

Executive Summary

PANDEMIC, OLIGARCHY, AND THE (UN)FREEDOM OF THE PRESS

Advocacy Notes on Freedom of the Press, Freedom of Expression, and Information Disclosure in 2021, and Projections for 2022

A. Introduction

As in previous years, The Press Legal Aid Institute (LBH Pers) has again noted the challenges and a number of violations of press freedom, freedom of expression and information disclosure throughout 2021. The pandemic has also created a new pattern of violations of press freedom, freedom of expression and information disclosure in Indonesia. Model violations by using violence or by employment.

The report consists of 7 chapters including: Chapter I on the Face of Press Freedom in Indonesia in 2021, Chapter II on Covid-19 and Portraits of the Welfare of Media Workers, Chapter III on Combating False Information Disclosure, Chapter IV on the (un)freedom of expression in Indonesia, Chapter V on Legal Empowerment, Chapter VI on Projections for 2022 and Chapter VII on LBH Press Publications.

B. Issues that are in the spotlight of LBH Pers

1. Monitoring Cases of Violence against Journalists

No less than 55 cases of press violence were collected during 2021. The number has indeed decreased from 2020 which reached 117 cases. However, this decline cannot yet be an indicator that the independence/freedom of the press in Indonesia is better than the previous year. In comparison, the massive rejection of the Job Creation Law led to at least 77 cases of violence against journalists who were reporting.

These 55 cases were spread across 19 provinces in Indonesia, with the most cases being obstruction of journalists from reporting. The high number of cases hindering the work of journalists proves the lack of public understanding of the existence of Article 18 of the Press Law which has been in effect since the fall of the authoritarian regime in Indonesia. Terror/intimidation/threats against reporters are still quite high in 2021. This condition at least gives an illustration that legal protection for ink coolies

is still limited to scratches on paper. Worse, the criminalization of journalists is still happening at a fairly high level, even though there are joint regulations between law enforcement and the Press Council that emphasize reporting and criminal acts.

Data collection methods are carried out through monitoring media reports, direct complaints, and/or victim confirmation during the period January 1 to December 29, 2021. In addition, data collection on press cases also involves LBH Pers in regions, such as Makassar, Surabaya, Padang, Ambon, Manado, and the Papua Land Press Legal Aid Association.

Regarding the perpetrator. No different from the year Previously, the alleged perpetrators of violence against the press in 2021 were still dominated by the police with 10 cases. The difference is, in 2020 attacks on journalists or media by the authorities occurred during the coverage of rallies. This year actually happened when journalists made efforts to cover and publish reports related to the work of the police.

In addition to police officers, throughout 2021 violence against the press is also suspected to be the most committed by public officials. Among them were regional heads (4 cases), other public officials such as ministers, legislators, and service heads (5 cases), state civil servants (2 cases), and adjutant public officials (4 cases).

2. Asrul's Criminalization: Press Law Made Not "Toothed"

Journalist Asrul was sentenced to 3 months in prison. The Panel of Judges at the District Court of Palopo City, South Sulawesi stated that the defendant Muhammad Asrul, a journalist, was legally and convincingly proven to have violated Article 27 paragraph (3) Juncto Article 45 paragraph (1) of the ITE Law. On this basis, the Panel of Judges sentenced Muhammad Asrul to three months in prison on Tuesday, November 23, 2021.

There are notes in the Asrul case including: First, Assembly Judge from the start did not apply the concept of journalistic responsibility. Construction The decision stating that Asrul must be responsible for the news is a mistake in constructing the law. Referring to the explanation of Article 12 of the Press Law, the person in charge is the person in charge of the press company which includes the business and editorial fields. Second, the Panel of Judges tried journalistic works with criminal law. Whereas clearly, journalistic work is legally protected by the Press Law.

Asrul's case teaches that there are still many apparatus law enforcers who do not understand the anatomy of the Press Law in context law enforcement that causes journalists to be held accountable for news before the court.

