

A BRIEF OVERVIEW OF INDONESIA INTERNET LANDSCAPE

by ICT Watch, Indonesia



Written by Donny B. U.



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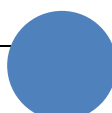
Writer: Donny B.U. (dbu@donnybu.com)
and ICT Watch Team (www.ictwatch.com)

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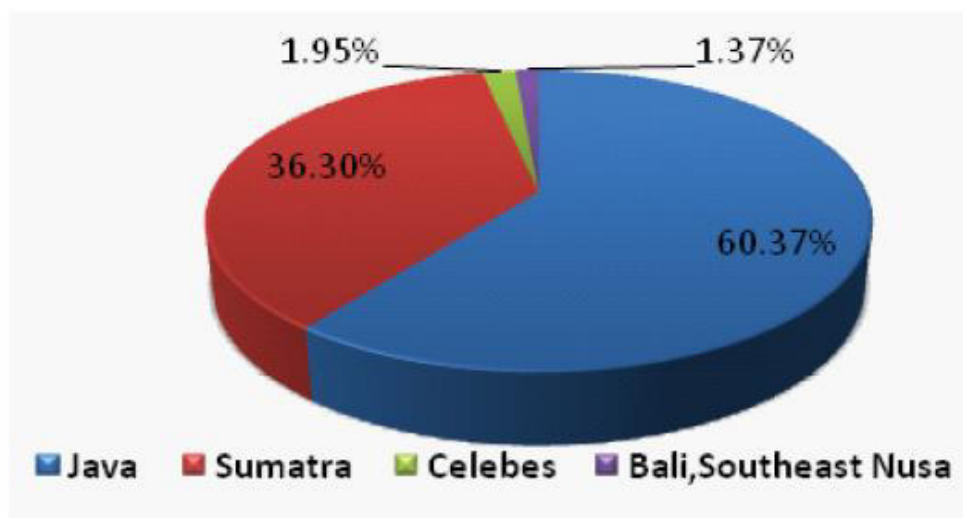


A Brief Overview of Indonesia Internet Landscape

1. Access to Internet

A survey conducted by Indonesian Internet Service Provider Association (APJII) in collaboration with Central Bureau of Statistics (BPS) reveals that the number of internet user in Indonesia by the end of 2013 has reached 71.19 million people or 28% of the country's 248 million population.¹ The number of Internet Service Provider (ISP) which are registered as APJII member are 300 ISPs.² According to APJII³ survey, internet users in Indonesia are concentrated in western part of Indonesia, particularly Java, with penetration level of 36.9% of the total population in the island. In addition, about 83.4% of internet user in Indonesia reside in urban area⁴.

Thus, it is not surprising that telecommunication and internet infrastructure development is still focused in Java. Java population currently constitutes 58% of the national total population. In addition, three provinces that contribute most to the country's GDP are located in Java, namely DKI Jakarta (16.72%), East Java (14.87%), and West Java (14.17%). The three provinces contribute totally 45.76% of Indonesia's GDP⁵. The concentrated infrastructure in Java can be seen in the following indicator:



Source: ADO Statistic, Directorate of Control- D.G.PPI, 2011

(Fibre Optic Distribution in Main Islands of Indonesia⁶)

¹ Internet Users 71.19 Million (APJII, 15 January 2014, Bahasa Indonesia). Retrieved 12 March 2014, from: <http://id.berita.yahoo.com/apjii-pengguna-internet-71-19-juta-2013-074905800.html>

² Profile of the Current Internet Industry in Indonesia (APJII, 15 January 2014, Bahasa Indonesia). Retrieved 12 March 2014 from: <http://www.apjii.or.id/v2/read/content/info-terkini/213/press-release-profil-terkini-internet-industri-ind.html>

³ 2012 Internet Indonesia Profile (APJII, 12 July 2012, Bahasa Indonesia). Retrieved 12 March 2014 from: <http://www.apjii.or.id/v2/read/article/laporan-publik/177/profil-internet-indonesia-2012.html>

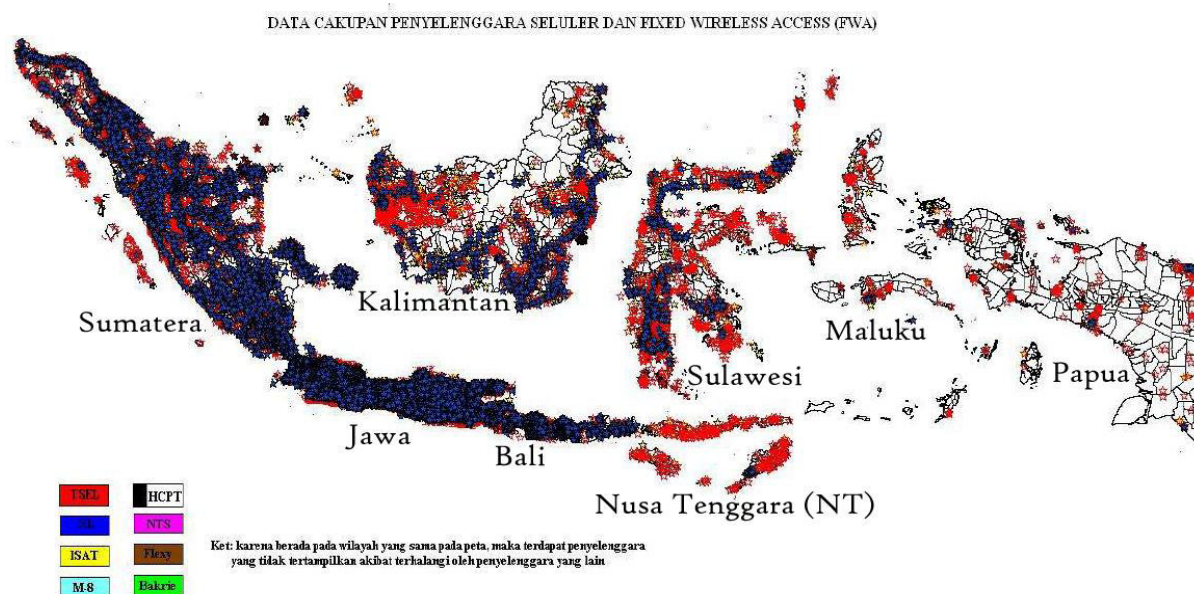
⁴ Indonesia Nettizen Survey 2013 (MarkPlus Insight, November 2013, Bahasa Indonesia). Markeeters Magazine, Indonesia.

⁵ Already 30 Years Economic Growth Concentrated on Java Island (6 February 2014, Bahasa Indonesia). Retrieved 12 March 2014 from: <http://economy.okezone.com/read/2014/02/06/20/936865/sudah-30-tahun-pertumbuhan-ekonomi-terpusat-di-pulau-jawa>

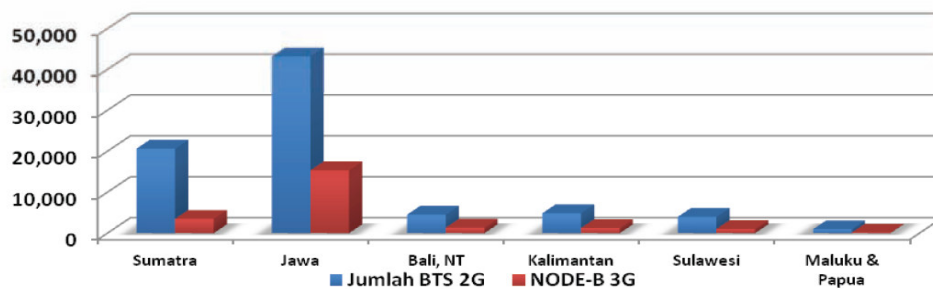
⁶ ICT Whitepaper Indonesia 2012 (Kominfo, January 2013). Retrieved 12 March 2014 from: <http://balitbang.kominfo.go.id/balitbang/ppi/files/2013/01/ICT-White-Paper-Kominfo-2012-Eng.pdf>

According to Indonesian Cellular Telecommunication Association (ATSI), the number of cellular subscriber in Indonesia has already exceeded 270 million of active number⁷. Of that total number, about 115 million of numbers are recorded to have used data service⁸. Certainly, though, that the total subscriber number cannot reflect the real user number, as one user can have more than one number.

Due to Indonesia's geographic condition which is stretched across thousands of islands, development of cable-based telecommunication infrastructure is hard and expensive⁹. Indonesia then depends on cellular or mobile broadband technology service¹⁰. The distribution of cellular service and fixed wireless access providers are also still concentrated in West Indonesia, particularly in Java, as depicted on the following image:



(Density of Indonesian Cellular Services¹¹)



Sumber: Statistik ADO Dit. Pengendalian - Ditjen PPI, 2011

(Distribution of 2G BTS and 3G Node in Indonesia¹²)

⁷ There are 30 Million Teenagers Use Internet (18 January 2014, Bahasa Indonesia). Retrieved 12 March 2014 from: <http://news.detik.com/read/2014/02/18/144011/2500934/10/ada-30-juta-abg-gunakan-internet-bagaimana-mereka-bisa-hindari-pornografi>

⁸ Customer Mobile Data Services Estimated Rise 40% (15 January 2014, Bahasa Indonesia). Retrieved 12 March 2014 from: <http://www.indonesiaincancetoday.com/read/56818/Pelanggan-Layanan-Data-Mobile-Diestimasi-Naik-40>

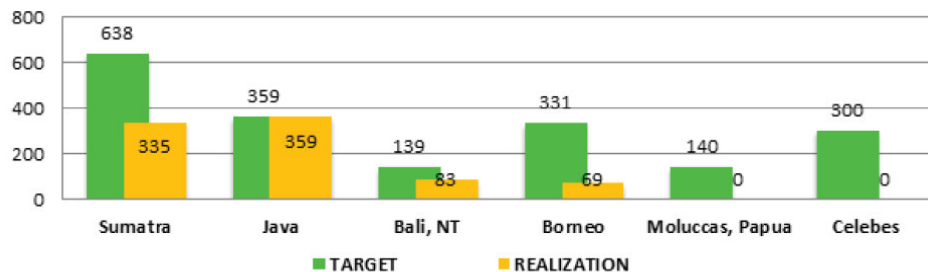
⁹ Crossroads: Democratization & Corporatization of Media in Indonesia (Merlyna Lim, October 2011). Retrieved 12 March 2014 from: http://participatorymedia.lab.asu.edu/files/Lim_Media_Ford_2011.pdf

¹⁰ Utilization of Radio Frequency Spectrum and Orbit Satellite in Promoting Broadband Development (Kominfo presentation, 16 September 2013, Bahasa Indonesia). Retrieved 12 March 2014 from:

<http://web.kominfo.go.id/sites/default/files/Paparan%20Bapak%20Dirjen%20SDPPI%20Rakornas%202013.pdf>

¹¹ Ibid.

With the still unequal internet penetration across regions in Indonesia, especially in East Indonesia, some programs have been developed to solve the problem. For instance, since 2010, the Ministry of Communication and Information Technology (MCIT/Kominfo) has started developing a program named Subdistrict Internet Service Center (PLIK) and Mobile PLIK (MPLIK)¹³. MPLIK is designed to provide affordable internet access to community in rural areas by using satellite connection.



Source: ADO Statistic, Dit. of Control, D.G. PPI, 2011

(Distribution of Subdistrict Mobile Internet Access MPLIK per 2011¹⁴)

Based on the latest report, 5748 PLIK units and 1907 MPLIK units were procured¹⁵. The program triggered criticism from many as it is considered not effective in some locations due to the lack of electricity issue,¹⁶ difficult local condition,¹⁷ suspected corruption in procurement,¹⁸ and problems in socialization and coordination in field.¹⁹



(An MPLIK at Sukabumi Regency, West Java²⁰)

¹² ICT Whitepaper Indonesia 2012 (Kominfo, January 2013). Retrieved 13 March 2014 from:

<http://balitbang.kominfo.go.id/balitbang/ppi/files/2013/01/ICT-White-Paper-Kominfo-2012-Eng.pdf>

¹³ MCIT Decree No. 19/PER/M.KOMINFO/12/2010 (Kominfo, 13 December 2010, Bahasa Indonesia). Retrieved 13 March 2014 from:

<http://dittel.kominfo.go.id/wp-content/uploads/2013/06/PM-19-2010.pdf>

¹⁴ ICT Whitepaper Indonesia 2012, Op.Cit.

¹⁵ National Policy on Rural ICT (Kominfo presentation, 23 March 2011). Retrieved 10 March 2014 from: http://www.itu.int/ITU-D/asp/CMS/Events/2011/ITU-ADB/Indonesia/Session1-lbu_Woro.pdf

¹⁶ PLIK and MPLIK Option Programs Are Not Optimal Yet (27 July 2012, Bahasa Indonesia). Retrieved 13 March 2014 from:

<http://dishubkominfo.kalselprov.go.id/?q=node/185>

¹⁷ PLIK/MPLIK Condition in Regions (1 October 2012, Bahasa Indonesia). Retrieved 13 March 2014 from: <http://relawan-tik.org/pengumuman-pemenang-lomba-reportase-kondisi-plik-mplik-di-daerah>

¹⁸ APNATEL Urges Corruption Eradication Commission Conducts Investigation” (6 September 2012, Bahasa Indonesia). Retrieved 13 March 2014 from: <http://www.neraca.co.id/2012/09/06/apnatel-desak-kpk-lakukan-pengusutan>

¹⁹ Gorontalo Governor Rejects MPLIK from Jakarta (15 December 2012, Bahasa Indonesia). Retrieved 13 March 2014 from:

<http://news.liputan6.com/read/442259/gubernur-gorontalo-tolak-bantuan-mobil-internet-dari-jakarta>

²⁰ Photo 10 June 2012, Retrieved 13 March 2014 from: <http://foto.news.viva.co.id/read/7171-penggunaan-mobile-plik/85029>

Responding to this, the Parliament (DPR) has requested the State Audit Agency (BPK) to audit PLIK and MPLIK programs.²¹ Furthermore, DPR also requested the program to be postponed until the audit process completed.²² In the end of 2013, Ministry of Information said it was reevaluating²³ the program that was funded through Universal Service Obligation (USO)²⁴. USO fund was obtained from levy imposed to all telecommunication operators which amounts 1.25% of the company's annual income. However, the USO levy policy was also complained by Internet Service Association (APJII).²⁵ APJII filed a claim to Constitutional Court, arguing that the levy, which was only based on Government Regulation, harmed or may potentially harm ISPs. In the end, APJII requested that the percentage or amount of levy designated by the government must gain approval from Parliament in the first place.

