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

Wiratraman, H.P.

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**Author:** Wiratraman, Herlambang Perdana

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### 3 From the VOC to the End of Guided Democracy: Press Freedom in Legislation

#### 3.1. INTRODUCTION

A legal history of the press in Indonesia is the story of the politics of different regimes and to what extent they were willing to allow dissident voices. During the colonial period, from the moment the Dutch East India Company (VOC)<sup>1</sup> first arrived, controlling public expression was a primary concern of the government. Laws and decrees targeted journalists, editors and publishers in order to silence dissident voices, and from the 1910s preventing the emergence of a nationalist press demanding independence became a particular concern. These colonial laws and decrees were adopted by the newborn Republic through Article II of the Transitional Rules of Indonesia's Constitution in 1945.<sup>2</sup> They included notorious articles addressing crimes against the public order in the Netherlands-Indies Penal Code (*Wetboek van Strafrecht voor Nederlands-Indië* or *WvS. Ned. Ind.*), such as 'sowing hatred', insulting state bodies, 'inciting' (*opruiming*), defamation, and crimes against decency.<sup>3</sup> Yet, many laws and regulations limiting press freedom were added by the Indonesian legislator later on.

This chapter examines such laws and decrees against press freedom from a legal-historical perspective. It starts with the colonial period, and then analyses how freedom of expression and press freedom were adopted into Indonesian laws and policies after independence, until the end of Guided Democracy in 1965. I will moreover try to explain these developments and therefore include in this analysis a description of the relation between legislation or policies and their political context.

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1 Verenigde Oost-Indische Compagnie.

2 Presidential Decree 2/1945 confirmed this by recognising "all the state institutions and regulations as long as they are not contradictory to the Constitution."

3 The formulation of these articles was based on the Dutch *Wetboek van Strafrecht* (WvS). However, the hatred sowing articles (*haatzaai-artikelen*) were specifically meant for the Netherlands Indies, in order to allow the government to take measures against those criticising the government. One of them, Article 155, was applied many times, including in 1930 against Soekarno (Soekarno 1989).

### 3.2. THE NETHERLANDS INDIES AND THE JAPANESE OCCUPATION

#### 3.2.1. The VOC Administration

The story about 'modern' press restrictions by legislation in what is now Indonesia started with the rule of the VOC in the eighteenth century. In 1712 the Heeren XVII of the VOC even went so far as to prohibit all press publications in the Netherlands Indies. The main reason was that the VOC did not want its trade rivals to obtain relevant knowledge from commercial news published for a broad readership (Faber 1930: 13-14). Curtailing advertisement in particular made it easier for the VOC to maintain its trade monopoly.

This measure was actually taken before the emergence of a proper press. It was only some thirty years later that the first newspaper was introduced to the Netherlands Indies, when on 7 August 1744 trader Jan Erdmans Jordens first published the *Bataviase Nouvelles en Politique Raisonnementen* (Batavia News and Political Reasonings) in Batavia. Governor-General Gustaaf Willem Baron van Imhoff gave permission for the publication, but changed his mind two years later (on 20 June 1746) after the Director of the VOC asked him to ban the paper. The reason was the same as in 1712: the VOC attempted to keep any information relating to its activities as secret as possible in order to avoid competition, even though – ironically – the information published in the *Bataviase Nouvelles* was not critical at all and had little trade value. This decision showed the extent to which the VOC feared for any publication to affect its monopoly of power in the Netherlands Indies (Termorshuizen 2001: 27-32). Hence, the social and political roles of newspapers during the VOC administration were limited.

This situation only changed after the bankruptcy of the VOC, the subsequent take-over of the colony by the Dutch state, the Napoleonic Wars and the British Interregnum from 1811 to 1816. After the British had returned the Netherlands Indies to the Netherlands the first newspaper appeared in 1817: the *Bataviasche Courant*. It consisted of a part containing official notices to the public and an informal part (Termorshuizen 2001: 46-47; Faber 1930: 32-36). It was followed by the *Bataviasche Advertentieblad* (1827),<sup>4</sup> *Nederlands Indiesche Handelsblad* (1828),<sup>5</sup> *Soerabajasche Courant* (1831),<sup>6</sup> and *Samarangsche Advertentieblad* (1845).<sup>7</sup> There were also newspaper publications with Malay

4 *Bataviasche Advertentieblad* was more an advertisement paper than a newspaper (Termorshuizen 2001: 47).

5 *Nederlands Indiesche Handelsblad* was a newspaper published by the government, its content consisted of news and messages relating to trade in the Indonesian archipelago (Termorshuizen 2001: 56).

6 *Soerabajasche Courant*, its name changed to *Soerabaya Courant* in 1861 started as an advertisement paper, but soon became more of a newspaper.

7 *Samarangsche Advertentieblad* was an advertisement newspaper.

names and in Malay language, such as *Bramartani* (1855), *Soerat Kabar Bahasa Melajoe* (1856), *Selomporet Melajoe* (1860), *Bintang Timor* (1862), *Djeroe Martani* (1864), and *Biang Lala* in Jakarta (1867). All of them were published on Java. The newspapers mainly contained public notices, such as government announcements, updates on official activities, and new regulations.

Between 1817 and 1848 the government left these publications alone, which is not as remarkable as it may seem because they were not very critical of the former's policy. This situation only started to change after the constitutional reform of the Dutch state and its colony from 1848 until 1854.

### 3.2.2. The Dutch Constitution of 1848 and the Government Regulation for the Netherlands-Indies (*Regerings Reglement*) of 1854

The Dutch Constitution of 1848 and the *Regerings Reglement* for the Netherlands-Indies of 1854 provided a new legal underpinning for Dutch rule in the Netherlands Indies. They provided the points of departure for freedom of expression in the Netherlands Indies for the largest part of the colonial period. Significantly, Article 8 of the 1848 Constitution provided for press freedom: "No one needs prior permission to express through the press any thoughts or feelings, without prejudice to his responsibility under the law." Dutch liberal MPs, led by Thorbecke, struggled against the conservatives to insert the same provision into the 1854 *Regerings Reglement*, as they believed freedom of the press was needed as a tool to monitor the Dutch government. Promoting press freedom was for a large part inspired by their own experience of suppression under the authoritarian government of Willem I. However, the liberal MPs were opposed by the conservative faction led by ex-Governor-General (1833-1836) Jean Chrétien Baud, who promoted clear limitations on press freedom. The conservatives feared that the fact that the native population of the Indies was being "somewhat exploited" might be "exhibited" by opposition newspapers and could then be employed as a weapon against the government (Faber 1930: 40).

The result was a compromise, but closer to the liberal than to the conservative point of view. Article 110 of the *Regerings Reglement* stipulated that:

The supervision of the press by the Government must be regulated by ordinance in agreement with the principle that the publication of ideas and sentiments by the press and the admission of printed matter from outside the Netherlands must not be submitted to any restriction except such as is needed to ensure public order.

### 3.2.3. Drukpersreglement (1856)

Unfortunately, the elaboration of Article 110 of *Regerings Reglement* into the Regulation on Printed Matter in the Netherlands Indies of 1856 (*Reglement*

*op de drukwerken in Nederlandsch-Indie*, or the so-called *Drukpersreglement*),<sup>8</sup> showed little of its liberal intent. Thirty-five articles under the *Drukpersreglement* were enacted on 8 April 1856 by a Royal Decree (*Koninklijk Besluit*) in Amsterdam, then officially proclaimed as an Ordinance by the Governor-General in the Netherlands-Indies on 10 November 1856.

The *Drukpersreglement* clearly aimed at stifling criticism of the colonial government (Adam 1995: 17). It was scornfully called a “brainchild of darkness” by Thorbecke (Faber 1930: 40) and it immediately led to serious protests and even a riot by journalists and others in the Netherlands Indies (Termorshuizen 2001: 77). The *Drukpersreglement* was seriously criticised in Parliament in 1857, but the MPs could do little more than express their dismay – the regulation was to remain in place until the end of Dutch rule over the Indies.

The *Drukpersreglement* introduced a system of pre-censorship for the press, which was formulated under article 13:

Of each paper printed in the Netherlands Indies, or printed elsewhere bar the Netherlands and published in the Netherlands Indies, the printing house or publisher is obliged to submit a signed copy to the head of the local administration (*het hoofd van het plaatselijk bestuur*), another copy to the public prosecutor (*officier van justitie*), and a third copy to the general secretariat. The printing house or publisher will receive a free proof of receipt. Violation against this provision shall be liable to a fine of 50 to 1000 guilders.

