The Conditions of the Communication Environment for Freedom of Expression in Indonesia

A report from the Freedom of Expression Project

Combine Resource Institution, Indonesia
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Contents

Executive summary

This report explores, in the Indonesian context, the Freedom of Expression Project principles of affordable and equitable access to information and diversity of content. It examines the factors, or 'drivers of change', that are affecting the realisation of these principles. These include: technology; politics and regulation; and economics and markets.

The **introduction** sets out the context, explaining how communications and media have developed in Indonesia since of the fall of the Suharto regime in 1998. It explains the research questions explored and the methodology used. The report considers how different socio-economic and geographical groups get access to information; the current status of information diversity in the communications environment; and whether communications policy is addressing the digital divide and the issue of diversity.

The **findings** include discussion of the following areas:
- Communications **policy and regulation** are affecting access to infrastructure and communications. Regulation has not always kept pace with rapid growth in information technologies, or effectively controlled competitive business practices. There have been both government and community efforts to spread technology, including a delayed Universal Service Obligation (USO) programme, to bring telecommunications to remote and rural areas, and community IT activists building their own infrastructure.
- There are challenges to **diversity and freedom of expression**. Although there is greater openness since 1998 people and institutions find it difficult to understand and enforce freedom of expression rights. Previously taboo issues may be discussed, and civil society groups are starting to make use of the new technology's potential. However, recent legislation is posing threats to freedom of expression. Competing interpretations of religious doctrines remain a source of tensions, with the state's facilitative role underdeveloped.
- The dominance of national media corporations' business model affects **information production and distribution**, and much content is homogenous and not locally relevant. There are signs that internet-based tools are providing new models of debate and knowledge production, although there are limitations due to lack of infrastructure and they are not yet widely used.

The **recommendations** focus on advocacy priorities to help establish the principles of freedom of expression, with particular focus on:
- enabling the state to play its role in bridging different groups' interpretations on the limits of freedom of expression
- establishing alliances to take forward comprehensive and co-ordinated advocacy on media and communication policies – in particular on the digital divide, the information gap, and monitoring ongoing legislation
- promoting effective collaborations between the Universal Service Obligation (USO) programme and other initiatives, to ensure that its aims are realised
- encouraging investment in capacity building
- developing networks between human rights NGOs and media/ICT NGOs at national and international levels, to strengthen advocacy efforts and build solidarity.

1 Introduction

This study explores the role of the communications environment in increasing opportunities for freedom of expression and advancing the public interest in Indonesia

The basis of our analysis is the layer model and principles for a public interest communications environment developed by the Freedom of Expression Project, which have been subject to a long discussion stage.[1] We have focused on two of the four 'layers' in the communications environment: the content layer and the infrastructure layer.

This research explores the following principles:

1. The range of content available should be **diverse**, representing the whole spectrum of cultures, interests and knowledge (content layer).
2. All people should have **affordable and equitable access** to the means of receiving and disseminating opinion, information and culture (physical layer).

The communications environment has the potential to give people a diversity of routes to express their aspirations and opinions, to broaden their access to a range of information sources, and to open the public domain for discussion and debate. In this research we explore the factors affecting its development, considering how 'drivers of change' – technology, politics and regulation, and economics and markets – are affecting the realisation of these principles.

1.1 The context

We begin this analysis of freedom of communication and information in Indonesia with a brief examination of the context and the development of communications infrastructure.

In terms of the growth of communications technology, **internet use** in Indonesia increased almost 900% from 2000 to 2007, from two million to 20 million users, with growth continuing in the last two to three years. However penetration is still lower than in other ASEAN (Association of Southeast Asian Nations) countries: 8.9%, compared to Malaysia at 47.9% and Singapore at 66.3%. Vietnam could reach 21.4%.[2] Indonesia faces problems related to the availability of infrastructure to support internet access.[3] Infrastructure is established in the main cities, especially on the island of Java; but in other regions, access is very limited.

The **use of mobile (cellular) phones** has grown rapidly. In 2007 there were 66 million mobile phone users, 30% of Indonesia's population of 220 million. Mobile phone networks can be accessed in most sub-district cities in Indonesia. While there have been no studies of mobile phone use, observation suggests that they are mostly used for sending and receiving

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1   See *Shaping a Public Interest Communications Environment,* available at: http://www.freedomofexpression.org.uk/resources/shaping+a+public+interest+communications+environment [Accessed 15 October 2008] and discussions at www.freedomofexpression.org.uk/resources/about+the+project

2   Pertumbuhan pengguna internet, available at http://www.newmedia.web.id/2008/07/pertumbuhan-pengguna-internet/ [Accessed 2 March 2009]

3   Research by World Economic Forum, published in 2008 in its Global Information Technology Report 2007-2008, ranked Indonesia at number 76 on Network Readiness Index, far below Malaysia and Thailand (Syaifudin, 2008).

short messages (SMS or text messages). Infrastructures develop as providers consider the business opportunities of increasing demand. The Base Transmission Service (BTS) infrastructures developed by cellular providers can also be used for basic internet access (using GPRS, General Packet Radio Service technology). Therefore, it could be said that most regions in Indonesia can have internet access, but people's lack of knowledge and capability present obstacles to this.

In terms of **media**, there are now about 100 commercial television stations, including 12 national ones, and more than 1,500 commercial radio stations operating in Indonesia. Radio is dominated by 10 networks, which have more than 150 radio stations in some regions of Indonesia. The sheer number of media outlets, however, is not reflected in the diversity of information available. Content tends to be similar because of the networked media business model. Alternative media have not been able to provide far-reaching services due to the lack of infrastructure, although there are over 700 community radio and 50 television stations.

Since 1990 there has been **legislation** in Indonesia on telecommunications (1990), broadcasting (2002), open public information (2007) and information and electronic transactions (2008). But the law has not always put the interests of the public first, and regulations have not always prioritised audience interests over those of the media owners.

Since the fall of the Suharto regime in 1998, **media content** tends to be dominated by the interests of commercial profit, becoming increasingly homogeneous as a result of the networked media industry. Three wide-scale networked television stations[4] out of the 12 national TV channels in Indonesia compete for domination in terms of content. Alternative media include community videos, blogs and mailing lists as well as radio and television broadcasters. Although these have grown rapidly in the last four to five years, they do not yet satisfactorily provide alternative content.

The status and **definition of freedom of expression** have fluctuated in Indonesia. The 1948 Universal Declaration of Human Rights, ratified by Indonesia, does not in practice provide a unifying umbrella. Its interpretation in the context of Indonesian law is often overcome by other regulation, specifically some articles in KUHP, the Penal Code. Consequently, parties have felt the need to propose policies to clarify the boundaries of freedom of expression. But the more legislation has sought to clarify the boundaries, the more intense the conflict has been in society because of competing values and views.

1.2 Methodology and research questions

This study focuses on the content and infrastructure 'layers' in the communications environment, exploring the extent to which the following principles are realised:

1. The range of content available should be **diverse**, representing the whole spectrum of cultures, interests and knowledge (content layer)
2. All people should have **affordable and equitable access** to the means of receiving and disseminating opinion, information and culture (physical layer).

We examine the following key questions:

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4   The three TV stations with the widest coverage are TVRI, RCTI and SCTV. (Sen and Hill 2000)

1. How do different socio-economic/geographical groups communicate and get access to information? How is this affected by access to: infrastructure (the physical digital divide); culture; knowledge and capability?
2. How diverse is information in the Indonesian communications environment? How is this being addressed by different groups (including alternative media)?
3. Does communications policy aim to reduce the digital divide and increase the diversity of information available? Is it successful?

This study was done over a two-month period, starting early September 2008 until the first week of November 2008, using interviews and analysis of existing documentation.

The following people were interviewed:

Koesmarihati – Committee Member, Badan Regulasi Telekomunikasi Indonesia/Indonesian Bureau for Telecommunication Regulation

Kemal Prihatman – Deputy Assistant of Development and Utilization of Information Technology, Department of Research & Technology, Republic of Indonesia

Donny B.U – Senior Researcher, ICT watch!

Ignatius Haryanto – Executive Director, the Institution of Development and Press Study

Ade Armando – Lecturer of Communication Department, University of Indonesia, and Post Graduate Programme of University of Paramadina, Jakarta

Onno W. Purbo – IT Analyst, founder of VoIP Rakyat and RT/RW Net

Bambang Supriyanto – Director of Telematics Empowerment, Department of Communication and Information, Republic of Indonesia

Paulus Widiyanto – Chairman, Indonesian Information Society

The study team was helped by research assistants in compiling data and information from libraries in Yogyakarta and from the internet. They are: Hatib Adul Kadir; Manggala Ismanto and Yan Besthio Arsa

A bibliography is provided on page 30.

2 Findings and analysis

2.1 How communications policy and regulation affect infrastructure and access

The development of Information and Communications Technology (ICT) has been so rapid, that in 2005 the World Summit on the Information Society (WSIS) optimistically predicted that half the world population would be able to enjoy ICT by 2015.[5] Yet regulation can lag behind this rapid progress, as it is complex and takes time to formulate. When regulation fails to anticipate the long term progress of technology, it can hamper rather than support the development of ICT – as has been the case in Indonesia.