One of other efforts currently being done by the government to bridge the gap of telecommunication infrastructure in Indonesia is Palapa Ring Project. Being also funded through USO, the project is aimed to develop optic fibre infrastructure to reach out all places across Indonesia.



Palapa Ring 33 provinces, 440 regencies / cities, 1 + 7 Ring

(Palapa Ring²⁶)

Palapa Ring Infrastructure will be stretched from the tip of Sumatra until Papua, with back haul network connecting it.²⁷ Palapa Ring, a.k.a. Nusantara Superhighway Project, is hoped to overcome the gap of telecommunication and internet infrastructure in Indonesia. If this project is completed, a national optic fibre network will be ready to serve as the backbone of the country's information and communication system, increasing significantly broadband speed and reducing cost of online communication and access.

²¹ Parliament Requests the State Audit Agency to Audit PLIK and MPLIK Program (3 April 2013, Bahasa Indonesia). Retrieved 13 March 2014 from: <http://international.sindonews.com/read/2013/04/03/34/733926/komisi-i-dpr-minta-bpk-audit-program-plik-mplik>

²² Commission I Requests PLIK and MPLIK Program to Moratorium (18 March 2013, Bahasa Indonesia). Retrieved 13 March 2014 from: <http://www.dpr.go.id/id/berita/komisi1/2013/mar/18/5394/Komisi-I-Minta-Program-PLIK-dan-MPLIK-di-Moratorium->

²³ MCIT Ministry Evaluates PLIK and MPLIK Program (29 December 2013, Bahasa Indonesia). Retrieved 11 March 2014 from: <http://www.investor.co.id/home/menkominfo-evaluasi-proyek-plik-dan-mplik/74980>

²⁴ MPLIK Program Expected Supports Broadband Ready Program (25 July 2012, Bahasa Indonesia). Retrieved 13 March 2014 from: <http://www.lensaIndonesia.com/2012/07/25/program-mplik-diharapkan-mendukung-program-broadband-ready-telkom.html>

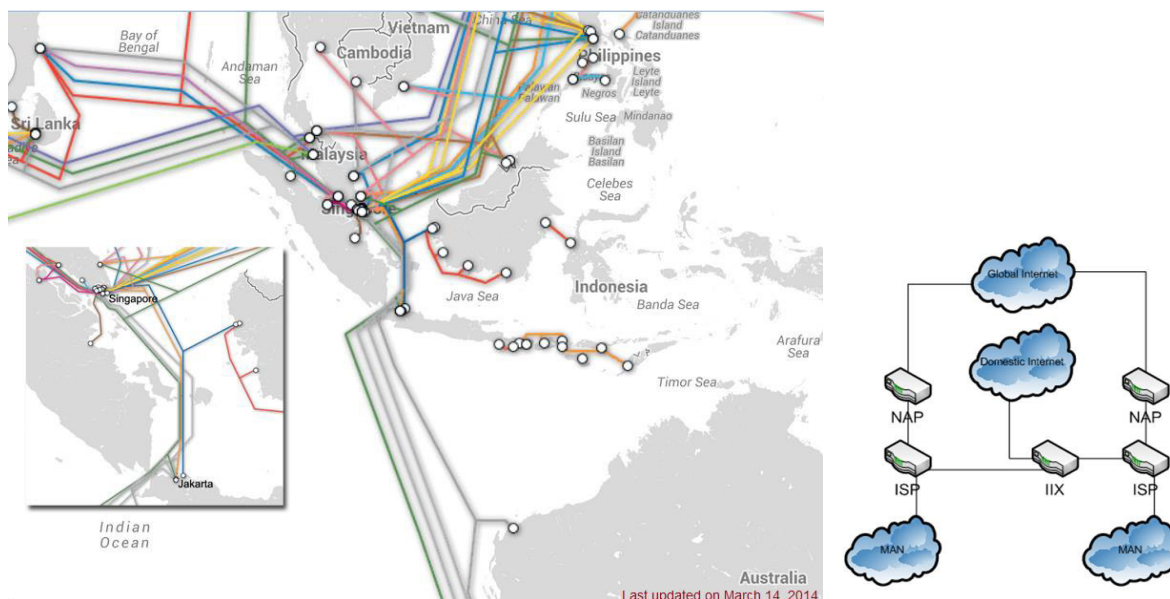
²⁵ If The Constitutional Court grants APJII lawsuit, MCIT potential lost will be Rp 13 Trillion. (4 March 2014, Bahasa Indonesia). Retrieved 13 March 2014 from: <http://majalahict.com/berita-4201-jika-mk-kabulkan-gugatan-apjii-dan-fpi-kominfo-potensi-kehilangan-rp-13-triliun-pnbp-.html>

²⁶ ICT Whitepaper Indonesia 2012, Loc.Cit.

²⁷ Palapa Ring at a Glance (21 October 2013, Bahasa Indonesia). Retrieved 13 March 2013 from: http://kominfo.go.id/index.php/content/detail/3298/Sekilas+Palapa+Ring/0/palapa_ring#.UzPLDqK0tEM

This system will consist of seven interconnected “rings” in 33 provinces and 440 subdistricts, with a total of 57,087 kilometer long of optic fibre cable, both underwater and underground, which will be connected to the existing network. In February 2012, it was reported that 46,000 kilometers or 80% of the network has been completed.²⁸

Indonesia basically doesn’t have any centralized infrastructure for internet and telecommunication need to global network. There are several links connecting Indonesia to global network. For optic fibre, the network is connected to Singapore, which is the main hub for a number of underwater cables that serve Asia Pasific and Europe.



(Left: Underwater cable currently connecting Indonesia²⁹, Right: Indonesian Internet Exchange Scheme³⁰)

For domestic traffic efficiency and access speed, there are at least 2 main exchange points that connect ISPs in Indonesia, namely the Indonesia Internet Exchange (IIX) that is managed by APJII, and OpenIXP, managed by Indonesia Data Center (IDC). Based on government regulation, ISP in Indonesia can only take bandwidth from global network through Network Access provider (NAP).³¹ There are currently 49 NAPs in Indonesia.³²

Based on analysis by IIX, 2 largest ISPs in Indonesia in term of traffic utilization are Telkomnet and Biznet.³³ That makes sense, as Biznet, which ranked second, has 90% of its total 60,000 broadband customers from corporates,³⁴ while Telkomnet, a Telkom subsidiary, controls the largest broadband market, with 63.5 million customers across Indonesia.³⁵

²⁸ 100% Broadband infrastructure targeted to be achieved this year (7 February 2012, Bahasa Indonesia). Retrieved 14 March 2014 from: <http://www.indonesiainfocenter.com/read/21900/Penetrasi-Infrastruktur-Broadband-100-Ditargetkan-Tercapai-Tahun-Ini>

²⁹ Submarine Cable Map (14 March 2014). Retrieved 14 March 2014 from: <http://submarinemap.com/#/country/indonesia>

³⁰ <http://www.apjii.or.id/DOC/Presentasi15/overview-of-apjii-and-iix.pdf>

³¹ MCIT Circular Letter No. 568/DJPP/KOMINFO/4/2012 (4 September 2012, Bahasa Indonesia). Retrieved 14 March 2014 from: <http://dittel.kominfo.go.id/wp-content/uploads/2014/01/SE-568-2012.pdf>

³² Reopening Internet Interconnection (Network Access Point / NAP) Services License (26 September 2012, Bahasa Indonesia). Retrieved 14 March 2014 from: http://sdppi.kominfo.go.id/?mod=news&action=view&cid=26&page_id=1937&lang=id

³³ APJII Open Policy Meeting (APJII presentation, 21 February 2013). Retrieved 14 March 2014 from:

http://www.apjii.or.id/v2/upload/Artikel/AOPM_21Feb2013_Surabaya.pdf

³⁴ Biznet successfully access money via internet (16 September 2013, Bahasa Indonesia). Retrieved 14 March 2014 from:

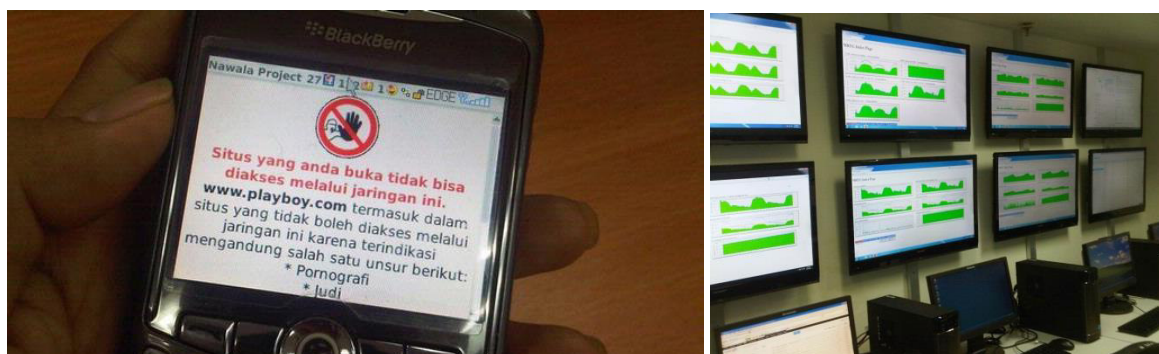
<http://suarapengusaha.com/2013/09/16/adi-kusma-bos-biznet-yang-sukses-mengakses-duit-lewat-internet/>

³⁵ Telkom Targets 11% Revenue Growth (24 January 2014, Bahasa Indonesia). Retrieved 14 March 2014 from:

<http://m.suaramerdeka.com/index.php/read/news/2014/01/24/188418>

2. Blocking and Filtering

In Indonesia, there is yet any specific regulation that serves as reference in online content filtering procedure. Efforts related thereto are done by each ISP through different policy and database.³⁶ For instance, Indosat Mega Media (IM2) ISP has developed its own filtering system named NetSAFE.³⁷ Other ISPs prefer to use third party service, namely DNS Filtering named DNS Nawala. Being managed by Yayasan Nawala Nusantara (a foundation), DNS Nawala filters porn and gambling as well as other sites considered harmful or violating the law, such as scam site, malware, phishing and proxy.³⁸ APJII has signed agreement with Nawala to provide five servers and operational cost to support those servers, while Nawala on the other hand will provide domain database and negative content.³⁹ Telkom has also provided infrastructure support to Nawala.⁴⁰



(Left: Blackberry is using DNS Nawala⁴¹, Right: Nawala Monitoring Center⁴²)

In addition to providing routine report in APJII site⁴³, Nawala also provides clear contact address⁴⁴ and complaint form⁴⁵ for those who want any particular site to be blocked or unblocked (in case of wrong-blocking) by Nawala.

Although the use of DNS Nawala is not compulsory to APJII members, APJII Chairperson said, according to the Electronic Information and Transaction Law, ISPs are considered liable for contents that pass through their infrastructures. That was the main reason behind APJII's cooperation with Nawala to provide such filtering service to its members.⁴⁶ In particular, it is because every ISP is obliged to comply with Telecommunication Law, Electronic Information and Transaction law, and Pornography Law, among others, as conditions to obtain ISP license from MCIT⁴⁷.

³⁶ Internet Blocking in Indonesia is not Consistent (24 February 2013, Bahasa Indonesia). Retrieved 14 March 2014 from: <http://tekno.kompas.com/read/2013/10/24/0844227/Blokir.Internet.di.Indonesia.Tidak.Konsisten>

³⁷ IM2 Launches Netsafe for Blocking Porn (2 July 2010, Bahasa Indonesia). Retrieved 14 March 2014 from: <http://teknologi.news.viva.co.id/news/read/161825-im2-resmikan-netsafe-untuk-blokir-situs-porno>

³⁸ Internet Sehat with Nawala DNS (Bahasa Indonesia). Retrieved 14 March 2014 from: <http://www.nawala.org/berita/dns-nawala/58-internet-sehat-dengan-dns-nawala>

³⁹ Number of Sites Blocked in Indonesia Will Continue Added (8 August 2012, Bahasa Indonesia). Retrieved 14 March 2014 from: <http://tekno.kompas.com/read/2012/08/08/07514375/Jumlah.Situs.Terblokir.di.Indonesia.Akan.Terus.Ditambah>

⁴⁰ Telkom Supports Government Realizing Internet Healthy and Secure via DNS Nawala CSR Program (17 November 2009, Bahasa Indonesia). Retrieved 14 March 2014 from: <http://telkom.net/pojok-media/siaran-pers/telkom-dukung-pemerintah-mewujudkan-internet-sehat-dan-aman-melalui-program-csr-dns-nawala.html?lid=id>

⁴¹ Photo 19 January 2011. Retrieved 14 March 2014 from: <http://assets.kompas.com/data/photo/2011/01/19/1618345620X310.jpg>

⁴² Photo uploaded 24 October 2012. Retrieved 14 March 2014 from: <https://www.facebook.com/groups/nawala>

⁴³ Public Report page. Retrieved 14 March 2014 from: <http://www.apjii.or.id/v2/read/index-article/laporan-publik.html>

⁴⁴ About Nawala (Bahasa Indonesia). Retrieved 14 March 2014 from: <http://www.nawala.org/tentang-nawala>

