, such as bullet-proof vest, helmet, floating vest and global positioning system. These are vital in protecting journalists against risks.

State protection

Impunity or the absence of legal consequence for perpetrators of crimes resulted in an increase in the number of cases of violence against journalists. Based on AJI documentation, only a handful of cases were brought to court. In 2010, there was only one case in which the suspects were brought to justice: Indonesian soldiers (TNI) in Simeleu, Aceh, were charged for attacking Ahmadi, a reporter for the "Rakyat Aceh" daily. The lack of deterrence against would-be criminals, along with insufficient public information campaign, are also factors in the failure to prevent violence.

The police did not pursue the case of slain journalist Ridwan Salamun, saying that he was not performing journalistic work when he was killed. Worse, the police even accused Ridwan of provoking the riot between the members of two communities. Police claimed they did not find any press ID card or camera in Ridwan's possession, but witnesses said the suspects took these items from the victim.

The police also discontinued their investigation on the murder of Adriansyah Qomar Wibisono Matrais di Merauke, "Kompas" bureau head in Balikpapan. Likewise, the police have not handed the copy of autopsy reports of the two slain journalists—Muhammad Syaefullah and Alfret Mirulewan, editorinchief of "Pelangi" weekly in Kisar Island, southwest of Maluku—either to their families or the media outlets where they work. Police also did not investigate the crime scene professionally. No police lines were set up and no fingerprints were collected at the crime scene.

Media Regulation and Policy

1. Internet Content Censorship

In 2010, the Ministry of Communication and Information issued a policy restricting Internet freedom. This policy is contained in the draft of Ministerial Decree (Rancangan Peraturan Menteri/RPM) on Multimedia Content, later known as RPM on the Procedure of Handling Reports on Negative Internet Content. Though the RPM has not yet been enacted, a memorandum was distributed to Internet service providers (ISP) to filter and block pornographic content over the Internet.

This memorandum order does not have a clear definition of pornography. It relies on Law no. 44/2008 on Pornography, which defines pornography in broad terms. As a result, this lack of clear-cut definition on pornography also threatens non-pornographic online content. Worse, the discretion for blocking the content is handed to ISPs – which lack an understanding of what constitutes journalistic writing.

2. State Secret Draft Law

Though President Susilo Bambang Yudhoyono cancelled the State Secret Draft Law in 2009, the Ministry of Defense prepared a new version. The House of Representatives included this latest version in its legislative priority list for 2011.

The State Secret Draft Law, as prepared by the Ministry of Defense, conflicts substantially with Law no. 14/2008 on Open Access to Public Information (Keterbukaan Informasi Publik/KIP). This draft potentially restricts provisions of the Open Access to Public Information Law. In principle, the State Secret Draft Law should be in line with the provisions of the Open Access to Public Information Law. The term ‘state secrets’ should also be clearly defined.

3. Information Technology-based Crime Draft Law (RUU Tindak Pidana Teknologi Informasi)

Information technology-based Crime Draft Law (RUU Tindak Pidana Teknologi Informasi/RUU TIPITI) was a priority bill in the 2010 National Legislation Program. However, the House of Representatives did not have the chance to finalize the law and instead, it has been re-scheduled to 2011. Until now, the government has not prepared any academic paper or official government version of the RUU TIPITI. The Ministry of Communication and Information has been working on the draft, but the draft legislation has not been subject to public consultation.

From the government’s perspective, RUU TIPITI is aimed at providing for punitive actions to address cyber criminals. A poorly drafted law will conflict with other laws such as the Electronic Transaction and Information Law.

For 2011, AJI said it would be important to monitor closely a number of draft laws that would be discussed, which were prioritized in the 2010 National Legislation:

1. Revision of Broadcasting Law. There are a number of critical points in the draft revision of the Broadcasting Law, such as the role of the Indonesian Broadcasting Commission as a regulator, the shift from national broadcasting to network broadcasting system, the existence of community broadcasting agencies, the merger of government-owned radio and television stations of RRI and TVRI, and so forth. This revision should be closely monitored to ensure that the current democracy in broadcasting does not backslide.

2. Telematics Convergence Draft Law (RUU Konvergensi Telematika). This draft law regulates the inevitable convergence of telecommunication, broadcasting and the emergence of New Media. The government conducted public consultation for the draft law in 2010, but the draft has

not been discussed by the House of Representatives. In terms of substance, there are a number of articles that require critical analysis – particularly those that regulate content. This draft law requires all telematics application industries, including content providers such as the online media, to obtain licenses from the Ministry of Communication and Information. This is contrary to Press Law no. 40/1999, where the media no longer need Press Publication Licenses (Surat Izin Penerbitan Pers).

3. Revision of Electronic Transaction and Information Law (UU Informasi dan Transaksi Elektronik/UU ITE)

The revision of the UU ITE was put in the 2010 priority list of the House of Representatives' National Legislation Program. However, the government did submit the revised version to the House of Representatives. The discussion of this revision was rescheduled to 2011.

4. Draft Revision of Indonesian Criminal Code (Kitab Undang-undang Hukum Pidana /KUHP)

This draft revision was also prioritized in the 2010 National Legislation Program, but has also been rescheduled for 2011. This draft will replace the current Criminal Code, a legacy from the Dutch colonial times. There are positive and negative provisions in this new draft. Though human rights principles are upheld, there are many articles that are weak. Criminal provisions were not revoked, and worse, the number of the articles increased. Clauses on defamation, unconfirmed news and so forth are the dominant features of the draft.