ICT in Indonesia is regulated by three types of legislation: telecommunications, broadcasting and information technology. The legal system recognizes a hierarchical model of types of regulation, in the following order: the constitution; law; government regulation; and ministerial decree. The principle applies that no regulation may contradict any other regulation passed at a higher level. The constitution is formulated by the People's Assembly (Majelis Permusayaratan Rakyat/MPR). Laws are passed by the parliament (Dewan Perwakilan Rakyat/DPR). Government regulation is formulated by the government and ministerial decrees are issued by individual ministers.

Regulations affecting ICT are issued by different bodies, so overlaps often occur. As an example, current regulation does not cover internet-based television broadcasts (IPTV). Television is regulated under the Broadcasting Law, while the internet is regulated under the Electronic Transaction and Information Law. The development of regulation has been influenced by national and global economic and political conditions and shaped by 'tugs of war' between the government, investors and the community – thus having an impact on the information and digital divides between regions.

2.1.1 Telecommunications

In 1974, Indonesia established the monopoly General Enterprise of Telecommunication (Perusahaan Umum Telekomunikasi/Perumtel, later changed to Telkom) and later established PT. Indosat for international communication. From 1 January 1980, public telecommunications were conducted by these two establishments. PT. Telkom became a public company in 1995. Along with the development of information technology, the government also set out plans to restructure the national telecommunication industry with the publication of the Telecommunication Blue Print in 1997. On 8 September 1999, the Telecommunication Law[6] was amended to open the doors for foreign investors (Satria, 2008).

This Law was enacted after Indonesia signed the World Trade Organization Agreement on Basic Telecommunications in 1997, an agreement designed to liberalize the basic telecommunication service market. Telecommunications services then became subject to regulation by the international General Agreement on Trade in Services (GATS), which liberalized world trade in services. From 1 January 1998, the basic character of the

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5 WSIS, 2005. *Tunis Agenda for The Information Society*. Available at:
   http://www.itu.int/wsis/docs2/tunis/off/6rev1.html#fui [Accessed 21 October 2008]
6 *Telecommunication Provider Act 1999.* (c.36), Republic of Indonesia

communications trade changed from bilateral to multilateral and Indonesia committed to opening up its telecommunication market. Specific commitments included[7]:

- Fixed (terrestrial) telecommunication service for national long distance direct connection to be provided exclusively by PT Telkom until 2005.
- Fixed telecommunication service for international long distance direct connection to be provided exclusively by PT Indosat and its subsidiary PT Satelindo until 2004.
- Fixed telecommunication service for local connection to be provided exclusively by PT Telkom until 2010.
- Mobile cellular telecommunication services to be provided competitively in an open market. Foreign shareholders can own a maximum of 35% of the shares in a provider company.

These changes created fierce competition between operators. Currently no fewer than 10 telecommunication operators compete for customers in Indonesia and this has made the cost of telecommunications progressively cheaper. By the third quarter of 2007, the telecommunications infrastructure reached 100 million connection units: 9 million fixed line, 82 million GSM cellular and 9 million fixed wireless access (FWA) connections. Telecommunication penetration reached 50%, or one phone connection for every two people in Indonesia (Satria, 2008).

In 2003, the government established the Indonesian Telecommunication Regulatory Body (Badan Regulasi Telekomunikasi Indonesia/BRTI).[8] BRTI was established with the aim of ensuring transparency, independency and fairness in the implementation of telecommunications in Indonesia. Its objectives are:

- To create a telecommunications provider market based on healthy, sustainable and equal competition.
- To create a conducive business climate and to prevent practices of unhealthy business competition.
- To create a reliable telecommunications infrastructure and services in order to improve people's welfare and the competitiveness of the national economy in the reform era.
- To protect consumers' interests in terms of the telecommunication service that they receive and the price they have to pay.

However, BRTI has attracted criticism on two grounds: its lack of independence, as BRTI's Chairman is also the Head of the Directorate General of Post and Telecommunication; and its lack of effectiveness, as it does not have the authority to be a prosecutor[9].

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7   *Blue Print to Indonesian Telecommunication Decree 1999.* SI 1999/72, Jakarta: The Ministry of Communication

8   *Establishment of Indonesian Telecommunication Regulation Body (Badan Regulasi Telekomunikasi Indonesia/BRTI) Decree 2003.* SI 2003/31, Jakarta: The Minister of Transportation and Communication's Decree

9   *Working Arrangement between the Transportation Ministry and the Indonesian Telecommunication Regulations Body Decree 2003.* SI 2003/67, Jakarta: The Minister of Transportation and Communication's Decree

2.1.2 Broadcasting

The Republic of Indonesia's Radio (Radio Republik Indonesia/RRI) was established by the government of Indonesia in 1945, and the following years saw private radio stations flourishing in every region of Indonesia (Prakosa, 2008). Television broadcasting began on 17 August 1962, with the first broadcast by Republic of Indonesia's Television (Televisi Republik Indonesia/TVRI), made to commemorate the seventeenth anniversary of Indonesian independence. From November 1962 TVRI broadcast daily and in 1974 became part of the government's Information Department, its main role being to impart information to the public.[10]

From 1974 to 1998, RRI and TVRI were the dominant media, subject to strict censorship by Suharto's government. Only RRI was allowed to make news programmes. Every day it aired 13 news bulletins and all other stations were obliged to relay them. All private radio stations had to join the Indonesian National Private Radio Association (Persatuan Radio Swasta Nasional Indonesia/PRSSNI), headed by President Suharto's daughter. In 1989, the first private television station Rajawali Citra Televisi Indonesia (RCTI) went on air, followed by Surya Citra Televisi (SCTV) in 1989, Televisi Pendidikan Indonesia (TPI) in 1990, Andalas Televisi (ANTV) in 1993 and Indosiar in 1995. The majority of those stations' shares were held by President Suharto's family and inner circle; hence the political content of broadcasts was controlled in line with their interests.

After political reform in 1998, in response to public demand for democratization, discussions began between civil society and parliament about regulatory change to encourage the democratization of broadcasting. The process took some time and it was only in 2002 that the new Broadcasting Law was passed.[11] Its important changes included:

- The broadcasting regulator was not the government but an independent body called the Indonesian Broadcasting Commission (Komisi Penyiaran Indonesia/KPI).
- Four types of broadcasting organisation were acknowledged: public, private, community and subscribed.
- It limited the area of coverage for private television station broadcasting, and changed to a network-type model of national broadcasting.
- It placed limitations on the ownership of media to prevent monopoly.

The Broadcasting Law embodied the principle of democratization, by encouraging diversity of ownership to create diversity of content and creating an independent regulator. Yet during the passage of the law, a decision of the Constitutional Court (Mahkamah Konstitusi/MK) returned the role of KPI to the government. This decision followed lobbying by private television stations, who considered that the Law would affect their income from advertising, reducing the profits that would have been possible if their broadcasts could be received nationally.

This resulted in conflict between the KPI and the government about who had the authority to regulate broadcasting, which lasted from 2002 to 2007 and caused chaos in the broadcasting world. The government referred to the Telecommunication Law, which puts broadcasting in the category of specific telecommunication and therefore regulation of the use of

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10 TVRI Editorial, 2008 *Sejarah Televisi Republik Indonesia* [Internet] Available at: http://www.tvri.co.id/sejarah.php [Accessed 15 October 2008]

11 *Broadcasting Act 2002.* (c.32), Republic of Indonesia

broadcasting frequency is under the authority of the government, specifically the Directorate General of Post and Telecommunication. KPI referred instead to the new Broadcasting Law. The conflict was eventually settled with a memorandum of understanding (MoU) between the KPI and the Minister of Communication and Information, legalized by the Constitutional Court on 5 May 2007. [12]

2.1.3 Information Technology

The development of information technology began towards the end of the 1970s. Telephone networks, national television channels, international and national radio stations and computers started to develop, although the number of users was limited. This was due to growth in the economy and Indonesia's acquisition of its first satellite, launched in 1976.

The use of media to send group messages was pioneered in the 1980s. By the end of the decade there were several bulletin board system (BBS) communities around, including an academic network and one network, UNINET, which connected with the radio. During the mid-1980s this was used for international amateur radio communication and email.

By the 1990s information technology was widely used, and the internet was introduced to Indonesia in 1994, used by academics and professionals working in offices. The first ISP (Internet Service Provider) in Indonesia was the IPTEKnet, and the first commercial ISP, INDOnet, started to operate the same year.[13] Internet cafés began to operate in the big cities. Economic crisis and political reform in 1998 significantly affected the growth of information technology in Indonesia, with internet business seen as promising in the more open political climate and because of the euphoria after 'dotcom' shares spiked across the world.