This pre-censorship system meant the end of press freedom in the Netherlands Indies, since it was no longer allowed to publish thoughts and feelings through the press without prior authorisation. Every new magazine, journal or periodical needed permission from the *Binnenlands Bestuur*.<sup>9</sup> In addition, the *Drukpersreglement* introduced criminal liability for defamation (*smaad*), insult (*hoon*), or slander (*laster*) against the King of the Netherlands or his family (article 23) or against public officials (article 25).

The government proved moreover willing to use its powers: in 1864 it fined a journalist from the *Java Bode*, in 1868 an editor of the *Soerabajasche Handelsblad*, in 1869 the *Celebes Courant*, and *Jeroe Martani*, and in 1873 the *Samarangsche Courant* and – again – the *Java Bode*.<sup>10</sup> These cases mostly related to defamation and insult. The government even exiled the editor of the *Samarangsche Courant* and a journalist from the *Java Bode*. Both cases were unsuccessfully challenged in the court (Said 1988: 16).

8 Koninklijk Besluit No. 54, 8 April 1956, Staatsblad van Nederlandsch-Indie 1856 No. 74: Reglement of de Drukwerken in Nederlandsch-Indie.

9 According to Gerard Termorshuizen this is the reason why at least 95 percent of the printed newspapers from the Netherlands Indies can be found in the *Algemeen Rijksarchief* (General State Archives) in The Hague, Personal communication, Leiden, 27 March 2010.

10 Unfortunately, I could not find clearly to what extent the threat of a fine influenced journalists or papers to publish or not to publish.

The obligation to submit to the authorities an unsigned copy of all manuscripts before publication was also challenged by the printer/publisher of the *Soerabaja Courant* in 1869. He argued that this obligation could not possibly apply to daily newspapers. When he refused to submit the first number of his *Courant* to the public prosecutor before publication, a prosecution followed. Surprisingly, the Soerabaja Court decided that the defendant was correct. According to the judges daily publications were regulated by another article.<sup>11</sup> The court acquitted the accused, and this judgement was confirmed on appeal by the Supreme Court on 4 June 1869 (Faber 1930: 40-41). This case shows that there was at least the possibility to challenge the government and that newspapers were henceforth subject to a less stringent regime, but it did not alter the repressive nature of press regulation.

#### 3.2.4. Press and Ethical Policies

Bumiputera Hindia Olanda yang baru bangun patut  
mendapat hak dan bebas (rechten en vrijheden),  
baik dengan tulisan, baik dengan bicara.<sup>12</sup>  
(Tirto Adhi Soerjo, 1909a)

In the early twentieth century the new 'Ethical Policy,' inspired by C. Th. van Deventer's article "A Debt of Honour" (*Een Eereschuld*), led to a different government view of press freedom (Maters 1998: 79-80). The wish to repay the 'surplus millions' the Netherlands had reaped from the Indies by improving the socio-economic welfare of 'the natives' through educational and economic measures (Deventer 1899) was accompanied by the birth of a new consciousness among the Indonesian people in the closing years of the nineteenth century (Adam 1995: 90-107; Ricklefs 1981).

Newspapers in the Netherlands Indies were an important source of information on the situation in the colonies and contributed to the criticism underpinning Van Deventer's quest. A well-known example of a critical journalist is Pieter Brooshooft (1845-1921), who wrote many articles about oppression and inequities of the colonial system, and about the moral duty of the Dutch to repay the Indies what the Indies was due. As the editor of the largest and liveliest of the Dutch-language Indies' newspapers, *De Locomotief*, Brooshooft sent reporters all over the Netherlands Indies to investigate what was wrong. He paid special attention to the so-called 'declining Native welfare,' the actual reduction in living standards of large parts of the

11 I have not been able to find this article, while Faber in his writing also did not give any further explanation about this issue.

12 "Netherlands-Indies indigenous inhabitants who have just awoken ought to get rights and freedoms, both in writing and in speaking."



population in substantial areas of the colony at the end of the nineteenth century (Vickers 2005: 17).

In 1906, the changed atmosphere led to an amendment of the *Drukpersreglement*. It was initiated by the Minister of Colonial Affairs, who also requested the Governor-General to formulate a new penal code for the Netherlands Indies. The 19 March 1906 Royal Decree<sup>13</sup> abolished the notorious pre-censorship system. According to its Article 17, printing houses were responsible for the entire content of the newspapers or periodicals they published, if the author could not be prosecuted or convicted, or if the judgment could not be executed against him (Faber 1930: 42). Although censorship was still possible, the changes to the *Drukpersreglement* thus contributed to more freedom of the press in the Netherlands Indies, and in particular promoted the involvement of Chinese and Indonesians in public debates waged in the press. Criticism of unjust policies gained a platform and promoted more political consciousness among Indonesians (Maters 1998).

Before the introduction of the so-called 'Ethical Policy,' there was actually no 'native' press of political importance, but in 1903 R.M Tirta Adhi Soerjo established *Soenda Berita* and in 1907 *Medan Prijaji* (Termorshuizen 2011: 148).<sup>14</sup> He managed to get the funding for *Soenda Berita* by selling his own property in Batavia, and found support for his effort with the Regent of Cianjur. The newspaper quickly developed an agenda of knowledge promotion and preparing the reader for the coming modernisation. It addressed topics as health, medicine, medical review, bacteriology, meteorology, law, governance, Islamic law, photography, and *wayang* (folk puppetry). It also introduced specific rubrics for women, such as cooking, tailoring, and housekeeping, some of them even written by female authors. According to Pramoeđa Ananta Toer, the *Soenda Berita* was really a 'one-man business' (Toer 1985: 39-40). *Medan Prijaji* was of a more political nature. Next to providing general news, the newspaper aimed at promoting justice for Indonesians – through legal aid, providing access for marginalised people to forums of complaint, providing information for job seekers in Batavia and pushing citizens to become involved in organisations and to organise themselves (Toer 1985: 46). Soerjo developed several other publications, such as *Soeloeh Keadilan* (1907) and *Poetri Hindia* (1908) and set the stage for many other newspapers, journals and magazines.

On top of the changes to the *Drukpersreglement* came the liberal policies of Governor-General J.B. van Heutsz, who took office in 1904. Soerjo applauded the appointment of Van Heutsz, because he had finally brought the war

13 Koninklijk Besluit, 19 March 1906, Staatsblad van Nederlandsch-Indië 1906 No. 270.

14 R.M. Tirta Adhi Soeryo was awarded the title of Father of the National Press by Soeharto in 1973, and National Hero by Soesilo Bambang Yudhoyono in 2006 (by Presidential Decree 85/TK/2006).



in Aceh to an end “and the people in Java had been under a heavy burden to provide the funds for the Aceh War” (1904: 31-32).<sup>15</sup> Soerjo also noted that before Van Heutsz’s appointment newspapers could not criticise the government for arbitrariness of its officials. This was now allowed, as long as it did not constitute an attack on the honour (*eer*) and moral value (*zedelijke waarde*) of persons or of officials – but one could use sharp wordings. In Soerjo’s words: “This leeway (policy) is enough for the press to write about influential persons who govern in arbitrary ways. The more the Malay press dares to state its thoughts, the more attention the government will pay. Such attention is the aim of Governor-General Van Heutsz. He likes supporting the press. He allows journalists to attend official parties and visit prohibited areas, he even gives financial support – taken from the 25 percentage budget reduction of the Dutch railways – to journalists. He also very much respects and gives attention to the Malay press, and sees the press as useful for the governed nation” (Toer 1985: 53).<sup>16</sup> Indeed, Van Heutsz encouraged Malay language journalism, and thus provided the opportunity for Soerjo and his colleagues to publish their articles. Soerjo also became friends with Van Kol, Stigter (director of the Koningin Wilhelmina School), and other ‘ethicals,’ and even enjoyed direct personal access to Van Heutsz (Shiraishi 1987: 132).

Yet, this did not prevent Soerjo from getting into trouble in a case which demonstrated that the boundaries were still tight. In 1909 Soerjo was prosecuted for a ‘*persdelict*’ concerning an article about an official from the indigenous administration, Mas Tjokrosonto (*Wedono*<sup>17</sup> in Cangkrep, Purworejo) and one from the Dutch administration, A. Simon (*Aspirant Controleur*). In the article these officials were called ‘*snotaap*’ (naughty boy), ‘*ambtenaar broddelaar*’ (messy official) or ‘*ambtenaar stupperaar*’ (stupid official).<sup>18</sup> On the basis of Article 25 of the *Drukpersreglement*, Soerjo was prosecuted after Simon had filed a complaint for defamation (*smaad*), insult (*hoon*), or slander (*laster*), and was ultimately sentenced by the Court of Appeal (*Raad van Justitie*) to two months of seclusion away from his home (Soerjo 1909b).