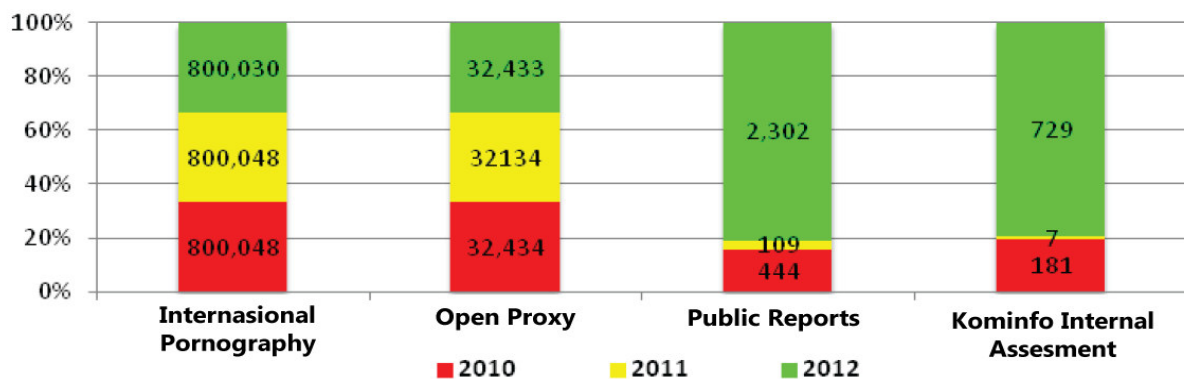
⁴⁵ Report Form (Bahasa Indonesia). Retrieved 14 March 2014 from: <http://www.nawala.org/form-pengaduan>

⁴⁶ APJII Officially Partners with Nawala (10 August 2012) Retrieved 14 March 2014 from: <http://en.dailysocial.net/post/apjii-officially-partners-with-nawala>

⁴⁷ Government Reopen Internet Service Licensing (1 October 2012, Bahasa Indonesia). Retrieved 14 March 2014 from: <http://kominfo.go.id/berita/detail/3572/Pemerintah+kembali+buka+perizinan+penyelenggara+internet>

If an ISP is deemed fail to comply with those regulations, the ministry will cancel its license.⁴⁸ This was once stated by the MCIT Minister, who threatened to cancel the license of ISPs that were considered as participating in distributing or enabling the distribution of pornography.⁴⁹

The MCIT Ministry also builds database⁵⁰ of “blacklist” of negative sites, named as ‘Trust Positif’.⁵¹ It is estimated that there are about 1 million web address in the database, consisting of sites that shall not be accessed.⁵² Per March 2014, for “international pornography” category, there were 744,032 domains and 54,795 sites included in the database.⁵³ Unlike Nawala, Trust Positif doesn’t contain contract reference or clear complaint form if someone wants to report a wrongly blocked website.⁵⁴ The site only provides email: aduankonten@depkominfo.go.id (*aduankonten* means content complaint).



Sumber: Dirjen Aptika, 2012

(Number of domain and URLput into Trust Positif database⁵⁵)

Despite the absence of any official regulation obliging ISP to use this database, it has become a sort of minimum benchmark for ISPs.⁵⁶ At least 12 largest ISPs in Indonesia were declared by the MCIT Ministry as the database users.⁵⁷ The Ministry also provides guide for public to submit report to “Trust Positive team” in case there is ISP that doesn’t do the blocking.⁵⁸

⁴⁸ MCIT Revokes 11 ISP Licenses (22 July 2009, Bahasa Indonesia). Retrieved 15 March 2014 from:

<http://techno.okezone.com/read/2009/07/22/54/241035/depkominfo-cabut-izin-11-isp>

⁴⁹ MCIT Threatens to Revoke ISP License if Spreads Pornography (16 July 2010, Bahasa Indonesia) Retrieved 15 March 2014 from:

<http://www.republika.co.id/berita/breaking-news/nusantara/10/07/16/124904-menkominfo-ancam-cabut-izin-isp-penyebar-pornografi>

⁵⁰ MCIT Already Blocked 1 Million Porn Sites (11 August 2012, Bahasa Indonesia). Retrieved 15 March 2014 from:

<http://www.republika.co.id/berita/trendtek/internet/12/08/11/m8l0yx-kominfo-telah-blokir-satu-juta-situs-porno>

⁵¹ MCIT Cooperates with 12 ISPs to Block Porn Sites (18 July 2012, Bahasa Indonesia). Retrieved 15 March 2014 from:

<http://www.republika.co.id/berita/trendtek/internet/12/07/18/m7cmau-kemkominfo-gandeng-12-isp-blokir-situs-porno>

⁵² Trust Positif Database Website. Retrieved 15 March 2014 from:

<http://trustpositif.kominfo.go.id/files/downloads/index.php?dir=database%2Fblacklist%2F>

⁵³ Trust Positif Information Website. Retrieved 15 March 2014 from: <http://trustpositif.kominfo.go.id/#tabUtama-4>

⁵⁴ Ibid.

⁵⁵ ICT Whitepaper Indonesia 2012, Loc.Cit.

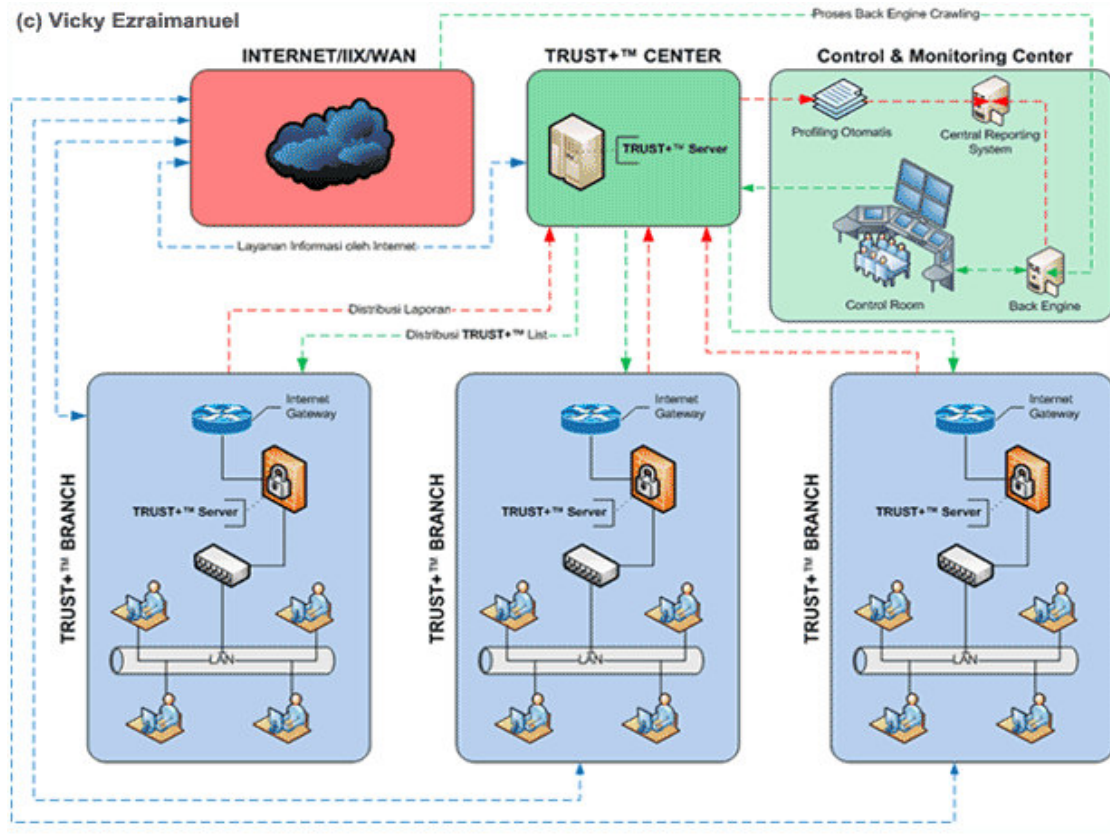
⁵⁶ Wrongly Blocked Because MCIT Too Excited (11 August 2010, Bahasa Indonesia). Retrieved 15 March 2014 from:

<http://inet.detik.com/read/2010/08/11/163754/1418467/398/salah-blokir-karena-kominfo-terlalu-bersemangat?id771108bcj>

⁵⁷ MCIT Cooperates with 12 ISPs to Block Porn Sites, Loc.Cit.

⁵⁸ Guidance for Reporting ISPs That Not Conduct Content Filtering (Bahasa Indonesia). Retrieved 15 March 2014 from:

<http://trustpositif.kominfo.go.id/files/downloads/index.php?dir=dokumen%2F&download=Petunjuk+Melaporkan+ISP.pdf>



(‘Trust Positif’ System Scheme⁵⁹)

In the beginning of March 2014, the MCIT Ministry issued a release⁶⁰ on public test of Draft Ministerial Regulation on Negative Internet Content Blocking.⁶¹ According to ICT Watch,⁶² the Draft is prone to be abused and used to strictly control information by any country, and it may harm people’s freedom of expression and information. The note, which was directly delivered to the Ministry, includes mainly the following points:

1. If the Draft Ministerial Regulation is put into effect, the government, in this regard the Ministry of Communication and Information, will have total control over all information on the internet that may or may not be accessed by Indonesian society, because all internet access in Indonesia must pass through the blocking system that blocks website address (database) with negative content, managed by the Director General of Informatics Application (the government).
2. The Draft doesn’t specify at all on how mandate of database management named “Trust Positif” can be executed by the Director General (government). The mechanism in giving, also concerning the giver and receiver of mandate to manage the database is not transparent and accountable. The database will become something obligatory to be installed by all ISPs across Indonesia.
3. The Draft Regulation also poses a challenge against net-neutrality, because it enables ISP to use various kinds of blocking service and database blacklist service in market, and makes Trust Positif database fulfillment as mandatory. In the end, this will cause each ISP to have various kinds of database blocking system.

⁵⁹ Trust Positif System Scheme. Retrieved 15 March 2014 from: <http://trustpositif.kominfo.go.id/>

⁶⁰ The Draft of Negative Content Blocking Ministerial Decree, Ready for Public Hearing (3 March 2014, Bahasa Indonesia) Retrieved 15 March 2014 from: http://kominfo.go.id/index.php/content/detail/3879/Siaran+Pers+No.+24-PIH-KOMINFO-3-2014+tentang+Uji+Publik+RPM+Yang+Mengatur+Tata+Cara+Pemblokiran+Konten+Internet+Negatif+/0/siaran_pers#.Uya5IM60tEM

⁶¹ The Draft of Negative Content Blocking Ministerial Decree (Bahasa Indonesia). Retrieved 15 March 2014 from: <http://web.kominfo.go.id/sites/default/files/RPM%20Tentang%20Penanganan%20Situs%20Internet%20Bermuatan%20Negatif.pdf>

⁶² ICT Watch Respond to The Draft of Negative Content Blocking Ministerial Decree (4 March 2014, Bahasa Indonesia). Retrieved 15 March 2014 from: <http://ictwatch.com/internetsehat/2014/03/04/tanggapan-ict-watch-atas-rpm-konten-negatif/>

2.1. Pornography

Based on previous mapping by ICT Watch⁶³, the blocking of online content containing pornography in Indonesia is often based on Electronic Information and Transaction Law (EIT), Telecommunication Law, Pornography Law and Penal Code. In EIT Law, article 27 paragraph 1, one of the prohibited actions is, “any person who deliberately and unrightfully distributes and/or transmit and/or enables to be accessed an Electronic Information and/or Electronic Document which content violates the norms”. Pornography law article 1 paragraph 2 explicitly states that internet is one of the media that can make prohibited pornography service or content available, and article 5 specifically prohibits pornography download (from the internet).

Furthermore, internet pornography is prohibited by Telecommunication Law article 21 that states “telecommunication provider is prohibited from conducting any attempt of telecommunication provision that contravenes public interest, norms, security, or public order.” Article 282 of Penal Code states “any person who distributes, shows, or display in public a writing, image or property which content is already identified as contravening the norms, is subject to imprisonment at maximum one year and six month or maximum fine of four thousand and five hundred rupiah.” The punishment in Penal Code can be increased if the violation of the norms is used by the perpetrator as livelihood or habit.