Table 1: Growth of internet use in Indonesia[14]

Year	Internet Customers	Internet Users
1998	134,000	512,000
1999	256,000	1,000,000
2000	400,000	1,900,000
2001	581,000	4,200,000
2002	667,002	4,500,000
2003	865,706	8,080,534
2004	1,087,428	11,226,143
2005	1,500,000	16,000,000
2006	1,700,000	20,000,000
2007	2,000,000	25,000,000

The growth of internet users in Indonesia (see Table 1) was mostly due to the huge number of internet cafes (warung internet/warnet) established in every region. According to the Indonesian Association of Internet Cafes (Asosiasi Warnet Indonesia/AWARI), there are now

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12 See KPI's Press Conference 5 May 2007 on *Constitutional Court's Decision on KPI Does not Talk about the Substantial Appeal*. Available at www.kpi.go.id

13 TelkomSpeedy, 2008. Sejarah Internet Indonesia: Awal Internet Indonesia. Available at: http://opensource.telkomspeedy.com/wiki/index.php/Sejarah_Internet_Indonesia:_Awal_Internet_Indonesia [Accessed 16 October 2008]

14 Indonesian Internet Service Provider Association (Asosiasi Penyelenggara Jasa Internet Indonesia/APJII)

5,000 warnets in Indonesia, excluding those in schools or campuses. A second factor was the freeing up of the 2.4 GHz frequency at the beginning of 2005[15], which encouraged innovation in the wireless computer network sector and reduced the cost of access, helping to increase the number of internet users in Indonesia.

The government of Indonesia does not yet have clear policy and regulation in the field of information technology. A formal development policy was realized only in 2000 with the formulation of the Indonesian Telecommunication and Informatics Coordination team (Tim Koordinasi Telematika Indonesia/TKTI)[16]. Regulation in this area, especially of business in the telecommunication and informatics (telematics) sectors, is the responsibility of the General Directorate of Telematics Application (Direktorat Jendral Aplikasi Telematika/Dirjen Aptel), responsible to the Indonesian Information and Communication Department.

From 2005, the management of information technology was handled by the state Ministry of Communication and Informatics (Departemen Komunikasi dan Informatika/Depkominfo)[17]. Then in 2006 The National Communication and Information Technology council was established by the president (Dewan Teknologi Informasi dan Komunikasi Nasional/DeTIKNas)[18]. DeTIKNas is an executive co-ordinating body, headed by the president and with 11 ministers as members. Its overall aim is to expedite the development of information technology in Indonesia, and it has seven flagship programs: e-education; e-procurement; e-budget; National Single Window (NSW); National Identification Number; Software Legalization; and Palapa Ring[19]. It exists formally to assist Depkominfo in some aspects of implementing the National Communication and Information Technology policy efficiently. However, the existence of DeTIKNas is controversial because the Presidential Decree was issued after a MoU made between Microsoft and Depkominfo on 14 November 2006. This MoU agrees the use of Microsoft software in every computer in governmental offices. The House of Representatives has challenged this MoU. [20]

2.1.4 Regulation of business practices

Indonesia had over 116 million mobile phone customers by the second quarter of 2008, ranking sixth in the world in terms of the number of users.[21] But competition between operators has not always resulted in lower communication tariffs for these users, and regulators have had to step in.

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15 *Wireless Internet on 2.4 GHz Frequency Regulations 2005*. SI 2005/2, Jakarta: The Minister of Transportation and Communication's Decree
16 *Indonesian Telematics Coordination Team (Tim Koordinasi Telematika Indonesia/TKTI) Decree 2000*. SI 2000/50, Jakarta: The President of Republic of Indonesia and Telematics Utilization Instruction 2001. SI 2001/6, Jakarta: The President of Republic of Indonesia.
17 *Presidential Regulations 2006/9*, Jakarta: The President of Republic of Indonesia.
18 *Presidential Decree 2006/20*, Jakarta: The President of Republic of Indonesia.
19 Palapa Ring is a national project to develop the country's fibre-optic network. It will cover up to 33 provinces and 440 cities/regions across Indonesia with a total cable length of 35,280 km. http://id.wikipedia.org/wiki/Palapa_Ring. [Accessed 5 March 2009].
20 See http://www.detikinet.com/index.php/detik.read/tahun/2006/bulan/12/tgl/21/time/193547/idnews/723028/idkanal/399 [Accessed 4 March 2009]
21 Calculation by Wireless Intelligent, 2008 (Updated 17 Sep 2008) Available at: http://www.detiknet.com [Accessed 19 October 2008]

In June 2008, the Business Competition Monitoring Commission (KPPU) found evidence that six cellular operators were running a text message 'cartel' in pricing. The Indonesian Telecommunication Regulatory Body (BRTI) calculated the cost of one text message was IDR 75[22], while the operators charged IDR 250 to IDR350. This practice cost the customer around IDR 2.827 trillion between 2004 and 2007. The six operators were perceived to have violated Article 5 Law no. 5/1999 on the prohibition of monopoly practice, and paid fines ranging from IDR 4 billion to IDR 25 billion.

In 2007 KPPU also found Temasek Holdings, a Singaporean state-owned company, guilty of violating the law's prohibition of monopoly practice and unhealthy competition. Article 27 of the law prohibits a company owning the majority of shares in companies that operate in the same field of business in the same market, if this results in: one business controlling more than 50% of the market for a certain product or service; or two or three businesses controlling more than 75% of the market.[23] Temasek Holdings, through two of its subsidiaries, Singtel and Singapore Technologies Telemedia Pte. Ltd. (STT), owned shares in the Indonesian telecommunication companies Telkomsel and Indosat, which gave the company 83% of the cellular market in Indonesia. KPPU's ruling suggested that cellular phone tariffs in Indonesia were 15% more expensive because of this monopoly practice, and as a consequence it imposed a fine of 25 billion and instructed Temasek to sell their holdings in one of the two Indonesian companies.

Television broadcasting in Indonesia is characterized by the proliferation of private broadcasting bodies, yet they are often owned by a single legal entity. This is concerning because it is a borderline monopoly situation that could result in a monopoly over information, at a cost to the public.

The development of television in Indonesia has been rapid. There are now 86 stations in total in over 50 cities across Indonesia, and this will increase as another 218 stations have filed for a licence to operate. The operational region is widespread, including the capital Jakarta, capitals and larger cities in the provinces, and even district level and small cities. This does not include cable TV and limited-area community TV in some cities. Eleven TV stations have national audiences (TVRI, RCTI, Indosiar, TPI, Anteve, Transtv, TV7, SCTV, MetroTV, Lativi, and Global TV).

Six business groups own 10 private television stations:

- Harry Tanoewidjaja through MNC owns RCTI, TPI and Global TV.
- Chairul Tanjung through Para Group controls TransTV and TV-7.
- The Bakri family through Star-AnTV owns AnTV and LaTV.
- Salim group owns Indosiar Visual Mandiri (IVM) .
- Suriatmadja Group owns SCT.
- Surya Paloh, through the Media Group, owns MetroTV.

In October 2007, the Indonesian Broadcasting and Press Community (Masyarakat Pers dan Penyiaran Indonesia/MPPI (a civil society organisation) conducted public litigation following several companies' violation of the Broadcasting Law by their consolidated, oligopolistic

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22 US $1 = approximately IDR 11,000 (Indonesian rupiah)
23 *Prohibition of Monopoly Practice and Unhealthy Business Competition Act 1999.* (c.5), Republic of Indonesia.

ownership of media.[24] MPPI presented information showing that nine broadcasting organisations, including RCTI, TPI and Global TV, had been allowed by the Ministry of Communication and Informatics to have broadcasting licences[25], which they received in October 2006. At that time CTI, TPI and Global TV were controlled by MNC (PT Media Nusantara Citra Tbk): MNC had 99.99% ownership of RCTI, 75% of TPI and 99.99 percent of Global TV. MPPI argued that this violated the Broadcasting Law[26], because MNC is a legal entity whose line of business is not supposed to be television broadcasting. MPPI's action was not successful: the Commission for the Supervision of Business Competition stopped the investigation of MNC on the grounds that there was not enough evidence for a preliminary examination.

There are also concerns about delays in implementing the Broadcasting Law's provisions. The Law set 28 December 2007 as the deadline by which the private television stations – often referred to as national television – must operate a network-type broadcasting system. In this new system, a TV station will no longer be able to broadcast centrally from Jakarta to other parts of the country via its local relay stations. Instead, to reach local audiences it will have to co-operate with local television stations. The idea is to give regional investors equal opportunities to participate in television broadcasting. However, one day before the deadline the government amended the timescale. Implementation will now take place gradually, starting by 28 December 2009 at the latest.[27] The government reasoned that implementation faced various obstacles, including: constitutional review of the Broadcasting Law at the Constitutional court and the judicial review of a Government Regulation[28] at the Supreme Court; technical problems due to lack of infrastructure; and organizationally, the time needed to divide companies' assets into several separate legal entities.

2.1.5 The digital divide and efforts to close it

The Organization for Economic Co-operation and Development (OECD) defines the digital divide as the disparity among different individuals, households, businesses, and regions in the opportunity to access ICT and the internet. It can also be defined as the gap between those who have access to ICT in real terms and are able to use such technologies effectively, and those who do not.[29]

Many developing countries have come to realize that they will not be able to compete in the global market unless they can seize the opportunities presented by ICT. Countries without ICT infrastructure risk becoming marginalized or forgotten in the new global order. The experiences of Singapore, Malaysia, and South Korea have shown that hard work is required to close the digital divide.