15 This is somewhat ironic, since the Military Governor in Aceh Van Heutsz had conducted a scorched earth policy in which 60,000-70,000 Acehnese lost their lives (an estimated 37,000 troops were killed on the Dutch side) (Vickers 2005: 13). However, Van Heutsz’s military success had turned him into a popular hero of expansion, and therefore he was in a position to silence some of the conservative criticism on the ‘Ethical Policy.’

16 I have not been able to find where Toer got his quotation from.

17 Official position at the sub-district level.

18 The case was about the article “*Betapa Satoe Pertolongan Diartikan*” (‘How An Act of Help Should be Understood’) in *Medan Prijaji* no. 24 of 30 June 1908. It referred to earlier articles in *Medan Prijaji*, no. 19 and 20 pp. 224-235 and 244-258, “*Persdelict, Oempatan dan Penistaan: Aspirant Controleur A Simon contra Tirta Adhi Soerjo, Hoofredaktur Medan Prijaji*” (‘Press crime, Detraction and Defamation: Candidate Controller A. Simon Against Adhi Soerjo, Chief Editor of the Medan Aristocrat’).

### 3.2.5. Haatzaai Artikelen (1914)

The climate of press freedom changed substantially after the introduction of the amendment of the *Wetboek van Strafrecht in Nederlands Indië* (Penal Code in the Netherlands Indies) in 1914.<sup>19</sup> In response to the emergence of a nationalist movement and the growth of a vernacular press which was increasingly critical of the Dutch government in the Netherlands Indies, the Dutch authorities introduced stricter controls on the press. Prior to these amendments, on 2 June 1913, Minister of Colonial Affairs De Waal Malefijt wrote to Governor-General Idenburg:

Strong action should be taken against the public preaching of revolt against the Dutch authorities, against those extremely tiresome efforts to discredit the best intentions of the Government, against the sowing of hate and discordance between the various races which has become the order of the day. Tolerating this manifestation or leaving their repression to the constantly varying opinion of the judiciary in the Indies – which in practice amounts to the same thing – is like committing political suicide.... Introduction of a preventive control has, of course, been made impossible by the changes to the press rules in 1906. Therefore, a new means of repression should be looked for, not by the judiciary but by administrative authorities (Wal 1967: p. 239).

Indeed, at that time administrative intervention into press matters was no longer permitted. The authorities in the Netherlands Indies had to resort to criminal prosecution when they thought an author or a journalist had gone too far in discrediting the government and, therefore, had to be accused of attempting to disrupt public order and tranquillity (Maier 1991: 68-70). De Waal Malefijt's successor as Minister of Colonial Affairs, Mr. Th. B. Pleyte (1913-1918), was pushed by Parliament to take the initiative to keep a tighter control on the press. It was in this context that the Netherlands Indies' Penal Code was amended. It gave the authorities the power to take action whenever they deemed this necessary (Maters 1998: 98).

Following British India, where the government in 1908 enacted the Newspapers (Incitement to Offences) Act, in January 1914 the Dutch Parliament introduced several articles restricting press freedom (Termorshuizen 2011: 155-156). Most notable were Articles 63a and b, the so-called *haatzaai artikelen* (hatred sowing articles):<sup>20</sup>

Article 63a: He, who by words, signs or depictions or in any other way gives rise or promotes feelings of hostility, hatred or contempt against the government of the Netherlands or the Netherlands Indies, shall be punished with a penal servitude sentence of five to ten years.

19 Royal Decree of 7 Januari 1914 no. 28 (S. 205), (Royal Decree on amending and supplementing the Penal Code for Europeans in the Netherlands Indies and amendment of the Regulations on printed matters in the Netherlands-Indies).

20 Other provisions, however, are more recent. The articles 137c and 137d about insulting a group in society and incitement to hatred or discrimination were formulated in 1934. The extensions in Articles 137e and 137f were added after Indonesia became independent, in 1971 and 1991.

Article 63b: He, who by words, signs or depictions or in any other way gives rise to or promotes feelings of hostility, hatred or contempt against different groups of Dutch nationals or residents of the Netherlands Indies, shall be punished with imprisonment varying between six days and five years.

A month later, Governor-General Idenburg released Decree 32/1914 (S. 206 and 207), which introduced similar measures with harsher punishments for the Indonesian population committing such offences – to up to ten years of hard labour in chains. After the unification process of the Penal Code, which resulted in a single Code applicable to all population groups, these articles were refined to become Articles 154, 155,<sup>21</sup> 156,<sup>22</sup> and 157.<sup>23</sup> The new formulations were meant to prevent different interpretations (Termorshuizen 2011: 156). They were usually applied in connection with other notorious articles from the Penal Code about crimes against public authority (especially Articles 207<sup>24</sup> and 208<sup>25</sup>).

In fact, the *haatzaai-artikelen* were not such a novelty. The *Drukpersreglement* in 1857 already enabled the prosecution of journalists and editors for ‘defamation’ of the Governor-General or for inciting people to hatred of or con-

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- 21 Section (1): Any person who disseminates, openly demonstrates or puts up a writing where feelings of hostility, hatred or contempt against the Government of Indonesia are expressed, with the intent to give publicity to the contents or to enhance the publicity thereof, shall be punished by a maximum imprisonment of four years and six months or a maximum fine of three hundred f. Section (2): If the offender commits the crime in his profession and during the commission of the crime five years have not yet elapsed since an earlier conviction of the person on account of a similar crime has become final, he may be released from the exercise of said profession.
  - 22 The person who publicly gives expression to feelings of hostility, hatred or contempt against one or more groups of the population of Indonesia, shall be punished by a maximum imprisonment of four years or a maximum fine of three hundred f.  
By group in this and in the following article shall be understood each part of the population of the Netherlands Indies that distinguishes itself from one or more other parts of that population by race, country of origin, religion, origin, descent, nationality or constitutional condition.
  - 23 Any person who disseminates, openly demonstrates or puts up a writing or portrait where feelings of hostility, hatred or contempt against or among groups of the population of the Netherlands Indies are expressed, with the intent to give publicity to the contents or to enhance the publicity thereof, shall be punished by a maximum imprisonment of two years and six months or a maximum fine of three hundred f.
  - 24 Any person who with deliberate intent in public, orally or in writing, insults an authority or a public body set up in the Netherlands Indies, shall be punished by a maximum imprisonment of one year and six months or a maximum fine of three hundred f.
  - 25 Section (1): Any person who disseminates, openly demonstrates or puts up a writing or portrait containing an insult against an authority or public body set up in the Netherlands Indies with the intent to give publicity to the insulting content or to enhance the publicity thereof, shall be punished by a maximum imprisonment of four months or a maximum fine of three hundred f; Section (2): If the offender commits the crime in his profession and during the commission of the crime two years have not yet elapsed since an earlier conviction of the person on account of a similar crime has become final, he may be deprived of said profession.

tempt for the government. It is moreover not true that the *haatzaai-artikelen* were only applicable to the Netherlands Indies, as claimed by R.H. Siregar et al. (2000: 12), for they had also been included as Articles 261 and 262 in the Penal Code in the Netherlands in 1881. Moreover, other articles in the Penal Code could be used against journalists in the Netherlands Indies as well. These included Chapter II: Crimes against the Dignity of Kingdom of the Netherlands and Governor-General (Articles 134 and 137); the articles about incitement (*opruiging*) in Chapter V: Crimes Against the Public Order (Articles 160 and 161); and Chapter XVI: Defamation (Articles 310, 315, 316, 317, 320, and 321).<sup>26</sup>

In practice, the application of the *haatzaai-artikelen* turned out to be discriminatory, as Dutch and Indonesian (*Bumiputera*) press were often treated differently, and the *artikel*en seemed to be used especially to attack the Indonesian nationalist movement.<sup>27</sup> Defamatory articles in Dutch newspapers or journals were not nearly as often prosecuted as those in Indonesian ones. The pluralist system of the administration of justice exacerbated this situation (Maters 1998: Chapter III-IV). Unfortunately there is no evidence of how often such criminal prosecution took place, but a number of cases have been reported. The best-known involved Marco Kartodikromo, a former *Medan Prijaji* journalist, who started his own newspaper, *Doenia Bergerak* (World in Motion), in 1914. This paper was considered the mouthpiece of the Native Indonesian Journalists' Association (*Inlandse Journalisten Bond*). Kartodikromo wrote an attack on the Dutch Advisor on Native Affairs R.A. Rinkes in 1914. On 26 January 1915 the authorities started an investigation on account of the publication of several anti-Dutch editorials. This led to his incarceration in the same year, but after a public outcry he was released after 100 days (Vickers 2005: 75-76; Wasono 2000). It is unclear what legal basis was used to indict him, but the case is representative of the growing level of repression by the authorities.