A very popular case related to online pornography is the one took place in 2010, when pop singer Nazriel ‘Ariel’ Irham was caught for making his own porn video. He was arrested and risked to be imprisoned until 21 years after his personal sex activity video was spread over the internet after his laptop where he stored the movie was stolen.⁶⁴ The case immediately triggered a debate about censorship practice on internet.⁶⁵ The case gained international-wide attention, particularly from media such as CNN,⁶⁶ The New York Times⁶⁷ and BBC News.⁶⁸

The MCIT minister set the case as an example on how internet was a threat for national interest and was determined to issue a regulation to block negative content therein.⁶⁹ In July 2010, the IC Ministry issued a circular letter to ISPs, ordering them to block pornography content.⁷⁰ The same order was later on also addressed to cellular service provider.⁷¹ The government also put some pressure on Research in Motion (RIM), Blackberry service provider, to block pornography content.⁷² The Canadian company eventually gave in and in January 2012 stated that it would apply filter for its users in Indonesia.⁷³

⁶³ The Map of Online Content Governance (March 2013, Bahasa Indonesia). Retrieved 16 March 2014 from: <http://kalamkata.org/ebook/indonesian/peta-tata-kelola-konten-online-indonesia.pdf>

⁶⁴ Nazril Irham. Retrieved 16 March 2014 from: http://en.wikipedia.org/wiki/Nazril_Irham

⁶⁵ Sex Tape Stirs Indonesian Internet Censorship Debate (21 June 2010). Retrieved 16 March 2014 from: <http://www.radioaustralia.net.au/international/2010-06-21/sex-tape-stirs-indonesian-internet-censorship-debate/188662>

⁶⁶ Alleged celebrity sex tape shocks modest Indonesia (14 June 2010). Retrieved 16 March 2014 from: http://articles.cnn.com/2010-06-14/world/indonesia.sex.tape_1_video-celebrities-indonesia?_s=PM:WORLD

⁶⁷ Sex Tape Scandal Fixates Indonesia (14 June 2010). Retrieved 16 March 2014 from: http://www.nytimes.com/2010/06/14/world/asia/14iht-sextape.html?_r=0

⁶⁸ Indonesian star Nazril Irham in sex tape probe (22 June 2010). Retrieved 16 March 2014 from: <http://www.bbc.co.uk/news/10373286>

⁶⁹ Internet a risk to nation, says Indonesian minister (16 June 2010). Retrieved 16 March 2014 from: <http://news.theage.com.au/technology/internet-a-risk-to-nation-says-indonesian-minister-20100617-ygsv.html>

⁷⁰ Indonesia Moves to Block Pornographic Web Sites (22 July 2010) Retrieved 16 March 2014 from: http://www.nytimes.com/2010/07/23/world/asia/23indo.html?_r=0

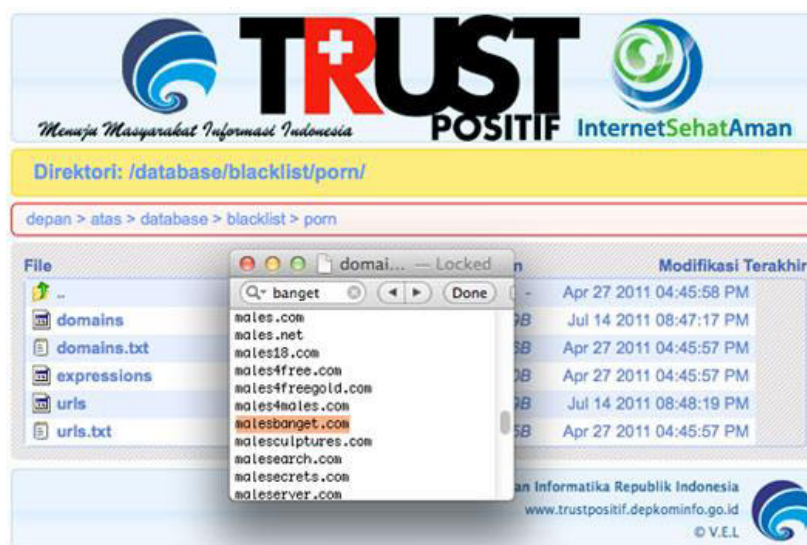
⁷¹ Operators That Asked for Porn Filter on Blackberry (11 January 2011, Bahasa Indonesia). Retrieved 16 March 2014 from: <http://teknokompas.com/read/2011/01/11/07311462/Operator.yang.Minta.Filter.Pornografi.di.BlackBerry>

⁷² RIM Says Committed to Indonesia, Will Block Porn on Blackberrys (17 January 2011). Retrieved 16 March 2014 from: <http://www.bloomberg.com/news/2011-01-17/rim-says-committed-to-indonesia-will-block-porn-on-blackberrys.html>

⁷³ RIM Convinces It Already Comp Government Request (20 January 2011, Bahasa Indonesia). Retrieved 16 March 2014 from: <http://inet.detik.com/read/2011/01/20/140843/1550611/328/rim-yakin-sudah-turuti-permintaan-pemerintah>

The pornography content filtering practice, not being based on clear procedure, caused a number of wrong blocking by ISP. Based on some reports,⁷⁴ it includes:

- August 2010: A number of major sites' subdomains such as Detikcom, Kompas and Kaskus, especially those related to advertisements, were blocked.⁷⁵ According to one of the operators who did the wrong blocking, Telkomsel, the problem came from Trust Positif database of the MCIT Ministry that the former used.⁷⁶
- August 2011: A youth information website MalesBanget.com, was blocked by several ISPs and cellular operators. Upon investigation, it turned out that those sites were put into Trust Positif blacklist as it was identified consisting the word "male" or "males" (Indonesian word lit. means lazy) and "bang", which was considered as having negative connotation.⁷⁷



(MalesBanget.com was wrongfully put into negative content⁷⁸)

- June 2012: An international site on LGBT rights, IGLHRC.org, was blocked by a number of cellular operators and ISPs.⁷⁹ Most likely the blocking was because the site contained the word "gay" and "lesbian", which were associated as pornography content. One of the operators, Telkomsel, stated that the problem was in the negative site list that had been prepared by the MCIT Ministry.⁸⁰
- June 2013: Local site on LGBT rights, OurVoice.or.id, was blocked by cellular operator, XL.⁸¹ Most likely the blocking was because the site contained the words "gay" and "homosexual", which might have been associated with pornography content. XL's official response was that the blocking was in compliance with the negative site list set by the MCIT Ministry.⁸²

⁷⁴ SAFEnet presentation (21 January 2014,). Retrieved 16 March 2014 from: <http://www.slideshare.net/donnybu/safenet-presentation>

⁷⁵ Indonesia Porn Site Filtering Messy (11 August 2010, Bahasa Indonesia). Retrieved 16 March 2014 from: <http://inet.detik.com/read/2010/08/11/120930/1418078/398/filter-konten-porno-indonesia-berantakan>

⁷⁶ Telkomsel had no Idea when was wrongly blocking (11 August 2010) <http://inet.detik.com/read/2010/08/11/155157/1418397/398/telkomsel-semprot-tak-tahu-telah-salah-blokir>

⁷⁷ Why Malesbanget.com Blocked (6 August 2011, Bahasa Indonesia). Retrieved 16 March 2014 from: <http://malesbanget.com/2011/08/mengapa-webside-malesbanget-com-terblokir/>

⁷⁸ Ibid.

⁷⁹ IGLHRC Website Banned (7 February 2012). Retrieved 16 March 2014 from: <http://iglhrc.org/content/iglhrc-website-banned>

⁸⁰ Indonesian Operators Ban Access to LBT Advocacy Website (9 February 2014). Retrieved 16 March 2014 from: <http://www.thejakartaglobe.com/archive/indonesian-operators-ban-access-to-lgbt-advocacy-web-site/>

⁸¹ Chronological of Our Voice Blocking by XL Provider (5 July 2013, Bahasa Indonesia). Retrieved 16 March 2014 from: <http://www.suarakita.org/2013/07/kronologis-pemblokiran-webside-our-voice-oleh-provider-xl>

⁸² Ibid.

- September 2013: Information website, CarFreeDay.com, was for some time unable to be accessed by Telkom Speedy customers. At that time, when one tried to open it, what appeared was a landing-page of internet-positif.org, a page meant for digital advertiser, because the site was considered as negative content as set by the MCIT.⁸³ The page was managed by MetraNet, a Telkom subsidiary. Currently, there are no less than 4 million Unique Visitors (UV) and 25 million Page View (PV), both deliberately or not, accessing that landing-page. There is no explanation whatsoever on why CarFreeDay.com was blocked and diverted to that landing-page. When the domain name was checked by ICT Watch using <http://web.archive.org> service, it turned out that CarFreeDay.com domain used to be used as pornography site by the previous owner,⁸⁴ at least until August 2004, which most likely became the reason why it was included into the blocked website database.

2.2. Incitement of Hatred

According to Electronic Information and Transaction Law article 28, incitement of hatred is one of the prohibited actions. The article states, “any person who deliberately and unrightfully distributes information that is aimed to incite hatred or hostility between individuals and/or certain group of community based on ethnic, religion, race, and group (shortened in Indonesian as ‘SARA’)”.

The matter is also mentioned in Penal Code Article 156 and 167 and threatened with sentence. Article 156 states: “Whomsoever in public expresses feeling of hostility, hatred or insult against a or some groups of people in Indonesia, shall be subject to imprisonment at maximum four years or fine at maximum four thousand and five hundred rupiah. The word group in this article and in the next articles refers to each part of Indonesian people who is different from another or some other groups based on race, country of origin, religion, place, origin, lineage, nationality or residence according to administrative law.

Article 157 states: Whomsoever broadcasts, shows or displays writing or painting in public, which content shows statement of hostility, hatred or insult between or against certain group of people in Indonesia, and intends that the content be known or more known by public, is subject to imprisonment at maximum two years and six month or fine at maximum four thousand five hundred rupiahs.



One of the cases that is considered as a form of incitement of hatred is the one took place on 12 August 2012, in a video entitled ‘Koboy Cina Pimpin Jakarta’ (Chinese Cowboy to Lead Jakarta)⁸⁵ uploaded on Youtube.⁸⁶ The video contains a threat toward Chinese Indonesian if they would give votes in the second and final rounds of Jakarta governor election. In the video, a masked man said that Indonesian Chinese would suffer the same incident like May 1998⁸⁷ if they participated in 2012 election.

⁸³ U Ads Media Gathering. Retrieved 16 March 2014 from: <http://metranet.co.id/news/u-ads-media-gathering.html>

⁸⁴ Carfreeday.com Pages by Archicve.org. Retrieved 16 March 2014 from: <http://web.archive.org/web/20040711080104/http://www.carfreeday.com/>

⁸⁵ English title: “Chinese Cowboy to Lead Jakarta.”

⁸⁶ Read Republika, *Video Koboy Cina Pimpin Jakarta Dilihat 16000 Penonton*, 23 August 2012, available here:

<http://www.republika.co.id/berita/menju-jakarta-1/news/12/08/23/m978wu-video-koboy-cina-pimpin-jakarta-dilihat-16000-penonton>

⁸⁷ Samsu R. Panggabean, “Anti-Chinese Riots in Late 20th Century Indonesia”, *World Development* 39/2 (2011), p. 231-241; tersedia di <http://www.benjaminbsmith.net/uploads/9/0/0/6/9006393/panggabean.smith.wd.pdf>

The video was directly associated with one of the Deputy Governor candidates in Jakarta Election at that time, Basuki Tjahaja Purnama a.k.a.. Ahok, who is Chinese Indonesian. In the end, the pair, Joko Widodo-Basuki, won the Election.⁸⁸ The Government has declared that the perpetrator and mastermind behind the video would be charged under article 27 and 28 of EIT Law.⁸⁹ MCIT ministry also requested Google to delete the video from YouTube, and it was done on 23 August 2012⁹⁰, after being watched dozen of thousands times.

On one hand, law enforcer seems to not act immediately to investigate cases where the target was minority religion and ethnic. For instance, on 14 February 2008, Sobri Lubis, Secretary general of FPI (Islamic Defender Front), pleaded to hundreds of his followers to kill Ahmadiyah members (an Islamic sect) and make the latter's blood 'lawful' to be 'spilled'.⁹¹ Ahmadiyah is a minority sect in Islam that is declared astray/deviant by the Indonesian Ulama Board (MUI) and other prominent Islamic mass organizations in Indonesia.⁹² The video that shows him inviting people to kill can still be seen today on Youtube, yet no response so far from the government to this matter.

2.3. Defamation of Religion

There are two legal basis used in addressing religion defamation cases, namely Presidential Regulation (Perpres) No.1/PNPS/1965 Article 1: *Every person is prohibited to deliberately and in public tell, encourage or generate public support, to interpret a religion practiced in Indonesia or conduct religious activities that resemble religious activities fo that particular religion, which interpretation and activity is deviated from the main teaching of that particular religion*; and Penal Code, Article 156(a): *Subject to imprisonment at maximum five years whomsoever deliberately in public expresses feeling or conduct actions that: a. Contains hostility, abuse or defamation of a religion practiced in Indonesia; b. That is intended to make other people to not practice any religion that is based on the belief on the One God.*

Religion defamation case might be considered as the first case of internet blocking in Indonesia. This happened, for instance, when "Fitna" movie made by Geert Wilders, a Dutch Member Parliament, was broadcasted on internet in March 2008. The movie shows quotes from Qur'anic verses together with violent scenes that were shown done by Muslims.⁹³ In April 2008, Indonesian Government requested YouTube to delete the movie.⁹⁴ As the request went unfulfilled, the MCIT ministry decided to block it and asked for cooperation from APJII. All ISPs in Indonesia were requested to block the access to any site or blog that displayed the movie.⁹⁵ The Ministry threatened ISP that refused to block it that their license would be cancelled.⁹⁶

⁸⁸ Read Kompas, *Hari Ini Jakarta Akan Punya Gubernur Baru*, 15 October 2012, available here:

<http://megapolitan.kompas.com/read/2012/10/15/05184847/Hari.Ini.Jakarta.Akan.Punya.Gubernur.Baru>

⁸⁹ Read Kompas, *Polisi Buru Pengunggah Video Koboy China*, 24 August 2012, available here:

<http://nasional.kompas.com/read/2012/08/24/18030579/Polisi.Buru.Pengunggah.Video.Koboy.China>.

⁹⁰ Read Kompas, *Menkominfo: Video Rasial Pilkada DKI Sudah Dicabut*, 23 August 2012, available here:

<http://nasional.kompas.com/read/2012/08/23/20464221/Menkominfo.Video.Rasial.Pilkada.DKI.Sudah.Dicabut>

⁹¹ <http://www.youtube.com/watch?v=U7RLCXNdKF4>

⁹² <http://nasional.inilah.com/read/detail/1216592/mui-nu-muhammadiyah-sepakat-ahmadiyah-sesat>

⁹³ Read Detikcom, *Film Anti Islam Fitna Beredar di Situs Youtube*, 28 March 2008, available here:

<http://inet.detik.com/read/2008/03/28/075259/914649/398/film-anti-islam-fitna-beredar-di-situs-youtube?id771108bcj>

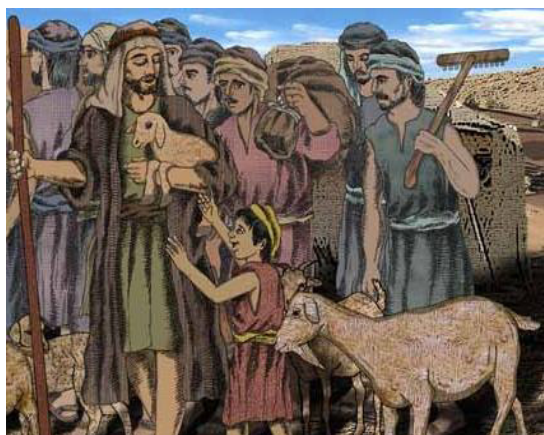
⁹⁴ Read CNN, *Indonesia block YouTube to protest Islam film*, 08 April 2008, available here: http://articles.cnn.com/2008-04-08/world/indonesia.youtube_1_geert-wilders-dutch-parliament-youtube?_s=PM:WORLD

⁹⁵ The order was made through circular letter No. 84/M.KOMINFO/04/08.