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24 Tempo Interaktif, 2007. MPPI Siap Perkarakan Monopoli Televisi. [Internet] Available at: http://www.tempointeraktif.com/hg/ekbis/2007/12/12/brk,20071212-113365,id.html [Accessed 15 October 2008]

25 *Regulations 2006*. SI 2006/217, Jakarta: The Ministry of Communication and Informatics

26 *Information and Electronic Transaction Act 2002*. (c.32), Republic of Indonesia. Article 16 (1) Private Broadcasting Institution as referred to in Article 13 item (2) letter b is a commercial broadcasting institution as a legal entity that provides services of radio or television broadcasting.

27 *Broadcasting Provider Regulations 2007*. SI 2007/32, Jakarta: The Ministry of Communication and Informatics

28 *Private Broadcasting Provider Regulations 2005*. SI 2005/50, Jakarta: The Government Regulations

29 Wikibooks, 2005. *The Digital Divide.* [Online] Wikipedia. Available at: http://en.wikibooks.org/wiki/The_Information_Age/The_Digital_Divide [Accessed 21 October 2008]

Developed countries, donor agencies, governments and companies have allocated resources to computer and internet access expansion programs, especially in poor, rural communities in developing countries. Such initiatives, known as Information and Communication Technology for Development (ICT4D) programs, have received a mixed response in Indonesia. Some groups have embraced the idea while others are more critical, seeing in such initiatives nothing more than global capitalism's efforts to penetrate a new market, bringing 'first world' agendas to the 'third world'. Others think that the initiatives are disproportionately expensive in the context of local government budgets, or have concerns that the bidding processes create opportunities for corruption.

There are many examples in Indonesia of **ICT initiatives** to close the digital divide and empower the community. From our own knowledge and work, just a few among them are:

- the Community Information Hall (Balai Informasi Masyarakat, BIM), founded by the Community for Telecommunication and Informatics (Masyarakat Telematika, MASTEL), to assist flower farmers in Bandung
- the Community Training and Learning Centre, established by Microsoft Corporation in over 50 different locations to assist various community groups, including farmers
- the Information and Communication Technology Centre, established by the Ministry of National Education's Directorate for Vocational Education, to assist teachers
- the Ministry of Research and Technology's IT Cafes (*Warung Informasi Teknologi*)
- the Ministry of Communication and Informatics' Community Access Point (CAP).

A 2005 World Bank report noted that telecommunication centres in several regions have benefited local communities in Indonesia. But for many people, the computer – let alone the internet – is a foreign concept. So for some centres the facilities were ineffective because people simply did not know how to use them optimally.[30]

With the establishment of full competition, telecommunication providers were obliged to operate within a market. In 2003 the government enacted a **Universal Service Obligation (USO)** programme[31] to provide access to telecommunications, especially in remote regions (or USO regions) that are not served by providers due to commercial considerations. The decree stipulated:

- The USO would be funded by contributions from telecommunication providers at the level of 0.75% of their gross income, taking into account bad debts and interconnection loads (that is, the cost of connections between one operator and another within a telecommunications network).
- The government would appoint a telecommunications provider to deliver the USO programme.

The experiences of community initiatives have not, unfortunately, informed the government's USO programme. Many community programmes are themselves only partially implemented

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30 The World Bank, East Asia and Pacific Region Rural Development and Natural Resources Sector, October 2005. IDRC, *Information and Communication Technologies for Rural Development Volume II: An Evaluation of Telecenters in Indonesia*, Washington: The World Bank.

31 *Universal Service Obligation Decree 2003*. SI 2003/43, Jakarta: The Minister of Transportation and Communication's Decree

because of limited budgets, and in addition the government does not appear to see communities' initiatives as valuable experience to learn from.

Initial funding for the USO came from the government, which in 2003 was IDR 45 billion (approximately US $4 million), allocated to set up 3,010 phone line units in 3,010 villages – 1,009 units in Sumatra, 40 in Java (Banten), 573 in Kalimantan, and 1,388 in Eastern Indonesia. The budget for 2004 also came from the state budget, of IDR 43.5 billion for 2,620 phone line units in 2,341 villages, covering 700 units in Sumatra, 87 in Java, 179 in Kalimantan and 1,654 in Eastern Indonesia. In 2008 however, only IDR 5 billion (approximately US $444,000) was budgeted for operations, to come from the operators' 0.75% contributions.

The USO is targeted to cover 31,000 villages in Indonesia. This target has not been met up to this year and many villages do not have basic telecommunications infrastructure. It is the government's target that all of those villages will have access to a telephone service by 2009. The next target is to have all villages connected to the internet by the year 2015. Unfortunately, the USO programme keeps being delayed. One key obstacle to achieving the targets is that the bidding process for selecting the USO company is not considered to be transparent, and this has prompted other companies take legal action. One of the unsuccessful bidders sued the government for their loss, an action which the government won on appeal in September 2008. For many people, the USO programme has just become a marketplace for vendors.

Community initiatives and IT activism have played an important role in speeding up the development of ICT in Indonesia. One product of such efforts is **RT/RW-net**, driven by people's desire for affordable internet access. It is a community-based IT infrastructure, designed and made by the people, for the people, using Wi-Fi for wireless internet. Yet there is no legal space for such an infrastructure to operate. Such practice is considered illegal, and a body acting for the General Directorate of Post and Telecommunication is authorised to 'sweep' user equipment for this use. After advocacy in 2005, a Ministerial Decree was issued which freed the use of the frequency 2.4 GHz.[32] The term 'RT/RW-net' was first used around 1996 by students of Universitas Muhammadiyah Malang (UMM). They connected their dorms, rented lodgings and several nearby houses to the UMM campus, which was linked to the AI3 Indonesia network through GlobalNet in Malang using the Bandung Institute of Technology (ITB)'s internet gateway. The ITB made an agreement in 1994 with PT Telkom, the state-owned telecommunications company, which gave the university a 24-hour internet connection and enabled academics on the campus to connect to the internet for free. The student connections to UMM were established using VHF walkie-talkies with a 2-metre band at 1,200 bytes per second. While we cannot know the exact number of users on this unregistered free network, nevertheless the network grew as the 2.4 GHz frequency was freed up, as wireless equipment became more affordable and as the necessary technical knowledge began to spread in the community via books, websites and training workshops.

The use of **Voice over Internet Protocol** (VoIP) technology has also been developed by IT activists. VoIP, used to make phone calls using the internet, allows the establishment of independent central phone lines through the internet. A group called VoIP Merdeka was formed as a reaction to the government's plan to raise phone bills in early 2003. This group

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32 See
http://opensource.telkomspeedy.com/wiki/index.php/Sejarah_Internet_Indonesia:Pembebasan_Frekuensi_2.4Ghz

of IT activists started a VoIP phone hub (also called VoIP Merdeka), based on the H.323 protocol over the internet, to provide an alternative affordable telecommunication service. Again, it is difficult to estimate the exact number of users because the usage is free and not registered.

After the Broadcast Law recognized community broadcasting, the number of **community radio stations** increased dramatically. In 2005, Combine Resource Institution, in co-operation with Voice of Human Rights and TIFA Foundation, pioneered a community news agency called Saluran Informasi Akar Rumput (SIAR).[33] SIAR connected nine community radio stations in West Java and Yogyakarta using the internet, which exchange news and stories via a website. The internet network between the radio stations uses 2.4 GHz wireless technology.

Several community radio stations also use their internet connection to distribute information to the community. These initiatives are increasing as the number of information nodes between community radio stations grows, and include the Merapi Information Network (Jaringan Informasi Lingkar Merapi, Jalin Merapi)[34] and the Voice of the Community (Suara Komunitas).[35]

2.2 Diversity and freedom of expression in the communications environment

2.2.1 Legislation affecting freedom of expression

Freedom of expression in Indonesia is not a new issue. During the New Order regime under President Suharto (1966-1998) the state heavily suppressed people's aspirations and expression that challenged the state's policies. After the 1998 political reforms, a new openness presented many opportunities for parties to express their views. Public demonstrations took place frequently; meetings flourished and discussed issues that were previously considered taboo. At the same time, many religious groups started vigorously to promote fundamentalist and absolutist doctrines of religious interpretation, even conducting campaigns of force against particular establishments they considered inappropriate – raids and the destruction of night clubs, cafes, karaoke places, even mosques have been frequently reported in recent years. There have also been almost daily reports of conflicts between neighbouring villages and regions or between ethnic groups. Some people have questioned whether this is this freedom of expression 'gone too far'.

Since the fall of New Order regime and the start of the reformation era, laws have been enacted to value and respect Pancasila[36], the Constitution 1945, and the principles and goals of the United Nations Charter and the Universal Declaration of Human Rights (UDHR). Two legal instruments related to the Declaration of Human Rights are the Decree of the People's Consultative Assembly No. XVII/MPR/1998[37] and Law No 39/1999 on Human Rights[38].

