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Press freedom, law and politics in Indonesia : a socio-legal study

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Press Freedom, Law and Politics in Indonesia

"Try not to become a man of success but rather to become a man of value"
[Albert Einstein, 1879-1955]

For those who continue the struggle for freedom
and human rights in Indonesia

Press Freedom, Law and Politics in Indonesia

A Socio-Legal Study

PROEFSCHRIFT

ter verkrijging van
de graad van Doctor aan de Universiteit Leiden,
op gezag van Rector Magnificus prof. mr. C.J.J.M. Stolker,
volgens besluit van het College voor Promoties
te verdedigen op donderdag 11 december 2014
klokke 10.00 uur

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in 1976

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Someone without a background in journalism will never experience what press freedom means as an editor in the newsroom or a reporter in the field will experience it. A dissertation on freedom of the press therefore is a challenge – it is not so much the dissecting and analysing of press law and its enforcement that creates the difficulties, but rather the attempt to imagine the psychological aspects and the obstacles involved. I have therefore greatly relied on those who were kind enough to share their experiences and I am extremely grateful to them.

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Hopefully, this socio-legal study of freedom of the press will contribute to the development of legal and socio-legal scholarship in Indonesia, and can be used as a tool to struggle for freedom, human rights and democracy in Indonesia. As I believe, "Freedom of the press is not merely a matter of democracy, but also a matter of human civilization in the manifestation of the nation and the state!" [Wuluhan, July 6, 2014].

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Glossary

Advies commissie zedelijkheidswetgeving	Advisory Commission on Decency Legislation (the Netherlands)
AJI	*Aliansi Jurnalis Independen* or Independent Journalists Alliance
Algemeen objectief begrip	General objective concept
ALM	*Anugerah Langkat Makmur* Inc.
Amicus curiae	Friends of the court
Ampera	*Amanat Penderitaan Rakyat* or the 'message of the people's suffering'
ARTICLE 19	London-based NGO for freedom of expression
Audi et alteram partem	Legal principle of hearing the other side or party
BFO	*Bijeenkomst voor Federaal Overleg*, the group of representatives of those provinces of the Netherlands-Indies who were not (yet) part of the Republic of Indonesia during the Revolution (1945-1959)
BL	Broadcasting Law (Law 32/2002)
BPHN	*Badan Pembinaan Hukum Nasional*, or National Law Development Agency, part of the Ministry of Law and Human Rights
BPS	*Badan Pendukung Soekarnoisme* or the Body for the Support/Diffusion of Soekarnoism
BPUPKI	*Badan Penyelidik Usaha Persiapan Kemerdekaan Indonesia*, or the Investigating Committee for Preparing Indonesia's Independence, a Japanese-organised committee, which was to support independence in Indonesia
BW	Burgerlijk Wetboek (Civil Code)
CPJ	The Committee to Protect Journalists, a US-based organisation for press freedom

CPM	Military Police Corps
CYMA Inc	*Cipta Yasa Multi Usaha Inc.*
Dekrit Presiden	The Presidential Decree of 5 July 1959
Dewan Pers	Press Council
DPD	*Dewan Perwakilan Daerah*, or Regional Representative Council
DPKN	*Djawatan Pengawas Keamanan Negara* or Intelligence Services under the Police Corps
DPKN-DKN	*Djawatan Kepolisian Negara Bagian Dinas Pengawasan Keselamatan Negara* or State Police Security Monitoring Agency
Dewan Perencanaan Nasional	National Planning Council
Dewan Stabilisasi Politik dan Keamanan	Council for Political and Security Stabilisation
EIT Law	Electronic Information and Transaction Law (Law 11/2008)
Elsam	*Lembaga Studi dan Advokasi Masyarakat*, a human rights NGO
Exceptie obscurum libellum	An objection that states that the plaintiff filed an unclear lawsuit
Exceptie iurium litis consortium	Exception on the basis of the plaintiff only addressing particular defendants
Exceptie error in persona	Exception on the basis of the lawsuit addressing the wrong defendants
FDR	*Front Demokrasi Rakyat* or the People's Democratic Front
Fitnah	Slander, also closely related to the general concept of defamation
FPI	*Front Pembela Islam*, or the Front of Defenders of Islam, a Muslim fundamentalist vigilante
GDPT	General Directorate of Post and Telecommunication
Grondrechten	Fundamental rights
Haatzaai-artikelen	Hatred sowing articles