This is AJI's note on the state of freedom of expression in Indonesia for 2010. For 2011, AJI sees violence against journalists and laws that further restrict media as issues that require close attention.

Another factor to consider is Indonesia's chairmanship of the Association of Southeast Asian Nations (ASEAN) in 2011. The spotlight would not only be on how Jakarta leads the regional organization but also on whether its rhetoric would match its actions especially when it comes to the areas of human rights and freedom of expression.

Data Tabulation on Threats against Press Freedom in 2010

1. By Month

| No | Month | Case |
|-----------|---------------|-------------|
| 1 | December 2009 | 1 |
| 2 | January 2010 | 3 |
| 3 | February 2010 | 6 |

| | | |
|--------------|----------------|-----------|
| 4 | March 2010 | 5 |
| 5 | April 2010 | - |
| 6 | May 2010 | 5 |
| 7 | June 2010 | 4 |
| 8 | July 2010 | 9 |
| 9 | August 2010 | 3 |
| 10 | September 2010 | 4 |
| 11 | October 2010 | 2 |
| 12 | November 2010 | 2 |
| 13 | December 2010 | 2 |
| Total | | 46 |

2. By City/District

| No | City/District | Case |
|----|------------------|------|
| 1 | Talakar | 1 |
| | Bantaeng | 1 |
| 2 | Jakarta | 5 |
| 3 | Southwest Maluku | 1 |
| 4 | Tegal | 1 |
| 5 | Sidoarjo | 1 |
| 6 | Pontianak | 3 |
| 7 | Sumenep, Madura | 1 |
| 8 | Depok, West Java | 1 |
| 9 | Padang | 1 |
| 10 | Meulaboh | 1 |
| 11 | Medan | 2 |

| | | |
|----|----------------------------|-----------|
| 12 | Denpasar | 1 |
| 13 | Kolaka | 1 |
| 14 | Karanganyar | 1 |
| 15 | Tangerang | 1 |
| 16 | Tual, South East Maluku | 1 |
| 17 | Pematangsiantar | 1 |
| 18 | Ruteng, East Nusa Tenggara | 1 |
| 19 | Palembang | 1 |
| 20 | Merauke | 2 |
| 21 | Balikpapan | 1 |
| 22 | Maluku | 1 |
| 23 | Bulukumba | 1 |
| 24 | Gorontalo | 4 |
| 25 | Lombok Barat | 1 |
| 26 | Yogyakarta | 3 |
| 27 | Madiun | 1 |
| 28 | Jambi | 1 |
| 29 | Pekanbaru | 1 |
| 30 | Simelue, Aceh | 1 |
| 31 | Kendari | 1 |
| 32 | Binjai, Medan | 1 |
| | Total | 46 |

2. By Province

| No | Province | Case |
|----|-------------|------|
| 1 | DKI Jakarta | 5 |

| | | |
|----|---------------------|-----------|
| 2 | Banten | 1 |
| 3 | South Sulawesi | 3 |
| 4 | South East Sulawesi | 2 |
| 5 | Gorontalo | 4 |
| 6 | West Kalimantan | 3 |
| 7 | Central Java | 2 |
| 8 | East Kalimantan | 1 |
| 9 | East Nusa Tenggara | 1 |
| 10 | West Nusa Tenggara | 1 |
| 11 | DI Yogyakarta | 3 |
| 12 | East Java | 3 |
| 13 | West Java | 1 |
| 14 | West Sumatera | 1 |
| 15 | North Sumatera | 4 |
| 16 | NAD | 2 |
| 17 | Riau Island | 1 |
| 18 | Jambi | 1 |
| 19 | Bali | 1 |
| 20 | Papua | 2 |
| 21 | Maluku | 1 |
| 22 | South East Maluku | 1 |
| 23 | Southwest Maluku | 1 |
| 24 | South Sumatera | 1 |
| | Total | 46 |

3. By Type of Violence

| No | Category | Case |
|--------------|-------------------------------------|-------------|
| 1 | Murder | 2 |
| 2 | Dismissal/Reporting prohibition | 7 |
| 3 | Censorship | 2 |
| 4 | Physical assault | 15 |
| 5 | Legal Charges | 6 |
| 6 | Destruction of equipment | 2 |
| 7 | Intimidation and terror | 5 |
| 8 | Demonstration and mass mobilisation | 2 |
| 9 | Office raid | 2 |
| 10 | Mysterious death | 3 |
| Total | | 46 |

4. By Perpetrator and Type of Violence

| No | Perpetrator | Case |
|-----------|--|-------------|
| 1 | Legislative Candidates and Political Party Cadre | 2 |
| 2 | Attorney/Judge | 1 |
| 3 | Government Official | 8 |
| 4 | Unknown individuals | 6 |
| 5 | Military | 2 |
| 6 | Members of local community (FBR) | 1 |
| 7 | Police | 5 |
| 8 | Gang Member (Preman) | 2 |
| 9 | University Student | 2 |
| 10 | Mob | 3 |
| 11 | Businessmen | 4 |

| | | |
|--------------|---|-----------|
| 12 | Security Personnel | 2 |
| 13 | Doctor | 1 |
| 14 | Individual | 3 |
| 15 | Islamic Defenders Front (FPI) | 1 |
| 16 | Local Members of Parliament | 2 |
| 17 | Security and Public Order Personnel (Satpol PP) | 1 |
| Total | | 46 |

This report was prepared with the assistance of the Alliance of Independent Journalists (AJI).