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33 www.siar.or.id
34 http://merapi.combine.or.id This provides the community with critical information about volcanic activity. For a description, see http://www.freedomofexpression.org.uk/files/JalinMerapi-english.pdf
35 http://suarakomunitas.combine.or.id
36 The official philosophy of the Indonesian state, based on five key principles: belief in one god; just and civilized humanity; the unity of Indonesia; democracy; and social justice.
37 Available at http://hukum.unsrat.ac.id/uu/mpr_17_98.htm [Accessed 7 March 2009]
38 Available at www.bpkp.go.id/unit/hukum/uu/1999/39-99.pdf [Accessed 7 March 2009]

Even though human rights issues are not new to Indonesia, the discourse and the implementation of freedom of expression in the country have not been smooth or uncontested. The universality of the UDHR opens it to interpretation and in the context of Indonesia – where there is a wide variety of norms and beliefs – makes implementation more complex. Although Indonesia's constitution, the UUD 1945[39], recognizes the issues in its Chapter XA (the result of the second of four amendments), which includes nine articles (article 28A to 28J), and also has a Human Rights Law (UU HAM no. 39, 1999), people and institutions alike still find it difficult to understand and enforce the issues.

Below we highlight several laws (Undang-Undang/UU) and bills (Rancangan Undang-Undang/RUU) that could potentially stifle freedom of expression, even though they have been formulated with consideration for the constitution and human rights law mentioned above.

The Press Law and its amendment

Press Law no. 40 (1999) seeks to establish the role of a responsible free press in upholding democracy through providing information. This law has become the basis for the operation of media that better accommodate freedom of expression, even though it has several weaknesses. These include a lack of clarity in regulations about the minimum standards for publications' appropriateness[40] and less than optimum protection for journalists (Sudibyo, 2008).

But in practice, this law is rarely used to settle cases that involve journalism. The Independent Journalist Association (Asosiasi Jurnalis Independen/AJI) recorded that from 2003 to April 2007, there were 41 cases of defamation implicating a publication or a journalist, only six of which (around 14%) used the Press Law as the reference.[41] The government perceives the Press Law as being excessive in the freedom it allows and there have been some discussions about amending it, amid concerns that amendments would strengthen the government's supervision of the press[42]. At present the process of amendment is still in question, but many observers note that the existing law has not been implemented well by law-enforcing institutions.[43]

Journalists also face legal pressure from groups who do not want to see certain issues reported, for example those with fundamental and absolute interpretations of religious doctrines. In 2002 the Indonesian Islam Mujahidin Council (Majelis Mujahiddin Islam Indonesia) filed a subpoena against the television station SCTV for its programme 'Islam Warna-Warni' ('Colourful Islam'). Another example is the protest action taken against the *Play Boy Indonesia* magazine in 2007 by the Islam Defender Forum (Front Pembela Islam/FPI). The state, supposed to be the moral guardian and the enforcer of human rights, has not played a significant role in mediating in these kinds of cases.

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39 Indonesia Basic Law, declared in 1945, after Indonesian independence.
40 Issued by the Press Council and available at http://www.dewanpers.org/dpers.php?x=lain&y=det&z=47924d44802ca1f4cd2e885c1437098a. [Accessed 2 March 2009]
41 Heru Hendratmoko (Head of AJI), 2008. [Interviewed] Available at: http://www.ajiindonesia.org/index.php?fa=pub.read&id=MjIz [Accessed 22 October 2008]
42 Available at http://blogaji.wordpress.com/2007/06/22/menyoal-ruu-perubahan-uu-no-40-tahun-1999-tentang-pers/. 22 June 2007 [Accessed 6 March 2009]
43 See http://www.spsindonesia.or.id/index.php?option=com_content&task=view&id=98&Itemid=11. [Accessed 6 March 2009]

Data from Reporters Sans Frontières (Reporters without Borders) shows that Indonesia's ranking for press freedom fell sharply between 2002 and 2005, from 57th out of 139 countries to 102nd out of 167. In the Southeast Asia region, Indonesia ranked third in 2005, compared to first place three years earlier. This fall in rankings was due to the increase in violence suffered by journalists and media personnel in the country.[44]

The position of the press is becoming more and more unclear, and its role in realizing freedom of expression risks being curtailed. Pressures are combining to make the press less fit to fulfil its role, and as a result, the quality of content produced is compromised. The freedom of the press to uncover facts and truth as alternative information for the public is decreasing, or even disappearing. The threat of criminal prosecution over expressing opinions limits their actions. The almost finalized Criminal Code bill, R-KUHP, limits the opportunity for the press to act neutrally even further by suppressing certain types of expression and opinion.

The Criminal Code bill (R-KUHP)
The Criminal Code, in use since the Dutch colonial era, has led to problems in relation to human rights, and the government is in the process of amending it. The bill, almost finalized, has been controversial. Human rights activists think that it may actually result in more limitations on individual rights to expression. The Press Legal Assistance Institution (LBH Pers) has identified at least 61 articles in the bill that potentially restrict freedom of expression in Indonesia (Hendrayana et al., 2007). Their analysis covered 15 areas, including: Pancasila and Communism; security and defence; state secrets, news and false reporting; religious slander; and public morality. This compares unfavourably with the current criminal code (KUHP), in which 35 articles are identified as in opposition to freedom of expression and human rights.

The Pornography Law
Public discussion of the Anti Pornography bill has been ongoing in recent years, during which time several versions have been considered by the parliament's special committee (Pansus DPR RI). Yet the country remains sharply divided on this issue. On 31 October 2008, the parliament officially passed the bill into law, but several articles remain controversial. Definition of some phrases, such as 'body language' and 'public performance', remains unclear. There are concerns about vigilantism taking place to enforce the newly enacted law, and that this will strengthen the role of 'moral police' – assumed by various community groups which administer their own punishments to those they deem are violating the law.

The Information and Electronic Transaction Law (UU ITE)
There has been little public debate about this law, passed on 21 April 2008, and little public understanding of its implications; its passage was therefore quite smooth. This law aims to provide protection for electronic transactions and at the same time protect internet users.

However, the enactment of this Law no. 11 2008 drew protests from bloggers and the press, and was opposed by the Indonesian Telematics Reform National Alliance (Aliansi Nasional

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44 Atmakusumah, Astraatmaja, former member of Press Council (Dewan Pers) [Interviewed] (Updated 01 May 2006) Available at: www.tempointeraktif.com [Accessed 21 October 2008]

Reformasi Hukum Telematika Indonesia/ANRHTI[45]). ANRHTI and the Press Board are seeking a judicial review in the Constitutional Court, and this submission has been made by a group of organisations that also includes Indonesian Legal Aid and Human Rights Association (PBHI), the Alliance of Independent Journalists and Press Legal Aid.[46]

Seven of the Law's articles potentially violate freedom of expression and several others create opportunities for more government intervention, as they recommend that government regulation (Peraturan Pemerintah/PP) is issued. In previous experience with other laws, PP has meant more intervention from the government in controlling the implementation of the legislation. Articles in this Law are open to different interpretations and potentially threaten freedom of expression. For example, it prohibits the distribution of 'Electronic Information and/or Electronic Documents containing: 1) moral violation; 2) gambling; 3) insults and/or defamation; 4) blackmail and/or threat'[47]. The definition of 'moral violation' is open to interpretation, as are 'insults or defamation', which are often used by people in power to smother critical expression.

There are also concerns that this Law gives civil servants, working for the Ministry of Communication and Information, the authority to investigate suspected breaches of this new law – rather than this authority only resting with the legal office of the police department. This has the potential to create problems if the appointed civil servant investigators do not fully understand the substance of the Law.

Information Technology Criminal Act bill (RUU Tipiti)
Public debate has also been inadequate around RUU Tipiti since its academic script was presented to parliament in November 2003 by the development team, the Indonesian Global Internet Policy Initiative (GIPI – Indonesia) working with the Cyber Policy Club and the Indonesia Media Law And Policy Centre (IMLPC). An academic script is a requirement in the process of developing Indonesian law, and provides evidence of the need for the new law. There is still no clarity on the discussion status of this bill, and there are concerns that this Law, like UU ITE (above), may be swiftly passed by parliament.

The academic script suggested that legislation was needed specifically to target criminal acts in the virtual world. Initially, consideration was given to integrating this RUU into the criminal code bill (R-KUHP) that was in discussion at the time. The other alternative offered was to identify all Laws related to cyber crime issues and amend them. But the decision was made to formulate a separate Law. We consider that potential problems could arise from multiple interpretations of the articles in the bill, leading to the limitation of public expression and opinion via the internet. For example, it would leave open to interpretation the question of whether people feel 'defamed' by others' speech on the internet.