### 3.2.6. The Persbreidel Ordonnantie (1931)

The suppression of press freedom worsened when the Press Banning Ordinance (*Persbreidel Ordonnantie*)<sup>28</sup> was introduced in the Netherlands Indies on 7 September 1931. The draft of this ordinance led to vehement debates in Par-

26 These articles will be further discussed in Chapter V: Press Freedom in Criminal Law.

27 All of the major nationalist leaders were in one way or another involved in the press. Soekarno was editor and publisher of the magazine *Fikiran Rakjat* (People's Thought); Muhammad Hatta was a regular contributor to the magazine *Daulat Rakjat* (People's Sovereignty); Amir Syarifudin was a member of the editorial staff of the magazine *Banteng* (Wild Buffalo); Haji Agus Salim was editor in chief of *Mestika* (Flower).

28 Staatsblad van Nederlandsch-Indië 1931 No. 394 jo. Staatsblad van Nederlandsch-Indië 1932 No. 44. The original title is '*Drukwerken, Bescherming van de openbare orde tegen ongewenschte periodiek verschijnende drukwerken*' (Printed matters: Protection of public order against undesirable periodical printings).

liament and was seriously criticised by journalists, who had been excluded from the drafting process. The enactment of the Press Banning Ordinance can be explained by the rise of a political movement that was increasingly critical of the Dutch government's colonial policies. It combined socialist, communist and nationalist groups, and arose both in the Netherlands and the Netherlands Indies. According to Maters (1998: 204, 220), the Press Banning Ordinance was mainly a response to the communist insurgency in East Java of 1926.

Moreover, between 1927 and 1931 the government found that the Penal Code proved an insufficient basis for applying the restrictive policies deemed necessary. The government wished to push the judiciary out of press control and to return it to the realm of administrative policies. To this end it developed a license system which could be applied directly (Termorshuizen 2011: 156). After the enactment of the Press Banning Ordinance, there were two mechanisms to control the press: through the criminal courts and through a license system.

Articles 1 and 2 of the Press Banning Ordinance stated that the Governor-General had the right to ban publications for a maximum of eight days in the interest of public order. If he found that the newspaper concerned was violating public order, he could ban the publication for a longer period, without involvement of the judiciary. Article 2 section (1) and (3) stated:

If the designation referred to previous article does not have the desired effect, the Governor-General may, after hearing the Council of the Netherlands Indies, issue a ban on printing, publishing and distributing such print works, in the case of a newspaper for a maximum of eight days and in the case of other printed periodicals for a maximum of three times the period between the appearance of two consecutive issues.

When, after the ban has expired, printing of the banned work is resumed, appearance of the same printed materials can be temporarily banned as designated by article 1, as long as the designation referred to in article 1 is in force. For a newspaper, the duration of a second or third ban can be no more than thirty consecutive days.

One of the newspapers banned on the basis of the Press Banning Ordinance was *Soeara Oemoem* in Surabaya. The ban, by Decree No. 6 of 23 June 1933, followed the newspaper's reports about the mutiny on the '*De Zeven Provinciën*' [The Seven Provinces] considering them as 'inciting.'<sup>29</sup> This was the outcome of an investigation process started by Attorney General Verheijen, who

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29 The mutiny broke out on the Dutch warship *De Zeven Provinciën*, when a group of about ten native sailors seized the firearms and ammunition on board, and took over the ship. Almost all of the native crew members, about 180 men, joined in the mutiny, while of the approximately 50 Europeans on board some immediately and enthusiastically joined the mutineers, while others hesitated and tried to exercise a restraining influence (Bloom 1975; Western Argus (Kalgoorlie, WA 1916 – 1938), Tuesday 28 February 1933, page 1). The case led to a strong call in the Netherlands for stronger government powers in the Netherlands Indies.

had Tjindar Boemi, the author of the *Soeara Oemoem* articles, arrested. He reported to the Governor-General that the investigation showed that *Soeara Oemoem's* articles were of an inciting nature. After having heard the advice of the Council of the Netherlands Indies, the Attorney General suggested to the Governor-General to impose a ban on the basis of the Press Banning Ordinance. Four days later, the Council of the Netherlands Indies gave the same advice to the Governor-General, and on 23 June 1933, the Governor General issued the decree (Maters 1998: 239; Swantoro and Atmakusumah 2002: 197-198).

Between 1933 and 1935, the government banned 18 Indonesian and five Dutch newspapers. On Java and Madura, in 1934 alone the government banned 26 daily newspapers – out of a total of 30 daily newspapers. On top of this, 108 weeklies and 244 monthlies were banned (Maters 1998: 237, 241). These bans clearly had an appalling effect on press freedom in the Netherlands Indies, far worse than the Penal Code. Any article relating to nationalist consciousness, struggle, democracy and independence was suspect<sup>30</sup> and considered a threat for Dutch rule over the Netherlands Indies (Maters 1998: 238-239). Although the Press Banning Ordinance was primarily aimed at controlling Indonesian newspapers, it was also applied to European ones. Ironically, this led to a situation where the Indonesian nationalist press found itself in the same situation as the extreme right-wing and fiercely Dutch nationalist '*Het Nationale Weekblad*' (The National Weekly), which was prohibited from being published for three weeks in 1938.

In 1940 two military regulations were added to the repressive machinery already in place: Military Ordinance 14/Dv.0/7A-3 (*Verordening van het Militair Gezag*, Javasche Courant 17-5-1940 No. 40 a) and Military Ordinance 66/Dv.0/VII A-3 (Javasche Courant 26-3-1941 No. 24 a). They prohibited publishing any news or reports concerning military matters which (a) endangered public order and security; (b) related to army, navy, air force, state defense, and/or other military interests, and which were never to be made public.

Press freedom in the Netherlands Indies was directly influenced by political dynamics in the Netherlands and the Netherlands Indies. The main actors were Parliament and the Minister of Colonial Affairs in the Netherlands and the Governor-General in the Netherlands Indies. The struggle for freedom of expression by socialist newspapers in the Netherlands and in the Netherlands Indies, as well as the emergence of a vernacular press in the Netherlands Indies contributed to an increasing number of press reports that were critical about the government. This attitude was also promoted

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30 Press bans in 1933 were applied to silence the 'non-cooperative movement,' by banning *Pemoeda* and *Gempar* as papers of the Partindo (Indonesia Party), *Medan Rakjat* as paper of the Permi (Union of Indonesian Muslims), and *Pahlawan Moeda* as paper of the HPII (Association of Indonesia Moslem Youth) (Maters 1998: 239).



by the political context of the 'Ethical Policy' in the early twentieth century discussed above, which led to a 'modern' self-consciousness for Indonesians as reflected in the press owned by Indonesians.

In summary, throughout the colonial period the government combined multiple instruments for restraining press freedom, ranging from preventive to repressive censorship. The Penal Code's *haatzaai-artikelen* are often considered key to the repression, but in fact the involvement of the judiciary made this law not as effective as the government would have wanted. This led the Minister of Colonial Affairs to introduce administrative policies for more direct forms of control, and ultimately Parliament enacted the Press Banning Ordinance in 1931. This marked the end of an age of relative press freedom, with the period from 1906 until 1914 as the liberal highlight. After 1914, growing political consciousness among Indonesians and the emergence of the nationalist movement made the government fearful of the role of newspapers in the vernacular language in promoting these ideas among larger sections of Indonesian society. The situation for the Dutch language press deteriorated as well, but in particular after 1931 the Press Banning Ordinance was mainly applied against the *Bumiputera* press. Administrative sanctions provided the effective instrument the colonial administration was looking for, not only because they did not involve judicial checks, but also because they could be applied against newspapers rather than individual journalists or editors. The absence of an appeal or even complaint mechanism made administrative sanctions even more expeditious. At the end of Dutch colonial rule, therefore, there was not much left of press freedom in the Netherlands Indies.

### 3.2.7. The Press and the Japanese

On 1 March 1942 Japanese troops landed at three places along the northern coast of Java and quickly defeated the Dutch colonial army. This marked the start of more than three and a half years of Japanese occupation, lasting until after the end of the Second World War on 2 September 1945.

In spite of mixed feelings, in the beginning many Indonesians enthusiastically welcomed the Japanese invasion as a liberation from the Dutch, waving flags and shouting slogans such as "Japan is our elder brother." As Soekarno said,

I know all about their brutality. I know of Nipponese behavior in occupied territory – but okay. I am fully prepared for a few years of this. I must rationally consider what they can do for my people. We must be grateful to the Japanese. We can use them... (Adams 1965: 157)

Nevertheless, the situation rapidly deteriorated. During the Japanese occupation of Indonesia, many who lived in areas considered strategically important were subjected to torture, rape, slavery, arbitrary arrest and exe-



cution, and other atrocities. An estimated 270,000 Indonesians were deported as unpaid labourers or *romusha* to work on Japanese military projects and thousands of women ended up in brothels to 'comfort' Japanese soldiers.