3. Criminalization of Journalist Diananta: Imprisoned Ethics Violation

Diananta Putra Sumedi, a journalist for the online media banjarhits.id in South Kalimantan, must be imprisoned after being found guilty by the Kotabaru District Court. He was reported by his own resource person to the South Kalimantan Regional Police on November 15, 2019 on charges of violating Article 28 paragraph (2) of the ITE Law after providing coverage on the agrarian conflict that occurred in Kotabaru with the title "Land robbed of Jhonlin, Dayak complained to the South Kalimantan Police". For information, banjarhits.id is one of the media gathered in the Kumparan.com 1001 media program. The Diananta criminalization case at least gives us some information, namely: First, the police asked for an expert without going through the Press Council. Second, the results of the Press Council's assessment stated Coil.com as the program holder is obliged to give the right of reply and submit an apology. Third, Kumparan.com should be the one responsible for reporting, not Diananta as a journalist. Fourth, if you look closely at the court's decision, Diananta is actually said to have violated the code of ethics, so the process should use the Press Law approach, not other rules, including criminal law.

4. Verdict of the Perpetrator of Violence Against Tempo Journalist Nurhadi

On Wednesday 12 January 2022, the Panel of Judges sentenced the accused perpetrators of journalistic violence to a sentence of 10 months in prison and a restitution of Rp. 13,813,000, - to Nurhadi and Rp. 21.850.000,- to F. This verdict is lower than the prosecutor's demand, which is 1 year and 6 months in prison. The sentences handed down to the two perpetrators of violence against journalists are considered very low. Because the perpetrators are unscrupulous police officers who carry out a series of actions such as obstructing journalistic work, persecution, and confinement of journalists who are carrying out press functions. Although the verdict handed down by the judge has not been maximized, this decision will set a good precedent for the protection of journalists who are victims of violence by law enforcement officers. We all know that law enforcement agencies have been the most violent against journalists in recent years. The judge's decision to drag the perpetrators from the police institution to court becomes good jurisprudence. Moreover, the perpetrators were found guilty of committing a criminal act of obstruction of journalistic activity as stipulated in Article 18 paragraph (1) of the Press Law. The criminal use of Article 18 paragraph (1) of the Press Law in this case is also

an important note that the penalties in the Press Law are very likely to be implemented for cases related to obstruction of journalistic activities. However, there are also several important notes that have become a concern for civil society regarding the demands of the Public Prosecutor and the verdict of the Panel of Judges against Nurhadi. The judge's decision to drag the perpetrators from the police institution to court becomes good jurisprudence. Moreover, the perpetrators were found guilty of committing a criminal act of obstruction of journalistic activity as stipulated in Article 18 paragraph (1) of the Press Law. The criminal use of Article 18 paragraph (1) of the Press Law in this case is also an important note that the penalties in the Press Law are very likely to be implemented for cases related to obstruction of journalistic activities. However, there are also several important notes that have become a concern for civil society regarding the demands of the Public Prosecutor and the verdict of the Panel of Judges against Nurhadi. The judge's decision to drag the perpetrators from the police institution to court becomes good jurisprudence. Moreover, the perpetrators were found guilty of committing a criminal act of obstruction of journalistic activity as stipulated in Article 18 paragraph (1) of the Press Law. The criminal use of Article 18 paragraph (1) of the Press Law in this case is also an important note that the penalties in the Press Law are very likely to be implemented for cases related to obstruction of journalistic activities. However, there are also several important notes that have become a concern for civil society regarding the demands of the Public Prosecutor and the verdict of the Panel of Judges against Nurhadi. Moreover, the perpetrators were found guilty of committing a criminal act of obstruction of journalistic activity as stipulated in Article 18 paragraph (1) of the Press Law. The criminal use of Article 18 paragraph (1) of the Press Law in this case is also an important note that the penalties in the Press Law are very likely to be implemented for cases related to obstruction of journalistic activities. However, there are also several important notes that have become a concern for civil society regarding the demands of the Public Prosecutor and the verdict of the Panel of Judges against Nurhadi. Moreover, the perpetrators were found guilty of committing a criminal act of obstruction of journalistic activity as stipulated in Article 18 paragraph (1) of the Press Law. The criminal use of Article 18 paragraph (1) of the Press Law in this case is also an important note that the penalties in the Press Law are very likely to be implemented for cases related to obstruction of journalistic activities. However, there are also several important notes that have become a concern for civil society regarding the demands of the Public Prosecutor and the verdict of the Panel of Judges against Nurhadi. The criminal use of Article 18 paragraph (1) of the Press Law in this case is also an important note that the penalties in the Press Law are very likely to be implemented for cases related to obstruction of

journalistic activities. However, it is also inseparable, there are several important notes that have become a concern for civil society regarding the demands of the Public Prosecutor and the verdict of the Panel of Judges against Nurhadi. The criminal use of Article 18 paragraph (1) of the Press Law in this case is also an important note that the penalties in the Press Law are very likely to be implemented for cases related to obstruction of journalistic activities. However, it is also inseparable, there are several important notes that have become a concern for civil society regarding the demands of the Public Prosecutor and the verdict of the Panel of Judges against Nurhadi.