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45 Members of the alliance: Indonesian Human Rights and Legal Assistance Association (Perhimpunan Bantuan Hukum dan HAM Indonesia/PBHI), Press Legal Assistance Body (Lembaga Bantuan Hukum Pers/LBH Pers), Institution of Society Study and Advocacy (Lembaga Studi dan Advokasi Masyarakat/ELSAM), Institute for Criminal Justice Reform (ICJR), Benteng Cisadane Blogger Community (Komunitas Bloger Benteng Cisadane/KBBC), Center for Democratic and Transparency (CDT), Democracy Education Association (Perhimpunan Pendidikan Demokrasi/P2D)

46 Available at http://www.mahkamahkonstitusi.go.id/search.php?keyword=UU+Tipiti&Submit=Cari&cat=sidang. [Accessed 2 March 2009]

47 *Information and Electronic Transaction Act 2008.* (c.27), Republic of Indonesia

Implementation of the Broadcasting Law

One commendable breakthrough as a result of this law, passed in December 2002, was the rise of alternative media expressing grass-roots voices and alternative viewpoints on matters of public interest. However, its proposed network system to encourage the diversity of television content seems unlikely to be implemented any time soon (see the discussion above). The situation with radio is a little different, and several radio stations in Jakarta have now extended their network to the regions. Some local stations only relay broadcasts from Jakarta, so there is no opportunity for local content to be included, but others (such as the Trijaya Group and the Sonora Group) develop considerable amounts of local content.

In theory, mainstream media have more ability to cover issues that relate to the public interest because of their resources. But in practice, much content is aired nationally. The pressures of commercial competition also lead to homogeneity of content and reduce the space for public involvement. But in the case of community broadcasting, it is regulation (derived from the Law) that restricts opportunities for public expression. Findings show that the development of policy and the freedom of expression climate are very much influenced by various regulations that tend to control such expression. This situation will be worsened by the numerous articles in the regulation that are open to interpretation. This tendency will result in ambiguity amongst the public and this means that the threats against freedom of expression will increase. To give just one example of this, one article in Government Regulation no. 51 covers the languages that must be used.

There is also evidence of another trend, which is that the state tends to be passive in responding to many events that restricted of freedom of expression. Hence the actions that followed such incidents were often taken by other parties, acting as vigilante groups in substitution of the state's role, doing exactly what the state would have done before the 1998 reform happened.

Many parties have an interest in ensuring a broader interpretation of freedom of expression, including groups fighting for freedom in art and cultural creativity, for the preservation of traditional customs, or for acceptance of their sexual orientation. Other groups demand strict limitation of expression for a variety of reasons, usually arguing on the basis of religious norms or the fear of people being harmed without such controls (for example, children and women in the case of the Pornography Law).

As a democratic country, dialogue needs to be effective and the state has a role in facilitating this process. But several policies have shown that the state is not impartial in its facilitation. The debates and protests around the Pornography Bill highlighted this. Some opponents of the bill considered that it ignored diversity of culture because it discriminated against certain types of performance and art by categorising them as sexual or pornographic. They felt it could threaten the development of the creative industry, important for the Indonesian economy. Feminists also opposed the bill and how it considered women to be the perpetrators of pornographic acts, to be brought to court. On the other hand, groups in support of the bill considered that a special law was needed to protect people from the negative effects of societal change. At the time there was no statement from the President and the Cabinet about the mass protests of anti-bill groups. Difficulties arise from the Government's lack of respect for pluralism and a lack of clarity about the state's role. These are further complicated by other factors, including: a lack of clarity on whether religious matters should be in the public or individual domain, and the diversity of views on the definition of pornography, including in art.

2.2.2 Using the new communications environment

The influence of media and information technology is widespread all over the world, including Indonesia, although there are areas, as explained above, where the infrastructure is not well developed. The 'pioneer' groups who adopted the technology were in universities and government, followed by business people – those used to communicating in English. But now internet users are more diverse and a wide variety of information is available to all parties.

The remarkable strength of the internet has become an integral part of community groups' struggle in Indonesia, because they can use the internet to send their message or point of view to the world. The differences of opinion among users have produced a unique type of discussion, accommodating a far wider variety of viewpoints than in the mainstream media.

Freedom of faith and religion
Freedom of faith and religion is set out in UUD 1945 article 28E (the Constitution). However, the word 'faith' or 'belief' ('kepercayaan') in that article is capable of different interpretations.

Its intended meaning, 'different types of beliefs', was instead interpreted as 'beliefs within certain religions' (Raharjo, 2006). In several incidents relating to this problem of definition, religious groups whose civil rights were not recognized were forced to use the terminology of recognized religions only (Muslim, Christian, Catholic, Buddhist or Hindu). These groups include: the Dayak Indramayu group, declared heretical by the Indonesian Ulamma Council (Majelis Ulama Indonesia/MUI) in Indramayu, West Java[48]; Sunda Java Religion (Agama Djawa Sunda/ADS) flourishing in Cigugur, Kuningan, West Java; and Ahmadiyah Indonesia. Some Islamic groups consider Ahmadiyah is a defiance of Islam's beliefs and have demanded that the state disband it. Some took matters into their own hands, burning down places of worship, evicting and even physically abusing the followers. The government, through the Joint Ministerial Decree (Surat Keputusan Bersama/ SKB) has limited the movement of Indonesian Ahmadiyah Congregation (Jemaat Ahmadiyah Indonesia/JAI). This is to stop the spread of its teaching, which deviates from the core teaching of Islam and acknowledges another prophet after the prophet Muhammad SAW.[49]

There were concerns that mainstream media reporting of these issues was not neutral enough, because there were so many interests supporting such media. We found that some stakeholders in this issue used alternative media to gain support and to discuss the issue, most often blogs and mailing lists, though forums were also used.

The use of such media tends to be for information sharing or debate rather than other applications such as polling, petitions or targeting particular groups and interests. Nor does it yet seem to be widespread. While data is not available on this, our own observation is that mailing lists discussing related issues (such as pluralism and human rights, or environmental issues and natural disasters) tend to have the same individuals as members. While

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48 Obeng Nur Rasyid, 2008. Programme Manager of Fahmina Institute Cirebon (phone interview, 27 October 2008)

49 *Joint Ministerial Decree of Ministry of Religious Affairs, General Attorney and Ministry of Home Affairs, 2008.* SI KEP-033/A/JA/6/2008/199 Decree Number Two, Jakarta: Ministry of Religious Affairs, General Attorney and Ministry of Home Affairs, Republic of Indonesia

information and knowledge is circulated in this way, its distribution may be limited because of this homogeneity of membership.

Art and cultural creativity
Art has become a source of controversy, especially when particular works touch on the sensitive issue of what may be seen as 'pornography' (see discussion above). For example, an exhibition of photographs by Agus Suwage and Davy Linggar in 2005 called 'Pink Swing Park' was cut short because of pressure from the Islam Defender Front (Front Pembela Islam/FPI). The photographs featured movie stars posing semi-naked. Several female artists, popular 'dangdut' (Indonesian music) singers, have also been banned on occasions from performing.

Dana Iswara, a media practitioner, sees two important aspects in such cases: the images of gender and sexuality that exist in the media, and how these are interpreted by different interest groups in the society and their discourses, for example of tradition, religion and patriarchy (Iswara, 2003). Our observation is that mass media in Indonesia, especially television, has encouraged the restriction of expression by promoting such points of view.

However, information technology and new media channels can introduce new values that tend to lessen the influence of local culture. Herman and McChesney (2001) explain that such global media intervention has four negative impacts: the change of values of society; excessive entertainment in the society; strengthening conservative political power; and the erosion of local culture. Apart from a strengthening of conservative political power, many cases in Indonesia show these tensions.

Art and culture's less controversial use of modern information technology is also developing. Both professional and amateur artists have uploaded traditional art, such as dance and music, to the internet, either to www.youtube.com or to their own blogs. Some websites are equipped with audio documents that can be listened to by streaming technology – such as www.nuansaseni.com which also offers a tutorial on traditional dance.

Civil rights and the struggle of minority groups
Marginalized communities are increasingly using the virtual world in their struggles for action and recognition, with some success.

One recent notable example is the case of the Lapindo energy company, whose drilling practices caused tons of mud to flood a residential area. The company, owned by the Bakrie Group claimed to be innocent and refused to pay for the damage caused. The civil community fought against this using the virtual world[50] and also organized protests against the extravagant wedding of a member of the Bakrie family, the Coordinating Minister of Public Welfare. In the same way, the people of Curug Goong village, Padarincang sub district, Serang, protested against the presence of an Aqua mineral water factory via a blog rather than a physical demonstration (see http://tampaaqua.multiply.com/).[51]

Marginalized minority groups are also fighting for their civil rights through virtual world. For example, in Yogyakarta members of the gay and transgender communities, women sex

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50 Satudunia.net. *Fights in Virtual World.* [Internet] Available at: http://satudunia.net/node/2647 [Accessed 20 October 2008]

51 Radar Banten daily newspaper, 2008. *Palka Citizens Made Blog Rejecting Aqua.* [Internet] Available at: http://satudunia.net/node/2847 [Accessed 21 October 2008]

workers and 'children from the street' made community videos to highlight the difficulties they faced and counter negative portrayals of them in mainstream media and culture.[52] These minority groups have produced other online materials for campaigns and advocacy such as press releases (e.g. www.kontras.org) and share experiences via a blog address (http://sepocikopi.blogspot.com).