The Japanese enacted Military Law (*Osamu Seiri*) 1/ 1942, which applied to Java and Madura. This law determined the basic outlines of the government system. All the laws and regulations of the Netherlands Indies were to remain effective temporarily provided they were not in conflict with Japanese regulations. Similar regulations were also proclaimed for the other Netherlands Indies territories (Wignyosoebroto 1994: 183; Han 1998: 421).

In its propaganda campaign for 'the Greater East Asia Co-Prosperity Sphere,' on 25 May 2602 (1942), the High Command of the Japanese armed forces in Java and Madura promulgated Law 16/1942 on 'The Control of Organs of Publication and Information and the Censorship of Publication and Information.' It introduced a 'double model' for press control, providing for both preventive and repressive measures, unlike the Dutch who had replaced a preventive with a repressive model. Without publication permits newspapers were not allowed to appear (Thoolen 1987: 96; Surjomihardjo et al. 2002: 175-176). Article 1 of Law 16/1942 stated that "all categories of printed matter were required to have a publication permit," while Article 2 "prohibited former hostile publications to continue their activities." Article 3 provided that "Publishing printed media which relate to publication and information, either daily, weekly, monthly or irregular publication, without a permit is prohibited."

Preventive censorship was introduced by Articles 4, 9 and 10. It stated that all printed newspapers should pass through the Japanese Army's Censorship Department before they could be circulated or distributed. The Censorship Department office was situated in Batavia (Jakarta), with branches in cities such as Bandung, Yogyakarta and Surabaya. Before being allowed to publish, a publisher should get a permit from a censorship official (*Domei*), acquiring a signature (*paraf*) after inspection. Some newspapers, such as the *Sedya Tama* daily (Yogyakarta) adapted to the new conditions and changed their name and function to become mere tools of propaganda (Said 1988: 48-49).

Law 16/1942 also forced all Dutch and Chinese newspapers to close down. The military commander issued some permits for well-established newspapers, but they were required to change their names into Japanese, such as Jakarta based newspapers, *Asia Raja* – with editors Sukardjo Wirjopranoto, R. Winarno, A. Tjokroaminoto and B.M. Diah – *Kung Yung Pao-Indonesia*,<sup>31</sup>

31 Indeed, *Kung Yung Pao* still seems a Chinese name. However, *Kung Yung Pao* was run by Oey Tiang Tjoei, a loyal to the pro-Japan Chinese puppet president Wang Ching Wei, based in Japanese-occupied Nanking.

*Kana Monji Shimbun*, *Pandji Pustaka*, *Soeara Moeslimin Indonesia* and *Djawa Baroe*. Outside Jakarta the same happened to *Sinar Matahari* (Yogyakarta), *Sinar Baru* (Semarang), *Soeara Asia* (Surabaya), and newspapers outside Java, such as *Kita Sumatra Shimbun* (Medan), *Padang Nippo* and *Sumatera Shimbun* (Padang), *Palembang Shimbun* (Palembang), *Lampung Shimbun* (Tanjung Karang), *Borneo Shimbun* (Kalimantan) and *Selebes Shimbun* (Ujung Pandang).

Publishers of newspapers that violated the press rules above could be convicted to imprisonment of up to one year. Newspapers violating the censorship mechanism would be brought before the *Gunsei Hooin* (Court of Justice of the Military Government); other offenders had to appear before the *Gun-ritsu Kaigi* (Martial Court). However, in practice extra-judicial mechanisms, such as arbitrary detention, were used more frequently to suppress the press if they were critical of Japanese colonialism.

A clash between the Indonesian nationalist movement and the Japanese military seemed inevitable. The Japanese military threatened and arrested any Indonesian they did not trust, including journalists. Many journalists were suspected of being anti-Japanese and were detained, such as Herusukarto, Subekti, Tabrani, Sajuti Melik and S.K. Trimurti. The journalist Kusen died in a Japanese prison. In Kalimantan, several journalists were assassinated, including Anomputro, M. Homan, H. Babou, A. Atjil and Amir Bondan (Said 1988: 50). Unfortunately I have been unable to find the reason for why they were killed, and how they were treated in custody.<sup>32</sup>

During the Japanese occupation, the press system had a rigorously authoritarian character and only served the interests and propaganda of the Japanese army. Nonetheless, as argued by Lee (1971: 28), in some respects Indonesian journalists also benefited from the Japanese occupation. Firstly, there was the possibility to spread nationalist ideas despite the restrictions of Japanese-imposed press censorship, and secondly, they could contribute linguistically to the formation of modern Indonesian (*Bahasa Indonesia*). Journalists were able to produce comments with nationalist overtones and wrote them in a language which gradually became more uniform and modern. The war was moreover a useful training period for journalists, preparing them for their tasks in the imminent armed struggle for independence and the building of a free Republic of Indonesia. Despite the oppressive systems under Dutch and Japanese administration, journalists managed to develop their skills and could promote a spirit of nationalism and independence (Soemanang 1952; Said 1988).

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32 I contacted Tribuana Said by email in order to learn more about the assassination of journalists. He did not remember the specific source of the story, but recommended me several sources. However, these did not contain any further information either. Personal communication with Tribuana Said through email, 30 November 2011.

### 3.3. POST-INDEPENDENCE

This part covers the analysis of legislation and policies related to press freedom from 1945 until 1957. I have hereby made a sub-division of two shorter periods, 1945-1949 and 1950-1957. The first period represents the transition from colonialism to independence. The second concerns the first few years of independence, when Indonesia was under a parliamentary system after the Dutch had finally recognised Indonesia's sovereignty and given up on their colonial war.

#### 3.3.1. 1945-1949

Press freedom during the early years of Indonesian independence was first completely suppressed by the British army, which landed in Indonesia in 1945. Indonesia's independence was not recognised, and the British troops were to control the situation after the Japanese had left and before the Dutch returned. Hence, newspapers became a primary target for controlling information. Said (1988) notes that the British army stopped the daily *Sinar Deli* and *Pewartar Deli* in Medan from publishing. A.O. Lubis and the head of the printing house of *Syarikat Tapanuli*, Rachmat, were even detained for three days in March 1946. *Mimbar Oemoem*'s Wahab Siregar was also arrested. The printing house of *Soeloeh Merdeka* was occupied by soldiers. More drastic action was taken in Padang, where a printing house which published *Oetoesan Soematra* was blown up by British soldiers.

Dutch troops joined in the repression after they had landed in February 1946. Attacks against press offices also occurred in Jakarta (*Berita Indonesia*). Moreover, journalists and editors were regularly detained. B.M. Diah and Herawati Diah from the daily *Merdeka* in Jakarta, as well as several journalists: Sajuti Melik, Wonohito, P. Wardoyo, Sudarso Warsokusumo, Anwar Tjokroaminoto, Siauwi Giok Tjan, Tabrani and Adam Malik, were all arrested in the early years after independence without any consideration of a due process of law. Thus, it were the British and Dutch armies to first suppress press freedom, not the new Indonesian government. This was the context, with the press under serious attack by the colonial authorities, in which the *Persatuan Wartawan Indonesia* (Indonesian Journalists Association or PWI) was established on 9 February 1946 in Surakarta (Central Java). PWI's focus was almost entirely on supporting the press in the struggle for independence and in enhancing solidarity among journalists.<sup>33</sup>

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33 The first chairman and secretary of PWI were respectively Mr. Sumanang Surjowinoto and Sudarjo Tjokrososworo. A short historical overview can be read at the PWI website: <http://pwi.or.id/index.php/Sejarah/Sekilas-Sejarah-Pers-Nasional.html> (retrieved on 15 June 2012).

While less repressive than the British and the Dutch, the new Indonesian government was concerned about what was being published. It ordered that any foreign journalist should submit telegram copies of his reports directly to the Military Governor of the Indonesian Republic. Since the Dutch were considered foreigners, this included all Dutch journalists. However, according to the Indonesian authorities this rule was 'not part of censorship,' but a way to know what was being published about the Indonesian situation abroad (Zweers 2013: 346).

Constitutionally speaking, there was a 'dualistic' situation. While the 1945 Constitution claimed authority over the entire territory of Indonesia, the Netherlands opposed this with their own territorial claim and argued that their colonial constitution of 1925 (the *Indische Staatsregeling*) was still valid. As one may recall from the previous chapter, the 1945 Constitution stipulated the 'guarantee' of freedom of expression under article 28,<sup>34</sup> which states: "The freedom to associate and to assemble, to express oral or written thoughts, etc., shall be prescribed by statute." However, it was difficult to realise this freedom under the conditions of war and territorial dispute in these years.