Hak jawab	Right to reply
Hak koreksi	Right to correction
HGB	*Hak Guna Bangunan*, or a property status, entitlement to construct and to own buildings or other structures over the land
HPL	*Hak Pengelolaan*, or a property status, only granted to government institutions and state (national/local)-owned companies for developing public facilities
IPI	International Press Institute, based in Vienna
IPP	*Izin Penyelenggaraan Penyiaran*, Broadcasting Permit
ISR	*Ijin Stasiun Radio*, or Radio Station Permit
Judex facti	The authority to examine the facts and evidence of a particular case, in Indonesian law this is held by the District Court and the High Court
Judex juris	The authority to examine only the application of the law (in practice the Supreme Court in cassation)
Kabinet Ampera	*Kabinet Amanat Penderitaan Rakyat*, or Cabinet of The Message of the People's Suffering (Ampera Cabinet)
Kapolda	*Kepala Polisi Daerah*, Provincial Police Commander
Keppres	*Keputusan Presiden*, Presidential Decision
KJTKP	*Koalisi Jurnalis Tolak Kriminalisasi Pers,* Journalist Coalition Refusing Press Criminalisation
KNIP	*Komite Nasional Indonesia Pusat* or the Central National Indonesian Committee
Kode Etik Jurnalistik (KEJ)	Press Code of Ethics
Kodim	*Komando Daerah Militer*, Military Command Office at District Level
KOMDAK	*Komando Daerah Angkatan Kepolisian* or District Police Command Office

Konstituante	The Constitutional Council, was officially formed on 10 November 1956 and held meetings for almost two and a half years. As mandated by Article 134 of the 1950 Constitution, the *Konstituante* together with the government, were in charge of drafting a new constitution. It was elected at the same time as Parliament during the general elections of 1955.
KontraS	The Commission for Disappearances and Victims of Violence
Kopkamtib	*Komando Operasi Pemulihan Keamanan dan Ketertiban,* Command for the Restoration of Security and Order
KPI	*Komisi Penyiaran Indonesia,* or Indonesian Broadcasting Commission; at the regional level it is named KPID *(Komisi Penyiaran Indonesia Daerah)*
KUHP	Kitab Undang-Undang Hukum Pidana (Penal Code)
LAC	Law on Administrative Courts (5/1986, amended by 9/2004 and 51/2009)
Laksus Pangkopkamtibda Jaya dan Sekitarnya	Special Task Force, Command for the Restoration of Security and Order for Djakarta Raya and surroundings
LBH Pers	*Lembaga Bantuan Hukum Pers* or Press Legal Aid Institution
Lex specialis derogat legi generali	Generally accepted as a technique of interpretation in solving legal cases when dealing with two or more conflicting norms in a particular case, meaning that a specific rule should be prioritised over a more general one
Lex suprema	Law is 'supreme' when it concerns cases, other laws are only supplementary to it
Malari	Political riots in 1974 known as the Fifteenth of January Riots
Manipol (-USDEK)	*Manipol* was the Political Manifesto set forth in Soekarno's August 17, 1959, Independence Day speech, and USDEK was an acronym for the 1945 Constitution, Indonesian Socialism, Guided Democracy, Guided Economy, and Indonesian Identity

Manipolisasi Pers National	Bringing the National Press under the Political Manifesto, during Guided Democracy
Melanggar kesopanan/ kesusilaan	Violating Public Decency
Menghasut	Incitement
Menyiarkan kabar bohong	Spreading false news
MIPPA	*Masyarakat Indonesia Peminat Pers Alternatif* or Alternative Press Interest Indonesian Society
MKGR	Mutual Assistance Families Society, an NGO closely related to the Golkar Party
MMI	*Majelis Mujahiddin Indonesia* or Indonesian Mujahiddin Council
MOFS	Monitoring Office of Frequency Spectrum
MPPI	*Masyarakat Pers dan Penyiar Indonesia*, or the Indonesian Press and Broadcasting Society
MPR	*Majelis Permusyawaratan Rakyat*, or People's Consultative Assembly
MPRS	*Majelis Permusyawaratan Rakyat Sementara* or People's Provisional Consultative Assembly
Nasakom	*Nasionalisme, Agama, Komunism*, or Nationalism, Religion, Communism
Nawaksara	Originally from Sanskrit which means 'nine statements', the title of President Soekarno's speech for MPRS (Parliament) on 22 June 1966
Niet ontvankelijk verklaard	Dismissal of a case
NKRI	*Negara Kesatuan Republik Indonesia* or Unitary State of the Republic Indonesia
OAS	Organisation of American States
OSCE	Organisation for Security and Co-operation in Europe
Osamu Seiri	The Japanese military law
P3SPS	*Pedoman Perilaku Penyiaran dan Standar Program Siaran*, or Guidelines for Broadcasting Manners and Broadcasting Program Standards KPI Decision Letter 009/SK/KPI/8/2004