Developing and sharing knowledge
While community groups are now using internet technology to share information in their area, there are still few such initiatives. The development of information, as well as distribution, needs to be improved[53], as writing and sharing writing are still not part of the community's habit and culture. Interest in reading, as well as writing, is low.

This, combined with the people's low purchasing power, makes it quite hard for book publishing in Indonesia to succeed. In recent years, many publishing companies cooperated with schools to republish textbooks that were similar to those from the previous year – not to improve their quality but as a business ploy to sell a certain number of textbooks each year. Therefore in 2008, the government bought 49 textbook copyrights and uploaded them to the official government site, and plans to buy up a further 200. As a result of this initiative, the knowledge can be easily accessed thanks to the development of information technology – though we note the difficulties of access for those in remote areas or outside Java.

2.3 Information production and exchange

2.3.1 Mainstream media and the problem of homogeneity

The majority (60 to 80%) of the content on national private television stations is entertainment, such as soap operas, quiz shows, movies, 'infotainment' and reality shows. The executives of those stations make this choice to gain the maximum profit from advertisers, and because of these programmes' relatively low cost and short production time. Around 60 to 70% of entertainment programmes are foreign TV shows with the remainder made by local production houses[54], because it is cheaper to broadcast foreign shows than to produce them locally.

Unfortunately, most of the programmes that gain high ratings are have no education content and do not reflect reality for the majority of society. Producers of these shows have shaped the national taste and fed the myth that Indonesian audiences gravitate towards certain programming themes – that is, low quality entertainment shows, violence and sex. A number of television commentators argue that decisions about content are effectively made by producers, with these consumer preferences in mind, rather than through any creative process.[55]

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52 PKBI Editor, 2008. *Community Video was Born out of Dissatisfaction of Mainstream Culture and Media.* [Internet]
      Available at: http://www.pkbi-diy.info/index.php?lang=id&cid=6&id=219 [Accessed 20 October 2008]
53 Program Saluran Informasi Akar Rumput/SIAR, 2008. Grass Root Information Channel Program. Yogyakarta: Combine Resource Institution
54 Gatra magazine, 2001. *Empat Penghibur Bermenu Gado-gado*, [Internet] Available at: http://www.gatra.com/2001-11-05/artikel.php?id=12322h [Accessed 23 October 2008]
55 See Iwan Piliang's opinion at http://www.apakabar.ws/content/view/1591/88888889/ also Effendi Gazali's opinion at http://www2.kompas.com/kompas-cetak/0609/29/humaniora/2984941.htm [Accessed 2 March 2009]

Yet it is not the case that audiences only want entertainment. Several better-quality talk shows have received positive responses to their discussions of real events and talking points. But they do not run for long, as they are not as attractive for advertisers. Before 1998, political interests also influenced how long a show stayed on air. A popular talk show called 'Perspektif', aired by a private television station in 1995[56], had good ratings but was cancelled on the twentieth episode, amid rumours that it was too critical towards the New Order regime.

After 1998, private TV stations have produced many talk shows, the successful ones managing to combine entertainment with discussion of more significant social issues. But no producer has yet dared to raise issues deemed sensitive by the community, such as religion and ethnicity. It appears that TV and radio stations tend to shy away from this, concerned to avoid criticism from the majority or being seen as provocative.

News programmes are gaining in popularity and several national private TV stations have well-packaged and frequently-updated news at the heart of their programming. These programmes not only answer a need for information, they have also helped to establish a sense of closeness between widely spread communities in different regions. News of a natural disaster in the western tip of Indonesia, for example, was avidly watched by people all over the country. However, such 'globalization' of local content can be sensationalist rather than promoting balanced reporting.

When the entertainment industry takes account of local culture it tends to be in the interests of profit. There are several examples of programs which originated in another country but were tailored for the Indonesian market by integrating local elements. Talent contests for teenagers were promoted on regional lines, and audiences were encouraged to be fanatical in their support of the local contestant – so that their text messages increased the producer's profits.

The Republic of Indonesia's Television (Televisi Republik Indonesia/TVRI) is the country's only public broadcasting institution, but has limited funding from the National State Budget and a small percentage from advertising. This is often cited as the explanation for its low-quality production values and content, and it also retains the image of being the governmental broadcaster of ceremonial programs, as it was during the New Order regime. But it has the largest broadcasting capacity of all existing stations[57], 27 local television stations and a potential audience of 82% of the Indonesian population. It has relay stations in many cities in Indonesia with its central station in Jakarta. This makes TVRI the main source of information for people outside urban areas. Besides relaying from the Jakarta-based station, local stations also broadcast local TV programs, for example, local news, at certain times. A 2001 survey showed high public approval ratings for local TVRI stations, whose afternoon news and traditional art shows gained higher audience ratings than private television stations broadcasts at the same times.[58]

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56 RPK - Talk Show #2, 1995. *Paket 'Talkshow': Butuh Lima Tahun Untuk Berkembang.* [Online] (updated 24 September 1995) Available at: http://www.hamline.edu/apakabar/basisdata/1995/09/24/0005.html [Accessed 23 October 2008]

57 Wikipedi*a, 2008. Daftar Stasiun Televisi Regional di Indonesia.* [Online] Available at: http://id.wikipedia.org/wiki/Daftar_stasiun_televisi_regional_di_Indonesia [Accessed 23 October 2008]

58 Hikmarani, Chalida Noor Septina, 2007. *Exploration Study on Public Broadcasting*, BA thesis in Communication Department. Gadjah Mada University.

In response to the need for relevant content, some media activists have developed community-based TV stations. The experimental 'Grabag TV' in East Java has gained a strong community following and become a model for other areas. It has a simple infrastructure, supported by a 50-Watt transmitter, and serves communities within a 7km radius[59], broadcasting programmes relevant to their daily life – about planting seasons, the price of fertilizers and agricultural commodities. Programmes are simply produced, by the community itself. Lack of funds means the station broadcasts for only three hours daily, but it has nevertheless been welcomed wholeheartedly by many different parties, including education institutions and NGOs keen to see variety in broadcast media. Documentary films also highlight local issues and improve the diversity of content. For example, the villagers of Sangkaparan, on the remote south coast of Central Java, produced a film that highlighted their difficulties in accessing water in the dry season; it won an award at a documentary film festival in mid 2008.

In spite of the New Order regime's control of radio news, ownership of private radio stations grew year by year. By 1996 the Indonesian Trade Private Broadcasting Radio Association (Persatuan Radio Siaran Swasta Niaga Indonesia/PRSSNI) had a membership of 449 AM and 241 FM radio stations, some owned by national media groups. Radio stations are often specific to a particular audience: for example for women, urban executives or students. Interactive and dynamic audience involvement is an important element, especially in entertainment programs: song request shows, talk shows and text-ins are all popular. This has been further developed by several stations to include 'public journalism', with listeners phoning in first-hand reports of the traffic situation in Jakarta, for example.

Radio was vital in providing fast and accurate information during the political upheaval of late 1997, with stations present in almost all provinces and even at the district level. In some of the larger cities (such as Bali, Surabaya and Yogyakarta) there were up to 50 commercial stations, whose audiences included people from urban intellectual groups and the pro-democratic movement. Since 1998, the potential of radio as a constructive agent of democratic change has been widely acknowledged. UNESCO's communication unit, through its Local Radio Network for Democracy (JLRND) has helped to develop 30 radio stations in 15 provinces in Indonesia, providing capacity building support and features for the network over a period of four years (Gunawan, 2003).

Private radio broadcasts, however, often do not reach suburban and village areas, where other sources of information can be minimal. Community radio, funded and produced by the community itself, therefore plays several important roles, providing not only entertainment but also locally relevant community information, and helping to resolve conflicts.[60] It can also offer a viable means of ensuring transparency in the close-knit communities in many regions in Indonesia (Magnis-Suseno, 2003). For example, 'Rasi FM', in Cisewu, Garut, West Java, once announced the names of recipients of government aid for the poor in the area, exposing the fact that some were not eligible to receive it, including the wife of the village chief.

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59 Hermanto, Budhi, 2008. *Community Television, An Alternative Media*. [Online] Available at:
   http://www.kabarindonesia.com/berita.php?pil=26&dn=20080308005819. [Accessed 27 October 2008]
60 *Listening to the Public's Voice, 2003*. Kombinasi bulletin. (4), pp. 12-13

2.3.2 The cellular content market

Since 2005, the cellular content market has grown enormously. Providers began to compete for exclusive contracts with telecommunications operators to offer services such as downloading songs, movie and video streaming, as well as text message services (usually humour, advice and celebrity gossip). One company's income of IDR 70 billion amounted to around 2% of a telecommunications operator's total income of IDR 3.5 trillion, increasing net profit by 20% in one year from 2005 to 2006.[61] The high level of penetration of cellular phone users has been a contributing factor in the growth of the cellular phone content industry. Another factor has been companies' profitable links with popular television entertainment programs, for example offering SMS (text message) voting in talent contents, charged at premium rates[62].