### 3.3.1.1. Colonial Legacy

The context of the fight for independence made it difficult for the national leaders to realise their revolutionary dreams, spirit and ambition to change the colonial law. This system was moreover deeply rooted in the Netherlands Indies system of administration and its organs, procedures, doctrinal principles, and enforcement processes. Therefore, the old colonial legal and institutional system could not be removed within a short period of time.<sup>35</sup> According to Lev (1985: 57) and Benda (1966), the new government owed a great deal to the colonial precedent, "for even the most shattering revolutions, very rare among new states, cannot wipe out the past". Similarly, Wignyosoebroto (1994: 187-9) said that,

It is impossible to develop national law from zero, because the new configuration still needs to be explored. Moreover, educated people who had been trained in the Dutch law tradition, would more or less think and act based on this tradition or school of thought, ... they preferred to push a type of positive law system like the Netherlands Indies legacy, which still existed according to the Constitution's transitional provision. The founding fathers of the State had been trying to propose an alternative law to develop a new legal system during the PPKI discussion in 1945, but had not yet reached agreement because the first major debate was how to build a governance system or system for leading the country.

34 I added quotation marks to the word 'guarantee', because the article did not really protect freedom of expression. This will be further detailed in the next chapters.

35 This was admitted by Soekarno when he was chairing the PPKI: "The Constitution just formulated by PPKI, is considered 'a rapid constitution' and a '*revolutie grondwet*' .... Later we shall make a more complete and perfect Constitution" (Yamin 1959).

There are, at least, two reasons that explain why the Netherlands-Indies laws were adopted as national laws for Indonesia. First, as mentioned by Lev (1985: 69), the failure of the revolution to demystify the colonial heritage accounts in large part for the ease with which the old forms were carried over. Second, retention of the old laws was not a matter of oversight. The previous laws were sustained, and their continuation was stipulated explicitly in the first Constitution of 1945<sup>36</sup> and the succeeding two Constitutions of 1949 and 1950. Although no fundamental changes were introduced immediately, at least the 1949<sup>37</sup> and 1950 Constitution contained protective human rights. The transitional provision in the Constitution was drafted by Soepomo. As he said, this

“...was not merely a matter of convenience... nor was it simply because no one had any ideas,” but also because “...the colonial law provided an available and appropriate framework,” and moreover this colonial law “... was a ... secular neutrality between conflicting religious and social groups” (Lev 2000: 46).

Soepomo’s statement about an ‘available and appropriate framework’ did not take into account the implementation of especially those laws that had been detrimental to the nationalist movement. As explained in this chapter, the colonial system knew many oppressive laws which were contradictory to justice and the rule of law. Notorious laws against press freedom, such as the *Drukpersreglement*, many articles of the Penal Code, and the Press Banning Ordinance (1931) were not repealed. In short, the same laws that had been used to oppress numerous nationalist leaders, including journalists and publishers, were kept in place without much further consideration.

In 1946, the Penal Code was amended, expanded, and reinforced by Law 1/1946 on Criminal Law Legislation (*Peraturan Hukum Pidana*, or KUHP

36 Article II of Transitional Provision of UUD 1945 stated that, “All regulations in force at the time of independence are declared to remain valid unless or until replaced in a manner prescribed by the Constitution.” Then, slightly similar to Article II of UUD 1945, the transitional process provision was also stipulated by Presidential Decree (*Maklumat President*) No. 2 of year 1945 (10 October 1945). The decree stated that, “All regulations in force at the time of independence are declared to remain valid as long as they do not contradict the Constitution.”

37 Article 192 of the 1949 Federal Constitution, Section 1: “At the moment this Constitution becomes valid, the existing regulations by law and administrative provisions, remain in force unchanged as the own regulations and provisions of the Republic of the United States of Indonesia, as long and insofar as they have not been withdrawn, supplemented or changed by legislation and administrative provisions based on this Constitution.” Section 2: “Maintenance of the existing regulations by law and administrative provisions prevails only insofar as these regulations and provisions are not incompatible with the provisions of the Charter of Transfer of Sovereignty, of the United Statute, of the Agreement on Transitional Measures or of any other agreement connected with the Transfer of Sovereignty, and insofar as they are not in contravention with those provisions of this Constitution which require no further legislation or executive measures.”

or Penal Code).<sup>38</sup> It meant that several criminal provisions which could be used to attack the press were maintained, including the *haatzaai-artikelen*.<sup>39</sup>

### 3.3.1.2. The First Restrictions against the Press

However, not all anti-press laws were transplanted. Less than a year after independence, the government of the Republic of Indonesia enacted an 'anti-press law' to deal with the emergency situation. Law 6/1946 stipulated in Articles 8, 9, and 10<sup>40</sup> that the State Defense Council (DPN) had the authority to restrict and prohibit freedom of assembly, freedom of expression, printing or information, and sending news. The latter terms clearly addressed the press. Article 24 stated that the DPN had the authority to apply pressure, even by using violence, in order to fulfill the implementation of this laws and other regulations. Moreover, if the government conducting such action would incur expenses, the violators were to recompensate. Obviously, in practice Law 6/1946 was effective only in the area controlled by the Republic (Smith 1969: 117). In the Dutch controlled territory the old laws, such as the *Drukpersreglement*, the Press Banning Ordinance and the Penal Code were still in force.

According to Abdulgani (1952: 102), the first effective restriction of the press after the declaration of independence was related to the 'Madiun affair' in September 1948. This concerned a communist uprising against the nationalist government. The rebels were, however, not well prepared and were quickly defeated by the nationalist army (Kahin 2003: 300). The nationalist government issued a restriction on the press, targeting specifically those papers connected with the *Front Demokrasi Rakyat* (FDR, the People's Democratic Front) and those affiliated to the communists, such as the *Patriot*, *Boeroeh* and *Soeara Iboe Kota*. In turn, the FDR imposed restrictions on *Api Rakjat*, the paper representing its political opponents, especially during the power struggle in Madiun.

According to Atmakusumah (2009: 18) the first press restriction based on Law 6/1946 was not related to Madiun, but concerned the banning of the weekly *Revolusioner*. The exact date of when this happened is unclear, however it was between 1946 and 1949. The chief editor Soepeno criticised Soekarno's speeches as "*bombastis*" (turgid) and *Revolusioner* was immediately banned from dissemination by Wedono Salamoen of the *Djawatan Pengawas*

38 *Republik Indonesia* News No. II, 9, 16 February 1946. The change referred to the Penal Code (Article 1).

39 These were adapted from *Titel V, Misdrijven tegen de openbare orde* (Crimes against Public Order) of the Penal Code, which included the *haatzaai-artikelen* (Articles 154, 155, 156, 157, 207, and 208). These articles will be discussed further in Chapter 5.

40 Law 6/1946 was enacted on 6 June 1946 by Soekarno (Republic of Indonesia Gazette Year II, No. 18-19, p. 189-192). This law was also operationalised by the State Defense Council Regulation No. 8, 11, and 16 of 1946 and No. 34 of 1947.



*Keamanan Negara* or DPKN (intelligence services under the police corps). Another paper prohibited was *Soeara Moeda*, which was managed by the Indonesian Student Association (*Ikatan Pelajar Indonesia*) in Solo, led by Soelistio, Slamet, and Soekarto. *Soeara Moeda* was accused of being a proponent of the 'autonomous territories' (*Daerah Swapraja*) supported by the Dutch. Third, the daily *Soeara Rakjat* in Kediri, led by A. Aziz (who later established the *Surabaya Post*) was banned after reporting the death of communist leader Musso. The military governor imposed a ban on the newspaper for several days. In September 1948, the government also banned three newspapers in Yogya, *Revolusioner*, *Patriot* (led by J. Simandjuntak or Yusuf Adjitorop), and the daily *Soeara Iboekota* (led by Wikana). Except for *Soeara Moeda* these were all communist newspapers.

The fact that measures were taken against the press is not surprising, if we take into account the chaotic political situation during the first three years of independence. Power struggles between Islamic, nationalist and communist groups were widespread and there was a lack of government stability. However, they demonstrate that the revolution did not automatically lead to press freedom, despite the 1945 Constitution's basic point of departure that freedom of expression should be protected.

### 3.3.2. 1950-1957

After the Round Table Conference in 1949, which led to the transfer of sovereignty from the Dutch to the Republic of Indonesia, the latter adopted a parliamentary government model. During the parliamentary government years, most political parties established their own newspapers, for instance *Abadi* (the modernist Islamic party Masyumi), *Merdeka* (Soekarno's nationalist party PNI), *Pedoman* (Sjahrir's Socialist Party PSI) and the *Harian Rakjat* (the communist PKI). Mochtar Lubis (1952: 93) observed that these political linkages were reinforced by the weak financial position of Indonesian newspapers, which exposed them to external influences. Few newspapers were really independent or non-partisan. Nonetheless, Lubis added that the Indonesian press was honest in the sense that newspaper staff would not take bribes for expressing certain views, and unanimous in their campaign against corruption among government officials and against a slow and wasteful bureaucracy.