5. Sexual Violence Threatens in the Media Industry

There are two crucial issues when we talk about gender and media issues. First, the violence experienced by journalists of various genders in reporting. Both media present the issue of sexual violence. In conducting field coverage, including in interviewing sources, female journalists often become victims of sexual violence. The Press Legal Aid Institute has carried out socialization activities for women journalists in several regional media in the form of security protocols for reporting.

Perspectivebusiness is still very dominant for the media in Indonesia. Although there are several media that are critical of reporting and actively encourage important policies such as the passage of the Draft Law on the Elimination of Sexual Violence, they are still inferior to the media that sensationalizes and objectifies women. Efforts to encourage editorial policies that have a gender perspective in the end always find a dead end because they are dealing with the interests of the media owners who prioritize business, thus turning off their sense of empathy. In addition, the gender perspective is still not evenly shared by policy makers such as the Indonesian Broadcasting Commission and the Press Council.

6. Covid-19 and Portraits of the Welfare of Media Workers Employment Violation Complaints Post

LBH Pers and AJI Jakarta continue to open a post for complaints on labor violations. Throughout 2021, there were 85 complaints from media workers. For every complaint that comes in, LBH Pers prepares a legal consultation facility to help resolve industrial relations disputes experienced by media workers. Of the 85 complainants, 62.3% of the complainants admitted that their labor rights had been violated, while 36.4% of the complainants experienced termination of employment, and 1.1% admitted that they had experienced a breach of contract (rights dispute).

Based on data on complaints and legal assistance conducted by LBH Pers, it is not uncommon for repeated labor violations to occur. If you look at the data on layoffs experienced by 31 complainants, as many as 61.2% first experienced rights violations, either reduced wages, wage cuts and or THR, BPJS employment payments, to employee housing with deductions or without wages. In addition to rights violations, it turns out that the complainants were laid off after experiencing demotion or demotion (3.2%) and criminal charges (3.2%). Meanwhile, 32.2% said that they had not experienced any other violations.

7. Questioning the Government's Authority in Disconnecting the Internet

LBH Pers assessed, the authority to disconnect the internet by the government has the potential for arbitrary actions to occur. There are at least 3 concerns that arise through this authority: *First*, The termination of electronic access is carried out with too easy prerequisites, namely the discovery of electronic information containing unlawful content. On the other hand, the definition of information or electronic documents containing unlawful content is not clearly defined. This is feared by the potential for unilateral definition and concerns about subjectivity from the party given the authority, namely the government. (breaking or not breaking the law should be determined by the judiciary, not the government). *Second*, The process of terminating internet access is not regulated in the ITE Law, it is only explained that as long as the prerequisites are met, the government has the authority to order or terminate internet access. Although the termination process is further regulated in derivative regulations, it is still not fully based on human rights. Third, the limitation of the scope of termination of access is not specifically explained in the ITE Law, it opens the potential for termination of internet access as widely as possible based on a potentially subjective assessment. This departs from reflectionpost case decelerationto the severance of internet access in several areas in Papua and West Papua by the government which was decided as an unlawful act through the Administrative Court Decision No. 30/G/TF/2019/PTUN-JKT.

8. Revised Plan, SKB ITE Law to Virtual Police

Jokowi's statement for ask forhis ranks formInterpretationit is true. On June 23, 2021, a Joint Decree, in this case the Minister of Communication and Information (Kominfo), the Attorney General, and the National Police Chief,signLetter of SKB 3institutionregarding, Guidelines for the Implementation of Certain Articles in Law Number 11 Year 2008 concerning ITE. Some Articlesinterpretedin this SKB, namely, Article 27 paragraph (1), Article 27 paragraph (2), Article 27 paragraph (3), Article 27 paragraph (4), Article 28 paragraph (1), Article 28 paragraph (2), Article 29, and Article