Content providers' marketing has on occasions verged on deception. In 2008, the Indonesian Broadcasting Commission took action to limit television advertisements for SMS services considered inappropriate in Indonesian society. These included SMS services with a supernatural theme, because they promised to change someone's fate, and services promising rewards. This kind of distortion of public information suggests that improvements in ICT infrastructure and capacity have benefited companies' economic interests rather than the public interest.

2.3.3 On-line media

Shortly before the fall of Suharto it was clear that the internet had the potential to bring a more democratic communications environment to Indonesia. In a climate of close control over all types of media, the internet enabled groups pressing for regime change to organize and to communicate with the outside world about the political situation in Indonesia. Numbers of internet users grew rapidly in cities at the centre of the anti-Suharto movement: Yogyakarta, a much smaller city than the capital Jakarta, had three internet cafes by 1996 (Sen and Hill, 2000). From the outset, younger people and middle-class urban intellectuals were the major users of this technology.

Production of news is no longer the monopoly of capital owners and powerful élites. Community journalism on the internet has become more widespread in Indonesia as the infrastructure grows and bandwidth becomes cheaper. Though still dominated by the urban community, the internet is gaining in popularity against television and radio as the main reference for information. The hypothesis that Indonesia's strong verbal tradition would make it hard for the internet to become established does not necessarily stand, and internet technology has provided the space for any individual to write about anything. It is very easy today to find short articles from various regions, written and commented in local languages. This environment offers new opportunities: to form networks, to increase solidarity within communities, and to help build better local governance by monitoring the conduct of government officials and local élites.[63]

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61 Pitoyo, Arif 2006. 'It's time to develop cellular content'. Bisnis Indonesia, [internet] 1 June. Available at: www.bisnis.com/pls/portal30/url/page/bep_article_preview?pared_id=448042 [Accessed 24 October 2008].

62 Wikipedia, 2008. *Akademi Fantasi Indosiar*. [Online] (downloaded on 28 October 2008) Available at: http://id.wikipedia.org/wiki/Akademi_Fantasi_Indosiar [Accessed 28 October 2008].

63 Several examples for websites with heavy local content are www.suarakomunitas.combine.or.id or http://cilacapmedia.com

However, there are also many rude and unconstructive exchanges of opinion on the internet, and the question of anonymity in blogs has become a key issue. Some argue it is acceptable in order to protect a writer; others favour disclosure of the writer's identity in line with the ethics of journalism. One online mailing list's moderator was questioned by the authorities on the grounds that the list included contents that allegedly put certain parties at a disadvantage.

Blogs and mailing lists can become a battleground for different religious and political groups, where they attack one another – in some cases, in our analysis, this is without intervention from a moderator and is a deliberate choice by the owner or author simply to increase traffic.[64] Yet online media can also mobilize opinions and provide the space for debate over all kinds of issues. In 2005 a religious leader, whose opinions were often quoted in the media, delivered a statement alleging that people religiously converted after they received aid in the aftermath of the Yogyakarta earthquake. A blogger then posted an open letter criticizing him, pointing out that his statement was without merit since it was merely a claim and gave no explanation of the methodology he used to get the information. The blog was flooded by hundreds of comments, both from supporters of the blogger and those who were outraged because they felt that their religious leader was degraded.[65] There is no evidence of any agreement or resolution on the matter.

Blogs, mailing lists and other online media have become a sort of a catharsis for a public who for years felt that they had no media to articulate their opinion. But discussions are fluid and open-ended, and the dominant culture in the Indonesian community places a high value on face-to-face interaction. Ideas raised in online media discussions, therefore, may not be easily consolidated into tangible actions.

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64 For example blogs on defamation http://forumarsip1.swaramuslim.com/more.php?id=4009_0_25_180_M and on racism in Islam and Christianity http://islamic.xtgem.com/ibnuisafiles/list/nov08/favo/01/bbaray05.htm [Accessed 2 March 2009].

65 Rony Works 2003, *Surat buat Din Syamsudin tanggapan atas isu pemurtadan di Yogyakarta*. [Online] Available at: http://rony.dgworks.net/2006/06/29/surat-buat-din-syamsudin-tanggapan-atas-isu-pemurtadan-di-yogyakarta/ [Accessed 24 October 2008].

3 Conclusions and recommendations

3.1 Access to information, ICT policy and the digital divide

Development of communications technology in Indonesia has been encouraged by the policy of opening opportunities for foreign investment, and this in turn has encouraged the growth of media business and communication information technology.

The growth and pattern of infrastructure development has been market-driven: in areas without a market, infrastructure has been neglected. This has caused a digital divide which in its turn resulted in a wider information gap. Business that is now dominated by foreign investment only widens the creation of that digital divide. There is unequal access to information and communication channels through media and communication infrastructures, particularly for people who live in villages and remote areas outside Java.

The government through the USO programme has not yet been able to bridge that gap. The early stage of the programme experienced failures in sustaining the built infrastructure. Those failures were mostly caused by weaknesses in implementation which, although now identified, still require action.

Other initiatives to pioneer the development of ICT in remote areas were pursued, by government, NGOs and donor bodies. Unfortunately, best practices that emerged in these small-scale initiatives did not influence the much larger USO programme, and were not promoted to encourage their wider adoption.

Media and ICT policies tend to prioritize the interests of investors rather than consumers. The decision made in the WTO assembly apparently became an entry point for foreign investors to dominate media and ICT industry. There are signs that the government and regulators do not have the power to control this oligopoly – for example the cartel practices of cellular phone providers.

Policies and regulations relating to ICT, communications and the media are not always consistent or harmonised.

3.2 Diversity of content and freedom of expression

Limited infrastructure for communication has led to a lack of variety in the information available, online and in other media. Barriers in language and knowledge, as well as the limited access to communication infrastructure, have been a major obstacle.

While on-line information has an orientation towards business interests, the urban community and people living in Java, it can nevertheless be said to be quite varied. This is in terms of the range of issues and in the development of new opinions and types of discussion, which is creating altogether new types of knowledge.

The use of ICT is producing these new types of information and expression. Uses of the technology include advocacy efforts, initiatives to gain support, and use of internet applications to promote group discussions and debates, which are producing new understanding and knowledge.

There are as yet no Indonesian studies on the effectiveness of using the virtual world to extend campaign and advocacy efforts. However, organizations are beginning to make use of blogs, websites, mailing lists and even social networking tools for this purpose.
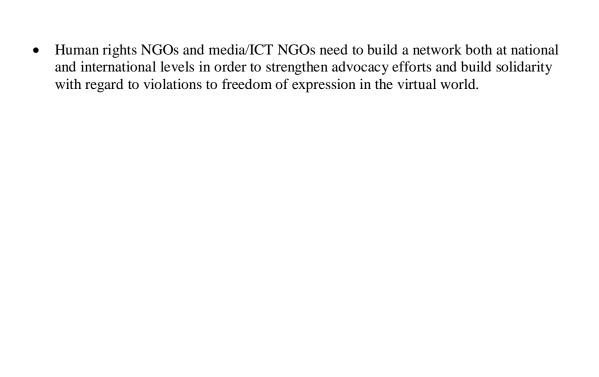
The fall of the New Order regime and the political reform in 1998 were marked by the spread of freed expression in the country, both political and cultural. Yet the existence of a wide variety of values and point of views, combined with the state's role – either passive or excessively restrictive – has led to friction and limitations on freedom of expression. The intersection of diverse values at the level of policy making has resulted in legislation that actually further limits freedom of expression.

Freedom of expression and access to diverse information in Indonesia face challenges, including:

- the predominant culture of verbal communication in the country, which has to date resulted in limited production of informational content in the virtual media
- the community's highly traditional culture, which is often at odds with universal values, and has popularized dogmatic content, that applauds irrationality and bombastic promises
- state policies with regards to the virtual world. The UU ITE (Electronics Transaction and Information Law) and the RUU Tipiti (Information Technology Crime) bill may become new stumbling blocks. Problems may come both from the substance of these laws and from multiple interpretation of their meanings in the practice enforcement.

3.3 Recommendations

- Advocacy needs to be conducted so that the state can play its role in facilitating and providing venues for dialogues to bridge the different interpretations on the limits to freedom of expression, thus the different and sometimes clashing values held by different groups in Indonesia may be reconciled.

- A network or an alliance needs to be formed to carry out more integrated and comprehensive advocacy on policies regarding the media and communication. This should be focused on reducing the digital divide and information gap, and ensuring that all levels of society can fully utilize the media and the virtual world, knowing that their freedom of expression is guaranteed. Specifically, advocacy and public monitoring on the Tipiti bill needs to be conducted as soon as possible.

- The state should build an effective collaboration between the agency implementing the USO programme and other, already well-established initiatives. This will enable the USO programme to reach its target and marginal communities to get access to information and communication.

- The state should carry out capacity building programmes for the community and other related institutions to produce information and knowledge that are both accessible to and acceptable by the community through the virtual world.

- Human rights NGOs and media/ICT NGOs need to build a network both at national and international levels in order to strengthen advocacy efforts and build solidarity with regard to violations to freedom of expression in the virtual world.

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