In the polarised situation, those political parties represented in the government used the Press Banning Ordinance of 1931 to silence "over-enthusiastic" criticism from the opposition (Feith 1962: 576). This happened for the first time when in August 1951 the Masyumi-dominated government, led by Prime Minister Sukiman, launched an anti-communist attack on the pretext that the communists were conspiring to overthrow the government. According to his speech in Parliament, 15,000 persons had been arrested by the



end of October, including a few journalists. In the smaller provincial towns, newspapers with a communist, Dutch, or Chinese signature were banned (Feith 1962: 323).

After 1951 these anti-press freedom measures continued, with at least 14 anti-press actions in both 1952 and 1953 (Smith 1969: 152, 178). This led to vehement reactions from the opposition and the press and ultimately to the revocation of the Press Banning Ordinance by Law 23/1954.<sup>41</sup> The government then in place considered the Press Banning Ordinance at odds with democracy and the rule of law, in particular because it contained no fair mechanism for journalists, editors, or media owners to defend their rights in a fair judicial process. This, the government argued, violated Article 19 of the 1950 Provisional Constitution. According to Smith (1969: 181-182, 186), in 1954 the only action against press freedom consisted of eight cases brought to the criminal court.

The revocation of the Press Banning Ordinance led to increasingly vociferous press attacks on the government (Lee 1971: 51). The leading critical (and independent) newspaper was *Indonesia Raya*, with Mochtar Lubis as its editor in chief, which ran a series of articles about scandals, feuds, and frauds within the various ministries and within several Indonesian diplomatic missions abroad, without sparing persons of high status and rank – including President Soekarno. Mutual accusations and recriminations reached their climax in the party press in 1955, when the first general elections for the DPR were approaching. Unlike the reporting in *Indonesia Raya*, few allegations were supported by thorough investigation or reported facts.

On 6 January 1956 the *Djawatan Kepolisian Negara Bagian Dinas Pengawasan Keselamatan Negara* or State Police Security Monitoring Agency (DPKN-DKN) released a report, denouncing intimidating, false and defamatory language in press reporting during 1955.<sup>42</sup> It paid attention to the vitriolic conflict between Masyumi's *Abadi* and PKI's *Harian Rakjat*, and the lack of ethical standards applied in the party press in general when propagating their own ideology and vilifying their opponents. In some cases this led to criminal prosecution, but the abolition of the Press Banning Ordinance

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<sup>41</sup> State Gazette No. 54-77.

<sup>42</sup> DPKN-DKN is a police body. The DKN (*Djawatan Kepolisian Negara*, or State Police) was established on 19 August 1945. This institution employed special agents, named PAM (*Pengawas Aliran Masyarakat*, short for Supervisors of Societal Groups). One of PAM's mandates as stipulated in Police Decree Pol. 68/Staf/PAM, on 22 September 1949, was "Monitoring public opinion in the press, radio, and community." PAM were then replaced by the DPKN-DKN (*Dinas Pengawasan Keselamatan Negara-Djawatan Kepolisian Negara* or State Police Security Monitoring Agency) on the basis of Police Decree Pol: 4/2/28/UM, on 13 March 1951. The change was related to the expansion of its mandates, especially to secure personal safety of the President and Vice-President as well as other high level officials.

seems to have really opened the floodgates. Some Western observers were amazed by the lack of governmental control, for example Schumacher, who noticed that Indonesian press freedom, "... would be unthinkable even in the countries of the Western world with the greatest press freedom." (Schumacher in Lee 1971: 52).

Although the government could apply the Penal Code in controlling the press and freedom of expression, it seemed that this law when it concerned press cases had been reduced to relative 'statutory dormancy', since the revocation of the Press Banning Ordinance in 1954. Smith (1969: 184-185) suggests that this had to do with the loss of power of the presidency: "... Soekarno was no longer regarded with awe... perhaps the president (Soekarno) was not in a strong position. Otherwise, one may wonder if the president might not have taken aggressive action against the press that so brazenly bandied the news about the tension between the president's latest wife, Hartini, and the women's clubs."

However, this situation was not to last for long. The decline of press freedom started when the military intervened, with Army Commander of the Military Authority A.H. Nution imposing martial law by Military Ordinance PKM/001/9/1956 on 14 September 1956. Article 1 of this ordinance stipulated that,

It is prohibited to print, publish, offer statements, broadcast, post, provoke or have writings, pictures, or paintings, which contain criticism, insinuations/insults against the President and the Vice-President, or against an authority or general assembly, or a public servant when acting on the basis of an official mandate; writings which contain hostility, hatred, and insulting statements against groups of society; or writings which contain news or announcements that provoke chaos in society.

Article 2 provided for a maximum of one-year imprisonment and a fine. In fact, this military ordinance was a summary version of the *haatzaai-artikelen* in the Penal Code. The difference was that now the military authorities gave themselves the authority to enforce these rules, which meant they could arrest anyone on this basis or put him or her into jail without judicial process. The military thus usurped the public prosecutor's position.

It soon became clear that these were serious threats. After his return from the International Journalist Conference in Zürich in 1956 Mochtar Lubis was interrogated and arrested by the Military Police Corps (Hutagalung 1968: 14). On 21 December 1956, he was first detained for three days, then confined to the Military Prison in Budi Utomo Street for 14 days, and finally put under 'house arrest' for 4,5 years (Lubis 1980: 1). Prior to 1957, many journalists were detained for several days or charged for libel or similar offences, but Mochtar Lubis was the first editor in the post-1949 history of Indonesia to be held without charge for more than a couple of weeks (Smith 1969). However, this was only a taste of things to come under martial law (Lee 1971: 52).

According to Mochtar, he was arrested because of his '*tajuk rencana*' (editorial opinion) on the 'Central Sumatra Incident' (Lubis 1980: 2-3), where he

... drew the conclusion that this incident will surely not be limited to Central Sumatra alone, but will have consequences for other regions as well... The (coalition) Cabinet will not be able to overcome this, nor will President Soekarno himself, without Bung Hatta, nor will Chief of Staff Nasution... if necessary for the greater good, then President Soekarno and Chief of Staff Nasution must also be prepared to relinquish their positions.

The arrest letter was drafted by the Military Police Corps Commander of '*Detasemen Garnizun III/6*' in his capacity as Military Assistant to the Prosecutor of the Military Court in Jakarta. The letter stated that, "... after hearing and/or reading and/or considering Instruction Letter KMKBDR<sup>43</sup> on 21 December 1956, there are reasonable arguments for saying that Mochtar Lubis has violated the KUHP/KUHPT (Penal Code/Military Penal Code),<sup>44</sup> and needs to be temporarily detained and therefore we instruct (Lets/CPM) M Jacoub Wahab et al. to arrest and detain the accused on 21 December 1956 in CPM (Military Police Corps) Det. Gar. III/6" (Lubis 1980: 27-28). *Indonesia Raya* reported the speech of Ministry of Justice, Mr. Mulyatno (2 January 1957), who stated: "I cannot do anything about the arrest of *Indonesia Raya*'s editorial chief, Mochtar Lubis, and I do not know when he will be released."

Thus, from now on, under martial law, the military could effectively silence the press as they wished, without any controls in place. Combined with the above quoted legal provision, which was so broad to be almost meaningless, the situation allowed subjective political considerations to determine whether journalists and editors should be arrested. Banning newspapers became common practice.

### 3.4. GUIDED DEMOCRACY AND THE DECLINE OF PRESS FREEDOM (1957-1965)

I do want the news released not to be objective,  
but to clearly take the side of our Revolution  
and attack the enemies of the Revolution  
(Soekarno, 1962).<sup>45</sup>

The first years of Guided Democracy were still influenced by the parliamentary system and the Konstituante which had been elected in 1955 and continued formulating a new constitution.<sup>46</sup> These debates, as well as those in parliament, still seemed democratic in nature and allowed for different

43 *Komando Militer Kota Besar Djakarta Raya* or Military Commando of Great Jakarta City.

44 *Kitab Undang-Undang Hukum Pidana/Kitab Undang-Undang Hukum Pidana Tentara*.

45 *Indonesian Observer*, December 19, 1962, p. 1.