PAN	*Partai Amanat Nasional* or National Mandate Party
Pancasila	Five moral principles, as philosophical basis of Indonesian life and society
Panitia Hukum Dasar	Committee of Fundamental Law
Panitia Kecil Perancang Undang-Undang Dasar	Small Committee of Constitutional Drafters, chaired by Soepomo
Panitia Undang-Undang Dasar	Constitutional Committee
Pantja Tunggal	The Single Five Pillars as the basis for important state institutions (following the *Manipol* ideology)
PBHI	*Perhimpunan Bantuan Hukum dan Hak Asasi Manusia Indonesi*, or the Indonesian Legal Aid and Human Rights Association
PDI-P	*Partai Demokrasi Indonesia Perjuangan* or the Struggle for Indonesian Democracy Party
Pencemaran nama baik	Degrading reputation, also closely related to the general concept of defamation
Penerangan Massa	Mass Information
Penghinaan	Insult
Peninjauan kembali	A review by the Supreme Court on the basis of new evidence (*novum*)
Peperti	*Penguasa Perang Tertinggi*, Highest War Authority
Persbreidel	Press banning
Pertamina	The state oil company
PIDL	Public Information Disclosure Law (14/2008)
PKB	*Partai Kebangkitan Bangsa*, or the Nation's Awakening Party
PKI	*Partai Komunis Indonesia*, or Indonesian Communist Party
POP	*Peragaan, Olahraga, Perfilman*/Style, Sport and Film, a magazine
PPM	*Pemuda Panca Marga*, a paramilitary organisation
Prematuur exceptie	Exception because a case is brought too early

PSII	*Partai Sjarikat Islam Indonesia*, or Indonesian Islamic Association Party
PWI	Indonesian Journalists Association
RCTI	*Rajawali Citra Televisi Indonesia*, a national television corporation
RAPP	Riau Andalan Pulp and Paper, Inc. (PT)
REB	*Radio Suara Harapan Semesta* corporation (or also known as *Radio Era Baru*) is a local radio based in Batam, Riau. REB is the local affiliate of Sound of Hope Radio Network
Reformasi	'Reform,' refers to the motto of domestic opposition. It is also known as an era after Soeharto's authoritarian regime
Regeringsreglement	The Netherlands-Indies Constitution
Rekonvensi	Counter claim
RIS	*Negara Republik Indonesia Serikat*, or the United States of Indonesia (USI)
RRI	*Radio Republik Indonesia* or Republic of Indonesia Radio
RSF	*Reporters Sans Frontières* or Reporters Without Borders
RSMS	*Radio Suara Marga Semesta* or well know as *Radio Sing*
Satgas Mass Media Laksus Pangkopkamtibda Jaya	The Mass Media Task Force Unit of Command for the Restoration of Security and Order in Jakarta
SEMA	*Surat Edaran Mahkamah Agung* or the Supreme Court Circular Letter
SIC	*Surat Ijin Cetak* or printing permit
SIT	*Surat Ijin Terbit* or publishing permit
SIUPP	*Surat Izin Usaha Penerbitan Pers* or Letter of Press Publication Permit
SLAPP	Strategic Lawsuits against Public Participation
SOB	The Emergency Ordinance, literally State of War and Siege Ordinance, *Regeling op de Staat van Oorlog en Beleg*

SP3	*Surat Penghentian Penyelidikan Perkara* or Letter of Discontinuation for Investigating a Case, released by the police
SPS	*Serikat Penerbit Suratkabar,* or Newspapers Publisher Association. Since 2011, the name was changed into *Serikat Perusahaan Pers (SPS Indonesia)* or Press Company Association
STT	*Surat Tanda Terdaftar* or Registered Signed Letter
Subjektief eerbaarheidsgevoel	Subjective feeling of decency
Supersemar	Instruction Letter of 11 March 1966
Surat Pembaca	A letter to the editor
Tim Pembina Pers Kampus Mahasiswa Tingkat Nasional	The National Supervisory Team for University Student Press, established on 31 May 1980 by the Ministers of Education and Information
Tjatur Tunggal	Four institutions, these institutions were at three levels of regional government (provincial, regency and city), comprised of the provincial governor (or regent or mayor), local army commander, local police chief and local public prosecutor, started in 1964
UDHR	The Universal Declaration of Human Rights, signed in 1948
ULAP	Unjustifiable Lawsuit against Press Freedom
UN	United Nations
UNCI	*United Nations Commission for Indonesia,* the organisation established by the United Nations
UUDS	*UUD Sementara Republik Indonesia* or the Provisional Constitution of the Republic of Indonesia, was formally enacted by Law No. 7 of 1950, State Sheet of RIS 56/1950
VOC	*Verenigde Oost-Indische Compagnie,* Dutch East India Company
Wayang	Folk puppetry
WvS. Ned. Ind.	The Penal Code for the Netherlands-Indies (*Wetboek van Strafrecht voor Nederlandsch-Indië*)
YLBHI	*Yayasan Lembaga Bantuan Hukum Indonesia*, or the Indonesian Legal Aid Foundation