⁹⁶ Read Detikcom, *Ditjen Postel: Tak Blokir Fitna, Izin Penyelenggaraan Dicabut!*, 7 April 2008, available here:

<http://inet.detik.com/read/2008/04/07/084559/919153/399/ditjen-postel-tak-blokir-fitna-izin-penyelenggaraan-dicabut?id771108bcj>

This threat caused panic amongst ISPs and they finally decided to apply total blocking of YouTube, Multiply and MySpace.⁹⁷ However, after receiving a strong protest by internet users in Indonesia, several days before the total blocking, ISP only blocked selectively the url/link address that contained the movie.⁹⁸



Another case that happened shortly after that was a blog depicting Prophet Muhammad comic that was considered as an insult to Islam. Just like in Fitna case, MCIT requested Wordpress to block the blog, which address was <http://lapotuak.wordpress.com>.⁹⁹ The MUI as the guardian of Muslim's interest in Indonesia also condemned the writer of the blog.¹⁰⁰ Wordpress eventually shut down the account¹⁰¹ under the reason of "breach of terms of service". However, similar cartoon reappeared in 2009, posted on blog <http://komiknabimuhammad.com.blogspot.com>, and again in 2010, on Facebook page 'Everybody Draw

Mohammed Day (EDMD)'.¹⁰² The MCIT Ministry requested ISPs in Indonesia to block the blog¹⁰³ and also the Facebook page.

Another similar case was the "Innocence of Muslims" movie in 2012.¹⁰⁴ MUI condemned the movie.¹⁰⁵ Indonesian Government then ordered ISP to block the access to the movie trailer, which was declared as anti-Islam.¹⁰⁶ On 13 November 2012, the MCIT Ministry declared that YouTube has blocked sixteen link addresses to the video.¹⁰⁷



Nevertheless, the blocking order from the government, instead of stopping the people from watching it, triggered further public curiosity. In Fitna case, on the same day when Indonesian Government requested YouTube to delete Innocence of the Muslims, the query rate on that movie on the internet dramatically increased.¹⁰⁸

⁹⁷ <http://uk.reuters.com/article/2008/04/11/oukin-uk-indonesia-youtube-idUKJAK17047820080411?sp=true>

⁹⁸ Read Global Advocacy Online, Indonesia blocks YouTube over 'Fitna' movie, 5 September 2008, available here: <http://advocacy.globalvoicesonline.org/2008/04/05/indonesia-blocks-youtube-over-fitna-the-movie/>

⁹⁹ Read Detikcom, Depkominfo Minta Wordpress Blokir Komik Nabi Muhammad, 19 November 2008, available here: <http://news.detik.com/read/2008/11/19/105942/1039427/10/depkominfo-minta-wordpress-blokir-komik-nabi-muhammad>

¹⁰⁰ Read Detikcom, MUI Minta Komik Nabi Muhammad versi Indonesia Ditutup, 19 November 2008, available here:

<http://news.detik.com/read/2008/11/19/101624/1039385/10/mui-minta-komik-nabi-muhammad-versi-indonesia-ditutup>

¹⁰¹ Read Detikcom, Wordpress Tutup Blog Komik Nabu Muhammad, 20 November 2008, available here:

<http://news.detik.com/read/2008/11/20/055904/1039945/10/wordpress-tutup-blog-komik-nabi-muhammad>

¹⁰² Read Okezone, Menkominfo ajak awari dan isp blokir everybody draw mohammed day, 20 Mei 2010, available here:

<http://news.okezone.com/read/2010/05/20/55/334539/menkominfo-ajak-awari-isp-blokir-everybody-draw-mohammed-day>

¹⁰³ The request was made by letter no. 600/M.KOMINFO/11/2009.

¹⁰⁴ http://en.wikipedia.org/wiki/Innocence_of_Muslims

¹⁰⁵ <http://www.tempo.co/read/news/2012/09/14/078429443/Ulama-Indonesia-Kutuk-Film-Innocence-of-Muslims>

¹⁰⁶ Detikcom, "Menko Polhukam Minta Tifatul Blokir Film Anti Islam di YouTube," 13 September 2012; tersedia di <http://inet.detik.com/read/2012/09/13/150236/2017527/398/menko-polhukam-minta-tifatul-blokir-film-anti-islam-di-youtube?id771108bcj>

¹⁰⁷ Detikcom, "16 Video 'Innocence of Muslims' Diblokir di YouTube," September 2012; tersedia

di <http://inet.detik.com/read/2012/09/13/171756/2017970/398/16-video-innocence-of-muslims-diblokir-di-youtube>

¹⁰⁸ See Google Trends for 2012, keyword search: "Innocence of Muslims", tersedia

di: <http://www.google.com/trends/explore#q=innocence%20of%20muslims&geo=ID&date=1%2F2012%2012m&cmpt=q>

At local level, religion defamation case also takes place. In 2012, Alexander Aan,¹⁰⁹ a civil servant in Regional Development Planning Agency (Bappeda) of the City of Dharmasraya, West Sumatra, was



sued under Penal Code and Article 28 of EIT Law for being alleged of spreading hatred or hostility between individuals and/or groups of community based on ethnic, religion, race and group (SARA) through Facebook group and fan page named Ateis Minang (Minang Atheist) that he managed. The fan page was made as a medium of communication between atheists in West Sumatra.¹¹⁰ On 14 June 2012, the court convicted Alexander guilty for spreading information that was aimed to trigger hatred and hostility based on ethnic, religion, race and group, as specified in Article 28 paragraph (2) of EIT Law.¹¹¹ Aan was imprisoned for two and half years and fined 100 million rupiahs (which could be substituted with 3 months of imprisonment).¹¹²

3. Challenges for Freedom of Expression

“Human rights is the basic rights that is embedded in a human being, universal and sustainable, (which) therefore must be protected, respected, maintained, and may not neglected, reduced, or deprived by anyone”. That is the quote from the first part of Indonesian Law No.39 of 1999 on Human Rights. Article 14 of the law states:

1. *Every person is entitled to communicate and obtain information needed to develop his/herself and his/her social environment.*
2. *Every person is entitled to seek, obtain, possess, store, process, and deliver information by using all available means.*

It is therefore clear that the above article actually complies with and refers to Indonesian 1945 Constitution article 28 F (Second Amendment that was stipulated in August 2000) and UN Universal Declarations of Human Rights.¹¹³

Article 28F of 1945 Constitution states that *“every one is entitled to communicate and obtain information to develop him/herself and his/her social environment, and entitled to seek, obtain, possess, store, process, and deliver information by using all available channels.”* Article 19 of the UN UHRD that was declared on 10 December 1948 iterates that *“every person is entitled to freedom of opinion and expression, which in this regards includes freedom to holds certain opinion without intervention, and to seek, obtain and deliver information and idea through any media without limit.”*

Despite the guarantee for freedom of opinion and expression, the exercise of those rights are not unlimited. The limits are specified in article 29 paragraph 2 of the same declaration, which states, *“in exercising his/her rights and freedoms, every person must comply with only the limitations set forth by the law that aims only to guarantee recognition and respect on other people’s rights and freedoms and to fulfill the conditions of morality, public order and welfare aspects in a democratic society.”*

¹⁰⁹ http://id.wikipedia.org/wiki/Alexander_Aan

¹¹⁰ Jakarta Post, “Atheists, Commies Welcome,” 12 Juli 2012; tersedia di <http://www.thejakartapost.com/news/2012/07/12/atheists-commies-welcome.html>

¹¹¹ <http://www.setara-institute.org/id/content/vonis-alexander-ciderai-kebebasan-berpendapat>

¹¹² <http://www.tempo.co/read/news/2012/10/12/058435212/PNS-Atheis-Dihukum-25-Tahun-Penjara>

¹¹³ <http://www.un.org/en/documents/udhr/>

The above article was then reiterated in UN General Assembly Resolution on 16 December 1966, through article 19 in the International Covenant on Civil and Political Rights.¹¹⁴ Article 19 of the agreement states the following:

1. *Every person is entitled to have opinion without intervention (form other party).*
2. *Every person is entitled to freedom of expression; this includes the freedom to seek, obtain and give any information and idea, which is free of any limits, both verbal, writing, printing, in form of art or any other media as he/she chooses.*
3. *The exercise of the rights that are specified in paragraph 2 of this article also carries along with it specific obligation and responsibility. Therefore it may be limited, yet such limitation can only be imposed in accordance with the applicable law and insofar as needed to:*
 - a. *Respect other people's rights or reputation;*
 - b. *Protect national security, public order, public health or moral."*

Indonesia ratified this international agreement on 23 February 2006¹¹⁵.

However, one of the most significant challenges on freedom of expression in Indonesia, particularly on internet, is EIT Law article 27 paragraph 3. Since its promulgation for the first time in April 2008, this article has been used to create 32 defamation cases.¹¹⁶ Other than EIT Law, Penal Code also criminalizes insult or defamation that is also applied for speech or comment on internet.

The content of the articles are as follows:

EIT Law, Article 27, Paragraph 3: *Every person who deliberately and unrightfully distributes and/or transmit and/or makes accessible an Electronic Information and/or Electronic Document that contains insult and/or defamation.*

Penal Code, Article 310, Paragraph 1: *Whomsoever deliberately attacks the dignity or reputation of a person by accusing him/her of committing something, which intention is clear, that is, to make such a thing become known to public, is subject to punishment for defamation with imprisonment at maximum nine months or fine at maximum four thousand and five hundred rupiahs.*

Penal Code, Article 311, Paragraph 1: *If the one who commits defamation or written defamation who is allowed to prove that the accusation is right, does not prove otherwise, and such accusation is contradictory with what has been known, he/she shall be subject to punishment for false accusation with imprisonment at maximum four years.*

The root of the problem is EIT Law article 27 paragraph 3, as it has in it maximum imprisonment of 6 (six) years. This article is often used to limit freedom of expression on internet, because police or prosecutor is entitled to arrest a suspect that may be sentenced to 5 (five) year imprisonment or more during interrogation, to prevent the suspect to escape, damage or make the evidence lost, and or repeat the crime.¹¹⁷ The timeline of arrest at investigator or police level is 20 days at maximum, and it can be extended by general prosecutor for 40 other days at maximum. Therefore, this article of EIT Law becomes very effective to suppress freedom of expression and imprison those who have different expression or opinion on the internet¹¹⁸.

¹¹⁴ https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-4&chapter=4&lang=en

¹¹⁵ <https://treaties.un.org/doc/Publication/UNTS/Volume%20999/volume-999-I-14668-English.pdf>

¹¹⁶ <http://www.elsam.or.id/article.php?id=2816&cid=101#.Uyge7M60tEM>

¹¹⁷ http://pphp.deptan.go.id/download/regulasi/undang-undang/uu_8_1981.pdf

¹¹⁸ <http://id.safenetvoice.org/2014/02/pernyataan-sikap-hentikan-segera-praktik-pembungkaman-berpendapat-di-dunia-maya/>

Article 27 paragraph 3 of EIT Law was once proposed to be put under judicial review to the Constitutional Court. However, the Constitutional Court stated that defamation article that was governed in Penal Code was only meant for offline activity, and could not apply to any insult or defamation committed on internet.¹¹⁹ The norm of the article was constitutional and did not contravene the values of democracy, human rights, and principles of rule of law.¹²⁰ Thus, judicial review on the article was cancelled.



The following are three of many cases that publicly known with regard to the application of article 27 paragraph 3 of EIT Law. The first is the case that happened to Prita Mulyasari in 2009. A mother of two toddlers and a baby, Prita was arrested under article 27 paragraph 3 of EIT Law. Prita was arrested in women penitentiary,

Tangerang, for three weeks¹²¹, because of her email in which she shared complaint about bad service she received from Omni International private hospital's doctors in Tangerang.¹²² The core message of the email is about how she suffered from wrong diagnosis and unsatisfactory follow-up treatment done without her consent. She also complained about customer service she received.¹²³ The email was forwarded and circulated in electronic mailing-list and posted online. The directors of Omni Hospital then sued Prita for defamation.¹²⁴ Prita was also sued criminally under the article 27(3) of EIT Law and Article 310 and 311 of Criminal Code.