36. Articles that often ensnare journalists are Article 27 paragraph (3) regarding defamation and Article 28 paragraph (3) regarding hate speech. There are several points that become the focus of journalistic work, namely in reporting on the internet carried out by the Press institution, which is journalistic work in accordance with the provisions of Law Number 40 of 1999 concerning the Press, a mechanism is applied in accordance with Law Number 40 of 1999 concerning the Press as *lex specialis*, not Article 27 paragraph (3) of the ITE Law. For press cases, it is necessary to involve the Press Council. But if the reporters personally upload personal writing on social media or the internet, the ITE Law, including 27 paragraph (3), will still apply. For Article 28 paragraph (2), journalists in this case are often reported to this Article, but in the SKB there are already important points, namely, acts with a motive to arouse hatred and/or hostility on the basis of SARA, law enforcers must first prove the motive marked with an invitation, influencing, moving the community, inciting / pitting against each other with the aim of causing hatred, and or hostility. Some notes in the SKB 3 of these institutions, the articles mentioned in this SKB have been problematic since their creation, so it is not the SKB that appears but must be revised. This SKB UU ITE is also not a binding legal product. In the legislation, the presence of the SKB is also not clear so that in its application the SKB can only be seen with one eye, and will still refer to the ITE Law in the end. This guideline is a signal for discussion of the revision of the ITE Law and is interpreted as the implementation of the transition to ratification of the second revision of the ITE Law.

C. Looking to the Year 2022

Based on the notes above, a common thread can be drawn that the conditions for press freedom, freedom of expression and information disclosure is not okay in 2021. So there are several projections for 2022 that are very important for look and develop strategies to respond to them. Among others are :

1. Physical violence experienced by journalists continues to occur. There is no settlement and legal process for perpetrators of violence against journalists. Media companies where journalists work also do not provide support in encouraging the resolution of violent cases to law enforcement. Until the slow legal process carried out by the Police.
2. Cyber attacks include giving a hoax label to journalistic work and doxing is a serious threat to the press. It is predicted that this hoax stamp will become a new pattern of violations of press freedom, so it is necessary if the resolution of press disputes is brought to the realm of the Press Council or provides space for the right to answer.
3. The potential for criminal cases against journalists is increasingly wide open, as experienced by Sadli Saleh, Diananta and Asrul. As long as the ITE Law can still

- criminalize journalists, this situation is still said to be unsafe, and law enforcement officers are added who ignore the recommendations/assessments of the Press Council.
4. Massive media content socialmake the press media has a fairly tight competition. More and more content creators such as YouTubers and others who resemble press media are popping up. The public is proffered with a tsunami of information and is required tosmartchoose information on the internet. Choosing the right information will also affect your lifesocialPublic. The press media is expected to be balanced and a provider of information that can be trusted by the public, including beingcuratoron information circulating on social media.
 5. The impact of the Job Creation Law and its regulations are increasingly felt for media workers. Several cases handled by LBH Pers assessed that there were very significant changes compared to the previous regulations. In the future, it is projected that there will be patterns of violations, low wages for contract workers, and termination of employment.
 6. In 2022, there will be at least three regulations that are being vigorously pushed into the legislative discussion. We all know about the revision of the ITE Law that civil society already has a policy paper on article proposals that must be amended and besides that, they are currently compiling a list of problems with the draft revision of the ITE Law given by the Government to the DPR. One offocus important is initiativethe government that adopted the criminalization of articles on fake news from Law Number 1 of 1946 concerning Criminal Law into additional articles in the draft revision of the ITE Law. In practice, this article is often misused to criminalize freedom of expression.
 7. Media workers for various genders currently really need protection in carrying out their journalistic work and the importance of the Operational Standards for Handling Sexual Violence (SOP) in media companies in order to create a safe space for journalists of various genders until the House of Representatives immediately ratify the Draft Law on the Crime of Sexual Violence. In addition, the importance of the media in framing the coverage of sexual violence has not been a concern in the newsroom. So the Press Council needs to make a regulation regarding gender-friendly reporting.
 8. The policy of the Minister of Communication and Informatics Number 5 of 2020 concerning the Operator of the Private Scope of Electronic Systems, must be taken seriously by civil society, because it relates to restrictions on expression and information in the digital realm. An important note from this regulation is that information and documents that are considered disturbing to the public and disturbing public order actually do not have clear benchmarks. This opens the potential

for determining subjective assessments and definitions from the party given the authority, in this case the government.