After long and arduous legal process, in September 2012 Prita was verdicted not-guilty by the Supreme Court. The email she sent was declared not containing any element of defamation as Omni accused her of.¹²⁵ Human rights defenders and legal practitioners in Indonesia frequently call this case as the example of weakness of Article 27 Paragraph 3 of EIT Law and Article 310 of Criminal Code. Those articles are considered to have failed to fulfill the conditions of legal certainty and proportionality as mandated in Article 19 on Internatioal Covenant on Civil and Political rights.¹²⁶ Especially because as consumer, Prita has right to file her complaint, without being considered of committing defamation.¹²⁷

¹¹⁹ http://www.elsam.or.id/downloads/926585_Repressing_Expression_Case_Study.pdf

¹²⁰ <http://www.hukumonline.com/berita/baca/hol21918/dua-permohonan-pengujian-uu-ite-kandas>

¹²¹ http://nasional.news.viva.co.id/news/read/63162-prita_tak_henti_hentinya_menangis_di_penjara

¹²² Read Jakarta Globe, Prita Mulyasari Cleared in Internet Defamation Case, 25 June 2012, available here:

<http://thejakartaglobe.com/home/prita-mulyasari-cleared-in-internet-defamation-case/314339>

¹²³ Read Hukum Online, Supreme Court Declared Prita Mulyasari Not Guilty as Charged, 19 September 2012, available here:

<http://en.hukumonline.com/pages/lt5059b650db100/supreme-court-declared-prita-mulyasari-not-guilty-as-charged>

¹²⁴ Firdaus Cahyadi, "Online Activism: Perlu Terobosan Baru!", Satudunia Foundation (2011); tersedia di

<http://www.satudunia.net/content/indepth-report-online-activism-perlu-terobosan-baru>

¹²⁵ Read Detikcom, MA Kabulkan PK, Prita Bebas!, 17 September 2012, available here:

<http://news.detik.com/read/2012/09/17/173038/2022750/10/ma-kabulkan-pk-prita-bebas>

¹²⁶ Read ELSAM, Amicus Curiae: Prita Mulyasari Vs. Indonesia Republic, available here:

<http://elsam.or.id/?act=view&id=204&cat=c/302&lang=en>

¹²⁷ Read Kompas, YLKI: Perkara Prita, Ada Pelanggaran Hak Konsumen, 29 October 2009, available here:

<http://megapolitan.kompas.com/read/2009/10/28/15305233/YLKI.Perkara.Prita.Ada.Pelanggaran.Hak.Konsumen>

Initially, in the legal process, the court verdicted Prita guilty for civil case.¹²⁸ In the beginning of December 2009, the court ordered Prita to pay Rp. 204 million remedy to Omni International.¹²⁹ Public then started a fund raising campaign entitled “Koin untuk Prita” (Coin for Prita) to help her settle the fine, from which an amount of Rp. 825 million rupiahs were collected in the third week of December 2009.¹³⁰

The second case that happened short after Prita’s verdict was Benny Handoko’s case, the owner of



Twitter account @benhan. In his account, Benny stated that politician Mukhamad Misbakhun was the “robber” of Bank Century. This refers to Bank Century Case, in which Misbakhun became suspect.¹³¹ Benhan was reported to the police by Misbakhun on 10 December 2012, who stated that Benny’s tweet in @benhan account was an insult and defamation.¹³² In May 2013, Benny Handoko was officially declared as suspect in defamation case¹³³ and was arrested on 5 September 2013¹³⁴ in Cipinang Penitentiary. In prison, he was forcibly

shaved to bald. The arrest was later on suspended on 7 September 2013, following public protest.¹³⁵ On 5 February 2014, Benny was sentenced 6 months in jail with 1 year probation by panel of judges of South Jakarta District Court.¹³⁶



The third case happened at the same time when the report on the second case was being written. It happened to Muhammad Arsyad, an anti-corruption activist in Makassar. Arsyad wrote in his Blackberry Messenger (BBM) status: “No Fear Nurdin Halid Koruptor!!! Jangan pilih adik koruptor!!!” (“No Fear! Nurdin Halid Is A Corruptor! Don’t Elect Corruptor’s Brother!”). Arsyad was then reported by Abdul Wahad, a member of regional parliament (DPRD) of the City of Makassar from Golkar Party, who was also a person close to Nurdin Halid, on 9 July 2013.¹³⁷ Arsyad thus became suspect of defamation

under EIT Law article 27 paragraph 3, since 13 August 2013.

¹²⁸ Merlyna Lim, “@crossroads: Democratization & Corporatization of Media in Indonesia”, diterbitkan bersama oleh Participatory Media Lab dan Ford Foundation (2011), hal. 19; tersedia di http://participatorymedia.lab.asu.edu/files/Lim_Media_Ford_2011.pdf

¹²⁹ <http://news.detik.com/read/2009/12/02/202508/1252971/10/gugatan-banding-rs-omni-dikabulkan-prita-harus-bayar-rp-204-juta>

¹³⁰ <http://news.okezone.com/read/2009/12/21/338/286733/redirect>

¹³¹ Read Yahoo, Skandal Bailout Bank Century, Misbakhun: SBY Tidak Bisa Lagi Mengelak, 13 August 2012, available here: <http://id.berita.yahoo.com/skandal-bailout-bank-century-misbakhun-sby-tak-bisa-183100749.html>

¹³² Read Okezone, Merasa Dihina di Twitter Misbakhun Laporkan Benhan ke Polisi, 10 December 2012, available here: <http://news.okezone.com/read/2012/12/10/339/730078/merasa-dihina-di-twitter-misbakhun-laporkan-benhan-ke-polisi>

¹³³ Read Tempo, Pemilik Akun Benhan Jadi Tersangka, 24 May 2013, available here:

<http://www.tempo.co/read/news/2013/05/24/063483064/Pemilik-Akun-benhan-Jadi-Tersangka>

¹³⁴ Read Kompas, Benny Handoko Pemilik Akun Benhan Ditahan, available here:

<http://nasional.kompas.com/read/2013/09/05/2350121/Benny.Handoko.Pemilik.Akun.benhan.Ditahan>

¹³⁵ Read Detikcom, Penahanan Ditangguhkan, Benhan Keluar dari Cipinang Malam Ini, available here:

<http://news.detik.com/read/2013/09/06/222834/2351954/10/?nd772204topnews>

¹³⁶ Read Liputan6, Ngetwit Soal Misbakhun, @benhan Dibui 6 Bulan, 1 Tahun Percobaan, available here:

<http://news.liputan6.com/read/818844/ngetwit-soal-misbakhun-benhan-dibui-6-bulan-1-tahun-percobaan#sthash.bQjMkL8E.dpuf>

¹³⁷ <http://www.hukumonline.com/berita/baca/lt52366f3992610/ditahan-gara-gara-status-iblackberry-messenger-i>

During police investigation, Arsyad was arrested in South Sulawesi Regional Police (Polda Sulses) detention center for 7 days.¹³⁸ He was then given suspension of arrest¹³⁹ after his case was covered by media and triggered protest from some mass organizations and students.¹⁴⁰ Afterward, Arsyad was still arrested in Makassar detention center of Makassar prosecutor office¹⁴¹ and went into his first trial on 13 March 2013.¹⁴² Arsyad was sued with article 27 paragraph 3 of EIT Law and Article 310 of Penal Code.

Upon observing the above cases, ICT Watch believes that article 27 paragraph 3 of EIT Law is a ‘melancholic’ article, i.e. an article provided by the state for those who want to indulge their ego. Field experience shows that the article is frequently abused by those who have power to oppress other party who has different stance to them¹⁴³ and those who are in weaker position than they are. This may cause chilling effect, which is a fear to express and/or hold different opinion on the internet due to the legal sanction from the State. ICT Watch and SAFENet also demand the EIT Law, particularly article 27 paragraph 3, to be revised.¹⁴⁴ The pressure to revise the law also comes from other CSOs such as LBH Pers (Press Legal Aid), ICW, ELSAM, ICIR, and AJI.¹⁴⁵ The MCIT has welcome the pressure from those CSOs and has prepared a number of draft revisions.¹⁴⁶ One of the proposals was to change the criminal sanction from 6 (six) year to 3 (three) year of imprisonment,¹⁴⁷ and this idea has been proposed to be incorporated in the National Legislative Program (Prolegnas) 2014 at the Parliament (DPR).¹⁴⁸ However, due to the list in Prolegnas 2014¹⁴⁹, the revision proposal failed to be incorporated into Parliament agenda of discussion. It is the reason ICT Watch, together with other CSO elements such as SAFENet and ELSAM keep pushing the revised EIT Law to be incorporated into the Prolegnas 2014-2019¹⁵⁰, by taking into consideration the newly elected Parliament members after 2014 Election.¹⁵¹

4. Intermediary’s Liability

In the beginning of February 2010, MCIT issued a Draft Ministerial Decree (Rancangan Permen) on Multimedia Content.¹⁵² The Draft basically obliges multimedia service provider to be liable for content found in its service, including the one made or delivered by its user. The one that can be categorized as multimedia service provider in the Draft includes ISP and online service provider such as portal, blog and forum. Liability imposed in the Draft includes content monitoring and blocking the content that is considered negative. The provider is also demanded to oblige its user to give the latter’s authentic and accurate identity and contact during service registration.

The MCIT explained that the Draft aims to provide guidance to multimedia service provider to act accordingly, meticulously and carefully in their business actions that are related to multimedia

¹³⁸ <http://www.koran-sindo.com/node/330695>

¹³⁹ <http://id.safenetvoice.org/2013/09/kasus-muhammad-arsyad/>

¹⁴⁰ <http://www.sinarharapan.co/news/read/24739/mahasiswa-makassar-kecam-penahanan-arsyad>

¹⁴¹ <http://id.berita.yahoo.com/kasus-penghinaan-nurdin-halid-dilimpahkan-ke-kejaksaaan-112337477.html>

¹⁴² <http://makassar.tribunnews.com/2014/03/14/karena-status-bbm-arsyad-didakwa-6-tahun>

¹⁴³ <http://tekno.kompas.com/read/2014/02/05/1548528/Kerap.Jerat.Netter.Indonesia.UU.ITE.Diminta.Direvisi>

¹⁴⁴ <http://inet.detik.com/read/2014/02/05/142038/2488031/399/1/sudah-jerat-30-korban-uu-ite-didesak-untuk-direvisi>

¹⁴⁵ http://www.jurnas.com/news/107197/Bungkam_Hak_Berpendapat_Koalisi_Minta_UU_ITE_direvisi_2013/1/Nasional/Hukum

¹⁴⁶ http://www.portalkbr.com/berita/perbincangan/2937302_4215.html

¹⁴⁷ <http://www.tempo.co/read/news/2013/10/23/072524142/Pemerintah-Revisi-Ancaman-Sanksi-UU-ITE>

¹⁴⁸ <http://kominfo.go.id/index.php/content/detail/3702/Siaran+Pers+No.+100-PIH-KOMINFO-12->

[2013+tentang+Laporan+Akhir+Tahun+2013+Kementerian+Kominfo+/0/siaran_pers#.UyhZts60tEO](http://kominfo.go.id/index.php/content/detail/3702/Siaran+Pers+No.+100-PIH-KOMINFO-12-2013+tentang+Laporan+Akhir+Tahun+2013+Kementerian+Kominfo+/0/siaran_pers#.UyhZts60tEO)

¹⁴⁹ <http://www.dpr.go.id/id/baleg/prolegnas/490/PROGRAM-LEGISLASI-NASIONAL-RANCANGAN-UNDANG-UNDANG-PRIORITAS-TAHUN-2014>

¹⁵⁰ <http://www.kabar3.com/news/2014/02/revisi-uu-ite-harus-masuk-prolegnas-20142019#.UyhZts60tEO>

¹⁵¹ <http://tekno.liputan6.com/read/819150/banyak-makan-korban-uu-ite-diminta-untuk-diperbaiki>

¹⁵² <http://www.postel.go.id/content/ID/regulasi/telekomunikasi/kepmen/rpm%20konten%20multimedia.doc>

content.¹⁵³ Although President Susilo Bambang Yudhoyono has also explained that the Draft is aimed to regulate sensitive topic that is put on the internet that may cause harm to certain group, protest against the Draft grew stronger.¹⁵⁴ Even the Press Board also stated that the Draft contravened 1945 Constitution, Press law and Broadcast Law.¹⁵⁵ The Independent Journalist Alliance (AJI) demanded for the cancellation of the Draft officially, as they perceived it may be used to suppress the press.¹⁵⁶ ICT Watch also stated that this Draft is prone to be abused to limit freedom of expression on the internet.¹⁵⁷ APJII also rejected the Draft, because it would deprive privacy in using internet, and this Draft would give ISP a kind of police-like authority regarding content.¹⁵⁸ A number of online discussion forum service providers in Indonesia also rejected the Draft, because in practice, government often imposed burden to the providers.¹⁵⁹ The Parliament eventually demanded the IC Ministry to review the Draft.¹⁶⁰

Responding to the public pressure, the MCIT finally decided to postpone further discussion of the Draft¹⁶¹ in the third week of February 2010. However, in July 2010, the Parliament demanded MCIT to rediscuss the Draft, due to the increasing spread of pornography video on the internet.¹⁶² Nevertheless, it never happened until today.

In practice, ISP keeps being pressured by the MCIT to keep being liable, or at least requested to block negative content. This is because ISP license is issued by the Ministry, and ISP shall comply with some applicable laws and regulation.

With regard to user-generated content of an online media, in February 2012, the Press Council issued Cyber Media Broadcast Guide.¹⁶³ User-generated content referred to in the guide is, “anything made and or published by cyber media user, including, article, image, commentary, voice, video and various sorts of uploads attached to cyber media, such as blog, forum, reader or audience’s comments, and other forms.”

Ethically, online media is liable to manage reader’s comment so as to prevent it from contravening the Press Law and journalistic code of ethics. This is done, amongst others, by mentioning the conditions and provisions, and making registration compulsory. Online media also has right to edit comment, delete comment that does not meet the requirements, and make correction when there is complaint. This guide also becomes one of the key competence materials in AJI Journalist Competence Examination¹⁶⁴.

This guide was made to demonstrate online media’s willingness to be liable over the user-generated content in their media. The guide is also meant to complement Press Law, so that media is not sacrificed or criminalized when carrying out its roles. In the guide, with regard to user-generated content, media’s role is facilitator, while the liability lies still on the user. If there is any party that feels harmed by the content made by a reader of an online media, the media manager should act in accordance with the guide. Liability of the content belongs to the user or the content maker itself.¹⁶⁵

¹⁵³ http://www.postel.go.id/info_view_c_26_p_1075.htm

¹⁵⁴ <http://www.dpr.go.id/id/berita/komisi1/2010/feb/25/1381/dewan-minta-menkominfo-kaji-ulang-rpm-konten-multimedia>

¹⁵⁵ <http://teknokompas.com/read/2010/02/16/09465252/RPM.Konten.Bertentangan.dengan.UU>

¹⁵⁶ <http://techno.okezone.com/read/2010/03/12/55/311984/aji-minta-rpm-konten-dicabut-secara-resmi>

¹⁵⁷ <http://ictwatch.com/internetsehat/2010/02/14/7-poin-sikap-internet-sehat-ict-watch-atas-rpm-konten-multimedia/>

¹⁵⁸ <http://www.republika.co.id/berita/breaking-news/nasional/10/02/19/104365-ajii-tolak-rpm-konten-multimedia>

¹⁵⁹ <http://www.tempo.co/read/news/2010/02/17/063226538/Pengelola-Situs-Berita-Tolak-RPM-Konten-Multimedia>

¹⁶⁰ <http://www.dpr.go.id/id/berita/komisi1/2010/feb/25/1381/dewan-minta-menkominfo-kaji-ulang-rpm-konten-multimedia>

¹⁶¹ <http://news.detik.com/read/2010/02/24/122226/1305812/10/tifatul-rpm-konten-multimedia-cooling-down-dulu?nd771104bcj>

¹⁶² <http://news.detik.com/read/2010/06/16/151234/1379506/10/akibat-video-porno-dpr-pemerintah-bahas-ulang-rpm-konten-media>

¹⁶³ <http://inside.kompas.com/pedoman>

¹⁶⁴ <http://www.scribd.com/doc/200323392/Materi-Kompetensi-Kunci-UKJ-AJI>

¹⁶⁵ <http://teknokompas.com/read/2012/02/03/19304040/komentar.di.media.quotonlinequot.tanggung.jawab.siapa>

5. Cyber Attack

Throughout the 3rd quarter of 2013, Indonesia was ranked two as the source of global cyber attack, which constituted 20% of total attack.¹⁶⁶ The number, according to Akamai, doesn't necessarily represent the high number of cyber crime perpetrator living in Indonesia. Rather, he said, although the attack traffic seems to come from Internet Protocol (IP) in Indonesia, it's possible that the real actors originating from other countries, who take advantage from the weak security of computer network in Indonesia.

Country	Q3 '13 % Traffic	Q2 '13 %
1 China	35%	33%
2 Indonesia	20%	38%
3 United States	11%	6.9%
4 Taiwan	5.2%	2.5%
5 Russia	2.6%	1.7%
6 Brazil	2.1%	1.4%
7 India	1.9%	2.0%
8 Romania	1.7%	1.0%
9 South Korea	1.2%	0.9%
10 Venezuela	1.1%	0.6%
- Other	17%	11%

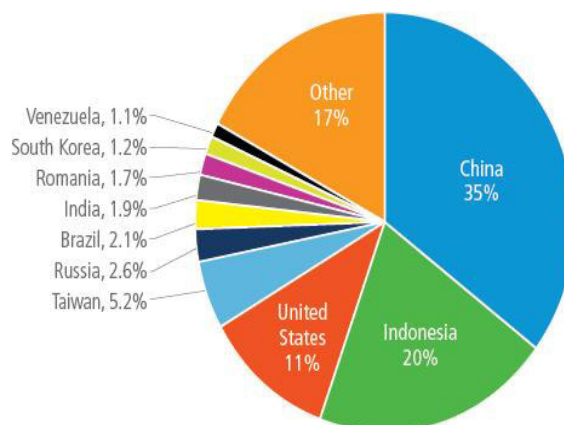


Figure 1: Attack Traffic, Top Originating Countries (by source IP address, not attribution)

(Sources of the Cyber Global Attack, Quarter 3 – 2013¹⁶⁷)



On the other hand, throughout November 2013, a hacker group who called itself Anonymous Indonesia claimed to have attacked over than 170 websites in Australia.¹⁶⁸ They claimed this action was a reaction over the report on tapping/interception and spying activities committed by Australia toward Indonesia, as mentioned in the US National Security Agency document leaked by Edward Snowden.¹⁶⁹ Some important Australian sites

fell victims to the cyber attack from this group, both in form of distributed denial of service (DDOS) or deface. The sites attacked included one belonging to Australian Secret Intelligence Service (ASIS)¹⁷⁰, AFP and Reserve Bank¹⁷¹, and Australian Police site¹⁷². One of the information media that was used by Anonymous Indonesia was twitter, which currently already has more than 45 thousand followers¹⁷³.

¹⁶⁶ Read Akamai Report, State of the Internet" 3rd Quarter Report, Volume 6, Number 3 (2013), available here <http://www.akamai.com/stateoftheinternet/>

¹⁶⁷ Ibid.

¹⁶⁸ Read BBC, 'Anonymous Indonesia' attacks Australian websites, 4 November 2013, available Here: <http://www.bbc.com/news/world-asia-24802593>

¹⁶⁹ <http://www.bbc.com/news/world-asia-25029261>

¹⁷⁰ <http://www.zdnet.com/au/indonesian-hackers-crash-australian-intelligence-agencys-site-7000023026/>

¹⁷¹ <http://www.theguardian.com/technology/2013/nov/21/afp-website-hacked-indonesian-claims-responsibility-on-twitter>

¹⁷² <http://www.theguardian.com/technology/2013/nov/26/indonesian-hackers-target-australian-police-websites-as-payback-for-spying>

¹⁷³ https://twitter.com/anon_indonesia

As for attack to Indonesia’s infrastructure, data from Indonesia Security Incident Response Team on Internet Infrastructure (ID-SIRTII)¹⁷⁴ shows that from January to September 2013, there have been 39.9 million of attacks, or an average of 110 thousand attacks per day. The 3 most frequent attacks are SQL (37.96%). Malware-CNC (33.1%), and Server MS-SQL (25.05%). The top-three attack origin countries are China, Indonesia and Brazil, while the top-three target of attack countries are Indonesia, USA and China.



(Number of Indonesian Sites Defaced from January– September 2013)

6. Tapping/Interception

There are at least 16 provisions in legislations that justify tapping in Indonesia, 12 of which are laws, including Telecommunication Law, Electronic Information and Transaction Law, Anti-Terrorism Law, Anti-Corruption Law, Narcotics Law, and State Intelligence Law.¹⁷⁵ However, there is basic weakness in this matter, which is the absence of any standard procedure and uniformed arrangement on the terms and condition that may allow tapping/interception to be done. In addition, the tapping process that is currently justified in those laws are not equipped with control mechanism toward the authority that is authorized to conduct the tapping¹⁷⁶.

Telecommunication Law¹⁷⁷ article 42 paragraph 2 in particular states that telecommunication service provider for tapping (recording sent and or received information) when needed upon written request from the Chief Justice of Indonesian Chief Police for judicial process of certain crime is allowed in accordance with the applicable law. In paragraph 3, it is also stated that provisions on procedure for request and disclosure of information record shall be governed by Government Regulation (PP).

¹⁷⁴ http://folder.idsirtii.or.id/pdf/Kebijakan_Keamanan_Informasi.pdf

¹⁷⁵ <http://www.elsam.or.id/article.php?id=1448&lang=in#.Uy5QV84bOHN>

¹⁷⁶ <http://elsam.or.id/article.php?act=content&id=2653&cid=405&lang=in#.Uy3WD84bOHM>

¹⁷⁷ <http://dittel.kominfo.go.id/wp-content/uploads/2013/06/36-TAHUN-1999.pdf>

EIT Law¹⁷⁸ article 31 paragraph 3 states that interception may be done for law enforcement upon police, prosecutor and/or other law enforcement institutions' request that shall be designated based on the applicable law. In paragraph 4, it is stated that further provisions on interception procedure shall be governed with PP.

However, Constitutional Court in February 2011 decided that tapping/interception procedure cannot be regulated at PP level, but instead must be at Law level.¹⁷⁹ MK argued that PP cannot regulate interception matter because its function is only administrative regulation and doesn't have the authority to accommodate issue related to limitation of human rights.¹⁸⁰

The absence of any clear regulation that governs interception in Indonesia goes hand-in-hand with the emergence of suspectedly-illegal interception practices. In March 2013, FinFisher application was indicated to be installed in infrastructures of at least 2 largest ISPs in Indonesia,¹⁸¹ namely Telkom and BizNet. FinFisher is a product for interception developed by Gamma Group in UK. FinFisher has the capacity to intercept various communication media on the internet, including communication through Blackberry Messenger.¹⁸²

MCIT declared that they will take stringent measure if the two ISPs were proven to have committed interception and breach of privacy as regulated by Telecommunication Law.¹⁸³ Telkom and Biznet immediately rebutted the suspicion that they installed the interception application on infrastructures under their management.¹⁸⁴ Yet other than that rebuttal, there was no further action from the government and those ISPs to investigate further and explain to public about the finding.



(Finfisher Detected, Including in Indonesia¹⁸⁵)

¹⁷⁸ <http://folder.idsirtii.or.id/pdf/uu-ite-11-2008.pdf>

¹⁷⁹ <http://www.hukumonline.com/berita/baca/lt4d666444e12c9/aturan-penyadapan-harus-undangundang>

¹⁸⁰ <http://www.republika.co.id/berita/breaking-news/hukum/11/02/24/166065-mk-batalkan-pasal-penyadapan-di-uu-ite>

¹⁸¹ <https://citizenlab.org/2013/03/you-only-click-twice-finishers-global-proliferation-2/>

¹⁸² <https://wikileaks.org/spyfiles/list/tags/gamma-finisher-trojan.html>

¹⁸³ <http://inet.detik.com/read/2013/03/18/133752/2196750/328/jika-terbukti-intai-pengguna-telkom--biznet-terancam-15-tahun-penjara>

¹⁸⁴ <http://tekno.kompas.com/read/2013/03/18/13373618/Telkom.dan.Biznet.Bantah.Intai.Pengguna.Internet>

¹⁸⁵ <https://citizenlab.org/2013/03/you-only-click-twice-finishers-global-proliferation-2/>

If it was not done deliberately by Telkom or BizNet, things seem to be more serious, because that means that whoever installed the application on internet infrastructure in Indonesia, it had committed illegal interception activity. Telkom reiterated that the IPs that were installed with FinFisher belong to customers transiting in Telkom network.¹⁸⁶ Meanwhile BizNet said he would find out about the IPs in BizNet’s network that have been installed with FinFisher¹⁸⁷.

119.18.xxx.xxx	HostGator	India
118.97.xxx.xxx	PT Telkom	Indonesia
118.97.xxx.xxx	PT Telkom	Indonesia
103.28.xxx.xxx	PT Matrixnet Global	Indonesia
112.78.143.34	Biznet ISP	Indonesia
112.78.143.26	Biznet ISP	Indonesia
117.121.xxx.xxx	GPLHost	Malaysia
187.188.xxx.xxx	Iusacell PCS	Mexico
201.122.xxx.xxx	UniNet	Mexico

(FinFisher Detected at Several Indonesian ISPs¹⁸⁸)

Gamma Group has been categorized as the “corporate enemy of the internet”, as it sells censoring, monitoring and interception technology to a number of authoritarian country governments¹⁸⁹ to spy on their political rivals and human rights activists.¹⁹⁰

In September 2013, Indonesian Government through its Defense Ministry made a USD 6.7 million transaction with Gamma Group to purchase interception application.¹⁹¹ A number of CSOs in Indonesia stated that with minimum regulation in Indonesia regulating the use of interceptor, the potential of human rights violation caused by the interceptor bought by the Ministry will be higher.¹⁹² Parliament has also expressed its concern with regard to the plan to use the interception application, especially in the verge of 2014 Election.¹⁹³

The Defense Ministry on one hand calls the application it purchased from Gamma Group as Counter-Interception instrument.¹⁹⁴ The instrument is planned to support defense intelligence in Strategic Intelligence Agency (BAIS).¹⁹⁵ It was also mentioned that the instrument wouldn’t be used to intercept the citizens, but instead, to maintain exchange of information security between BAIS office with Indonesian Defense Attache Offices across the world.

In February 2014, Indosat and Telkomsel cellular operators were stated in the news as involved in interception action committed by National Security Agency. The information was found in document leak from Edward Snowden.¹⁹⁶ Responding this news, CI Ministry launched investigation on the two operators.¹⁹⁷ Both Indosat and Telkomsel denied their involvement in the interception action.¹⁹⁸

¹⁸⁶ <http://www.antarane.ws.com/print/364013/dirut-telkom-bantah-pasang-piranti-mata-mata-server>

¹⁸⁷ <http://inet.detik.com/read/2013/03/18/155146/2196987/328/bantah-memata-matai-biznet-klaim-data-pelanggan-aman>

¹⁸⁸ <http://m.merdeka.com/teknologi/2-kali-039kepergok039-biznet-bantah-mereka-gunakan-finfisher.html>

¹⁸⁹ http://news.cnet.com/8301-13578_3-57573707-38/meet-the-corporate-enemies-of-the-internet-for-2013/

¹⁹⁰ http://www.nytimes.com/2012/08/31/technology/finspy-software-is-tracking-political-dissidents.html?_r=1&

¹⁹¹ <http://www.thejakartaglobe.com/news/tni-surveillance-purchase-triggers-concern-in-indonesia/>

¹⁹² <http://www.hukumonline.com/berita/baca/lt52441ff12f4ea/lsm-kecam-pembelian-alat-sadap-oleh-kemhan>

¹⁹³ <http://keamanan.rmol.co/read/2013/10/29/131181/DPR-Akan-Panggil-Menhan-dan-Panglima-TNI-Terkait-Pembelian-FinFisher->

¹⁹⁴ <http://www.kemhan.go.id/kemhan/?pg=31&id=1203>

¹⁹⁵ <http://www.suarapembaruan.com/home/kemhan-beli-alat-sadap-rp-70-miliar-kpk-tak-mau-kalah/42420>

¹⁹⁶ <http://www.nytimes.com/2014/02/16/us/eavesdropping-ensnared-american-law-firm.html>

¹⁹⁷ <http://www.thejakartapost.com/news/2014/02/19/minister-launch-new-telkomsel-indosat-investigation.html>

¹⁹⁸ <http://m.news.viva.co.id/news/read/481738-telkomsel-dan-indosat-soal-penyadapan-kami-selalu-patuhi-uu>

7. Data Protection

Currently Indonesia doesn't have yet any special law on personal data protection. However, in article 42 of Telecommunication Law, it is already stated that "telecommunication service provider shall classify the information sent and or received by telecommunication service user through telecommunication network and or telecommunication service it provides."

Then in article 26 of EIT Law, it is stated that "the use of any information through electronic media concerning a person's personal data shall be done only upon approval of that person."

"Personal data" here refers specifically to "citizen personal data", which definition can be found in Citizen Administrative Law.¹⁹⁹ In article 84 of the law, it is stated that citizen's personal data that shall be protected are: number of family ID card, personal ID card number, birth day/month/year, explanation on physical and/or mental disability, personal ID number of the mother, father, and some record on important events.

However, the Citizen Administrative Law is considered insufficient to protect a person's personal data.²⁰⁰ In addition, although the personal data protection provision is also found in Corporate Document Law, Banking Secret Law, Freedom of Information law and Health Law, the perspective found therein is sector-based and its arrangement is still general in nature.²⁰¹ Thus, there is yet any clear regulation to protect the basic rights of internet user in Indonesia, including the protection of their personal data they upload in cyber world.²⁰² MCIT is currently studying the regulation plan to govern personal data protection.²⁰³

8. Transparency of Information

Public Freedom of Information Law²⁰⁴ has been promulgated in April 2008. In essence, this law obliges every public agency to disclose access to every public information requested by the public. Thus, public can be involved in policy making process to create a transparent and accountable state governance. Indonesia already has Information Commission, which task includes making procedure for dispute settlement and conducting mediation pertaining to public information dispute.²⁰⁵ At provincial level, 23 Regional Information Commissions have been established.

With regard to the implementation of the Law, one of the disputes registered to the Information Commission was the one in December 2013 concerning the Universal Service Obligation (USO) program that was managed by MCIT Ministry.²⁰⁶ In the dispute, Information Commission in February 2014 gave ruling in favor of public request for information concerning designation of winning bidder of USO work that was signed by MCIT Minister²⁰⁷.

¹⁹⁹ <http://produk-hukum.kemendagri.go.id/downloads/31c4f21b8e795022db6edfb6b7146d23.pdf>

²⁰⁰ <http://www.menpan.go.id/berita-terkini/982-perlukah-undang-undang-perlindungan-data-pribadi>

²⁰¹ http://kominformasi.go.id/index.php/content/detail/1337/Sesditjen+IKP+%3A+Perlu+segera+UU+Perlindungan+Data+Pribadi/0/berita_satker#_UzJUNKK0tEM

²⁰² <http://www.republika.co.id/berita/trendtek/internet/13/03/01/mizish-tata-kelola-internet-indonesia-masih-terbaik>

²⁰³ <http://www.indonesiainformasi.com/read/43792/Pemerintah-Kaji-Regulasi-Perlindungan-Data-Pribadi>

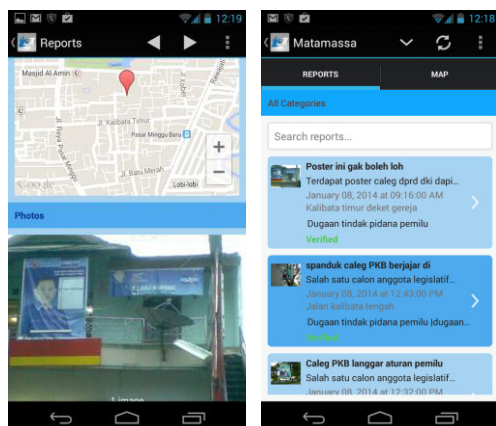
²⁰⁴ <http://www.komisiinformasi.go.id/regulasi/view/uu-nomor-14-tahun-2008-3>

²⁰⁵ <http://www.komisiinformasi.go.id/category/profil/tugas-dan-fungsi>

²⁰⁶ [http://kominformasi.go.id/index.php/content/detail/3778/Siaran+Pers+No.+10-PIH-KOMINFO-1-](http://kominformasi.go.id/index.php/content/detail/3778/Siaran+Pers+No.+10-PIH-KOMINFO-1-2014+tentang+Sidang+Ajudikasi+Dalam+Persengketaan+Informasi+Yang+Menempatkan+Kominformasi+Sebagai+Termohon+Mengenai+Data+D)

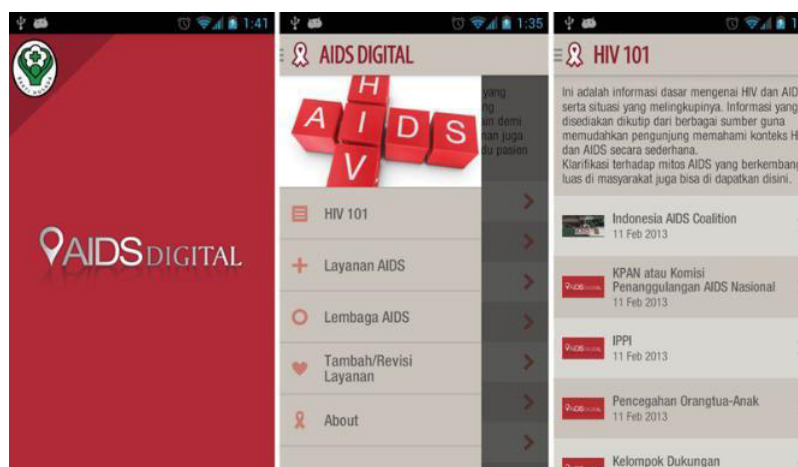
[2014+tentang+Sidang+Ajudikasi+Dalam+Persengketaan+Informasi+Yang+Menempatkan+Kominformasi+Sebagai+Termohon+Mengenai+Data+D](http://kominformasi.go.id/index.php/content/detail/3778/Siaran+Pers+No.+10-PIH-KOMINFO-1-2014+tentang+Sidang+Ajudikasi+Dalam+Persengketaan+Informasi+Yang+Menempatkan+Kominformasi+Sebagai+Termohon+Mengenai+Data+D)

²⁰⁷ <http://www.komisiinformasi.go.id/daftarputusan/view/putusan-sengketa-informasi-antara-edy-sunyoto-dengan-kementerian-komunikasi-dan-informatika>



A number of ideas to facilitate public participation and foster transparency in process related to public interest further emerge and get stronger in Indonesia. For instance, to monitor 2014 Election by public, Jakarta Independent Journalist Alliance (AJI) and ICT Laboratory for Social Changes (iLab), with the support of Southeast Asia Technology and Transparency Initiative (SEATTI), launched a web-based monitoring application and cell-phone named MataMassa (matamassa.org, lit. means mass' eyes), in November 2013.²⁰⁸ The information collected and processed by MataMassa team becomes one of the official references for Election Monitoring Agency (Banwaslu).²⁰⁹

Prior to that, in October 2013, Ministry of Health launched a web and cell-phone application named AIDS Digital (aidsdigital.net)²¹⁰. The application was designed under collaboration with Indonesia AIDS Coalition (IAC), aimed to increase information availability on all matters related to health service for people with HIV/AIDS in Indonesia. The application becomes medium of information on, for instance, location for HIV test service, and availability of medicines for people with HIV/AIDS in various referred hospitals in a number of cities.²¹¹ This application has been declared as the first of its kind at Asia Pasific level that was designed and made for people with HIV/AIDS.



One of the examples of technology utilization to support public policy transparency is the one done by Jakarta Provincial Government through its YouTube channel.²¹² The channel is used by Jakarta government public relations to broadcast various events or open meetings held by its Governor and Deputy Governor.²¹³ This initiative is considered as reflection of transparency and accountability in the government. In addition, many expect this will educate the public so as to make them able to support and guard policy making process better.²¹⁴



²⁰⁸ <http://www.tempo.co/read/news/2013/11/25/072532132/MataMassa-Aplikasi-Pemantau-Pemilu>
²⁰⁹ <http://www.tribunnews.com/nasional/2014/02/18/aji-jakarta-dan-bawaslu-teken-kerja-sama-pemantauan-pemilu>
²¹⁰ <http://www.depkes.go.id/index.php?vw=2&id=SNR.13100016>
²¹¹ <http://inet.detik.com/read/2013/10/31/171801/2400877/398/aids-digital-aplikasi-untuk-semua-hal-tentang-hiv>
²¹² <http://www.youtube.com/user/PemprovDKI>
²¹³ <http://megapolitan.kompas.com/read/2012/11/23/11595362/From.A.to.Z.Akun.YouTube.Pemprov.DKI>
²¹⁴ <http://www.tempo.co/read/news/2012/11/14/231441694/Ahok-Dipuji-Karena-Izinkan-Unggah-Video-Rapat-ke-You-Tube>

9. Indonesia and Global Governance

In telecommunication framework, Indonesia is actively involved in International Telecommunication Union (ITU). One of the indicators of this is when Indonesia was elected again to sit in ITU Board in October 2010 in Mexico, for the period of 2010-2014.²¹⁵ Then in World Conference on International Telecommunications 2012 (WCIT-12) meeting, held in December 2012 in Dubai, Indonesia introduced an agreement framework concept on cyber security that didn't only pertain to network security issue, but also society protection and security in a country. Indonesia also stated its shared perspective and effort together with Iran, China, Russia and Saudi Arabia, which want cyber security issue to be regulated in International Telecommunication Regulations (ITR)²¹⁶.

Indonesia has also been active in World Summit on Information Society (WSIS) meeting. Even in the first WSIS meeting in Geneva in December 2003, Indonesia sent 30 persons as delegation members.²¹⁷ In that meeting, a number of targets that had been set in the "Geneval Plan of Action" document²¹⁸ became Indonesia's serious agenda to be fulfilled.²¹⁹ Preparation for the 8th Internet Governance Forum (IGF) in Bali in October 2013 was also one of the government commitments at international level.²²⁰ IGF 2013 was held under the collaboration between multi-stakeholders that consists of government, business, and civil society²²¹, and with this scheme, Bali IGF was said as "the best IGF ever".²²² IGF 2013 narrative report available at www.igf2013.or.id and www.intgovforum.org²²³.



Indonesia also served as leading co-chair of Open Government Partnership (OGP)²²⁴, a multilateral initiative that aimed to, in multi-stakeholder manner, foster the creation of transparent government performance, active public involvement, combat corruption, and use technology to strengthen accountable governance performance.²²⁵ Declared in September 2011 in Brazil, currently 55 countries have joined OGP.

²¹⁵ <http://www.kemlu.go.id/mexicocity/Documents/Indonesia%20Menangkan%20Kursi%20Dewan%20International%20Telecommunication%20Union%20Pada%20Pemilihan%20di%20Guadalajara%20Mexico.doc>

²¹⁶ Read MCIT, Siaran Pers No. 94/PIH/KOMINFO/12/2012 tentang Sidang World Conference on International Telecommunication Tahun 2012 (WCIT-12) di Dubai, Uni Emirat Arab, 12 December 2012, available here:

<http://m.kominfo.go.id/berita/detail/3719/Siaran+Pers+No.+94-PIH-KOMINFO-12-2012+tentang+Sidang+World+Conference+on+International+Telecommunication+Tahun+2012+%28WCIT-12%29+di+Dubai%2C+Uni+Emirat+Arab>

²¹⁷ http://www.itu.int/wsis/docs/geneva/summit_participants.pdf

²¹⁸ <http://www.itu.int/wsis/docs/geneva/official/poa.html>

²¹⁹ http://www.postel.go.id/info_view_c_26_p_1313.htm

²²⁰ http://kominfo.go.id/index.php/content/detail/3218/Siaran+Pers+No.+61-PIH-KOMINFO-8-2013+tentang+Indonesia+Bersama+Komunitas+Internet+Multi-Stakeholder+Global+Siap+Menjadi+Tuan+Rumah+IGF+2013+-+Bali/O/siaran_pers#.UzKwJK0tEM

²²¹ <http://www.intgovforum.org/cms/2013/igf2013-narrativereport.pdf>

²²² <http://www.intgovforum.org/cms/2013-bali/igf-2013-transcripts/1458-closing-ceremony>

²²³ <http://www.intgovforum.org/cms/2013/igf2013-narrativereport.pdf>

²²⁴ <http://www.theguardian.com/public-leaders-network/2013/oct/30/indonesia-chair-open-government>

²²⁵ <http://www.opengovpartnership.org/about/open-government-declaration>

10. About ICT Watch

Indonesian ICT Partnership Association (ICT Watch) is civil society organization (CSO) established in order to develop, empower and support people, other CSOs and multi-stakeholder in Indonesia for their right to information. We believe that the Internet is one of the most powerful tools for facilitating citizen engagement in building democratic societies and promoting a range of human rights. Therefore, ICT Watch provides information to the society about the dynamics and potential benefits of Internet through campaign, publication and variety of public activities. ICT Watch stands clearly on opposing unclear policies encroaching censorship on the Internet, and protecting access to information for societies. Further it stimulates safe and wise Internet use in Indonesia. ICT Watch proud member of Indonesian CSOs Network for Internet Governance (ID-CONFIG) as well as Indonesia Internet Governance Forum (ID-IGF). ICT Watch was initiated in 2002 and legally registered on 2009 in Jakarta.

Our Vision

“The establishment of Internet ecosystem and governance in Indonesia that implement the protection and fulfillment of rights to information, the rights to have freedom of expressions and utilization of Information and Communication Technologies (ICT) and Internet strategically, as mandated by Indonesian Constitution”

Our Mission

- To develop Indonesian people awareness, emphasis on children and family, on the use of ICT and exercise Internet safely and wisely. (**INTERNET SAFETY**).
- To empower Indonesian civil society, especially information and human rights activists, by supporting them to use the ICT and Internet as those are the enabling tools in fulfilling the right to information. (**INTERNET RIGHTS**).
- To support Indonesian multi-stakeholder dialogue in ICT and Internet Governance whilst upholding the key principles of transparency, accountability, equality, collaboration and professionalism. (**INTERNET GOVERNANCE**).

Contact

Address : Jl. Tebet Barat Dalam 6H No. 16A, Jakarta 12810, Indonesia
Phone / Fax : +62 (021) 98495770 / +62 (021) 8292428
E-mail : info@ictwatch.com
Web : www.ictwatch.com

Twitter : [@internetsehat](https://twitter.com/internetsehat)
Facebook : facebook.com/netsehat
YouTube : youtube.com/internetsehat
Flickr : flickr.com/internetsehat