46 See the previous Chapter.

ideological convictions to be expressed. Outside parliament, however, the situation was different. For the press 1957 was the worst year in the entire period of Guided Democracy. In this year, three regulations affecting the press were enacted. The first was Military Authority Regulation of Djakarta Raya (*Peraturan Penguasa Militer Djakarta Raya*) 6/1957, promulgated on 13 March, which merely affirmed military authority in controlling the press.<sup>47</sup> The regulation defended its prohibition on information regarding military matters by stating

... that in the current situation there are still news reports, especially reports on matters related to the military situation, for the time being newspapers in Djakarta Raya, which contents and sources can not be accounted for, so that it will affect security and public order.

This regulation was effectively used to attack journalists. On 20 April 1957, the Military Authority of Djakarta Raya instructed to ban two newspapers (*Pedoman* and *Bintang Timur*) for three days, from 23 April until 25 April 1957. According to the official statement this ban was promulgated because of their report “*Banteng* Council representatives are arrested in Jakarta,” on 16 April 1957.<sup>48</sup>

The Emergency Ordinance (literally State of War and Siege Ordinance, *Regeling op de Staat van Oorlog en Beleg* known as S.O.B) was the next regulation to have a major influence on press freedom. President Soekarno declared it applicable on 14 March 1957,<sup>49</sup> after the stepping down of the Ali Sastroamidjojo Cabinet. The Emergency Ordinance permitted the military to respond to any act or situation considered as endangering the state. It was a logical response to the insurgencies against the Republic in several regions,<sup>50</sup> but the military used their authority to introduce many political, economic and even legal policies that had nothing to do with the insurgencies.

47 Ironically, this regulation was more repressive than the Dutch military regulations of the 1940s, see Verordening No. 14/Dv.0/7A-3 van het Militair Gezag (Javasche Courant 17-5-1940 No. 40 a) jo Verordening No. 66/Dv.0/VII A-3 (Javasche Courant 26-3-1941 No. 24 a).

48 “*Dua Utusan Dewan Banteng Ditahan di Jakarta.*” The *Banteng* Council was an organisation demanding at the national level for “immediate implementation of progressive and radical improvements in all fields, especially in the leadership of the Army and henceforth in the leadership of the State” (Kahin 1999: 182-183).

49 This regulation was adopted from the Netherlands Indies regulation, *De Regeling op de Staat van Oorlog en Beleg* (Staatsblad 1939 No. 582, amended by Staatsblad 1948 No. 146 and Staatsblad 1949 No. 274). In implementing this regulation, the government enacted Government Regulation 7/1950 on 16 March 1950. This regulation was repealed by Law 74/1957 on Determining Dangerous Situations (*Penetapan Keadaan Bahaya*), on 30 October 1957.

50 Such insurgencies took place in Aceh, Kalimantan, South Sulawesi, Sumatera and West/Central Java. Best-known were PRRI/Permesta, which tried to gain independence from Indonesia, and *Darul Islam*, which was a fundamentalist Islamic group that fought for establishing a religious state in Indonesia.

These policies included detaining journalists and closing down press companies which dared to publish views that differed from those of the government. According to the data collected by Smith (1969: 238, 328), the government took 125 actions against the press in 1957 alone. Soekarno and the military commander General A.H. Nasution took the lead in this. On 23 April 1957, the latter banned *Indonesia Raya* for three days, after it had published an interview with the Commander of the Banteng Council, Lieutenant Colonel Ahmad Husein.<sup>51</sup> In fact, *Indonesia Raya* just quoted from *Haluan* in Padang, 20 April 1957. Chief editor of *Keng Po* Inyo Beng Goat was also threatened, and his office was occupied by the military on 27 May 1957. Three other chief editors, Syaaf from *Pemandangan*, Josef Dick from *Marinyo*, and Hafas from a Dutch language newspaper,<sup>52</sup> were also arrested, just as Rosihan Anwar from *Pedoman* (on 13 August 1957).

Not all state institutions sided with the government and the military. Judge Abdul Razak Sutan Malelo and his colleagues from the Central Jakarta Court bravely acquitted Mochtar Lubis and Kustiniyati Mochtar<sup>53</sup> (both of *Indonesia Raya*) from a charge based on a report on the involvement of Roeslan Abdulgani (Foreign Affairs Minister) and the Ali Cabinet in a Rp. 1,5 million corruption case (Lubis 1980: 62-63, 81).

On 13 September 1957, 13 newspapers, *Antara*, *Pia*, *Ins*, *Indonesia Raya*, *Pedoman*, *Harian Rakyat*, *Bintang Timur*, *Keng Po*, *Djiwa Baru*, *Merdeka*, *Pemuda*, *Abadi*, and *Java Bode* were banned by the Military Commander of Djakarta Raya City. The afflicted newspapers were informed of the ban by telephone. During the National Consultative Conference (Lubis 1980: 93-94), which was initiated by the Djuanda government as a mechanism for reconciliation between central government and district army commanders, the spokesman of the Central Army's Information Office (*Penad*) Kolonel Pringadi, announced that the ban had been lifted..

On 21 September 1957, the military authorities banned *Haluan* (published in Padang) from being disseminated in Jakarta, although the National Consultative Conference in Jakarta had just started. Four days later, Rosihan Anwar from *Pedoman* was brought to court a second time because he had allegedly reported some military news on 16 April 1957 from an unofficial source, which was considered violating KMKBDR 6/1957 of the Mili-

51 Ahmad Husein was a regimental commander in West Sumatera. On 20 December 1956, he took charge of the government in Central Sumatera in a bloodless coup. The coup took place after a reunion meeting of the Banteng Division, when this meeting had held elections for the position of chairperson of the Banteng Council.

52 T.D. Hafas was arrested on 6 July 1957.

53 On 12 December 1957, Kustiniati Mochtar was sent to the court, accused of insulting the former Resident of Palembang, Abdul Razak. This accusation was based on her writing in *Indonesia Raya*, 21 February 1956. She was detained from October 1957 till January 1958.

tary Commander of Djakarta Raya.<sup>54</sup> He was quickly released however, on 2 October 1957, once again because of the unwillingness of Judge Abdul Razak Sutan Malelo and his colleagues to succumb to the pressure from the authorities (Lubis 1980: 96-97, 106). In his legal consideration Judge Malelo said that, "... the allegations that Rosihan Anwar violated Regulation No. 6 of the Military Authorities of Djakarta Raya cannot be proven [...].there is no valid reason for applying the mentioned prohibition in Article I and it has not been the objective of the maker of this law to create a general prohibition on all news reports, or even only on certain elements of them, because each rule of prohibition (*verbodsbepaling*) has its own ratio. The ratio of this rule of prohibition can be found in the introduction (*considerans*) to the regulation, i.e. that the 'content' and its 'source' can interfere with security and public order." The court argued that such prohibition as stated in Article 1 is punishable in accordance with the law (*strafbaar/strafwaardig*) if such news can indeed harm security and public order.

In September 1957 over 60 cases were examined at the Jakarta District Court (Atmakusumah 1992: 69),<sup>55</sup> but no matter what the court ruled, dozens of journalists were interrogated and sent to military detention. The use of military decrees was an effective way to bridle the press in the absence of a compliant judiciary, and regular court procedures and extra-judicial mechanisms combined led to an effective breakdown of the rule of law and press freedom.

Prosecution of journalists, press banning and extra-judicial detention led to concern outside Indonesia. The International Press Institute (IPI, based in Vienna) expressed this as follows in its December 1957 report:

In the past year eleven editors have been arrested in Indonesia and seventeen newspapers as well as national news agencies have been closed down at one time or another. However, no other newsman has been exposed to the treatment shown Lubis. Some observers report that the government is embarrassed by his stubborn stand and recently offered to send him out of the country on a scholarship. Lubis is reported to have indignantly rejected the offer with the reply, "Either set me free or give me a fair trial" (p.11).

However, such international concern had no effect. Press curbing by the military continued in 1958, and the government took measures against the Chinese language press in Java, summoning 17 of their editors and banning well-known newspapers as *Sin Po* and *Ken Po* (Government Decree of 19 April 1958). The official reason was "to prevent misuse of (Chinese) scripture for certain purposes which might harm the security of the country", 'misuse' the government could not monitor for lack of censors who

54 According to Rosihan Anwar, many press companies and journalists in the capital became the victim of press bans and other measures after KMKBDR 6/1957 was issued.

55 Atmakusumah (1992) "Mochtar Lubis dan Indonesia Raya", in Atmakusumah (ed), *Mochtar Lubis, Wartawan Jihad*. Jakarta: Penerbit Harian Kompas.



could read Chinese.<sup>56</sup> Japanese, Hindi and Russian newspapers were banned as well and similar measures were taken in other regions.<sup>57</sup> Another step towards turning the press into full compliance with the ideas of the government was Government Regulation 34/1958 on the Agency of Information Coordination. This agency was to control all news and broadcasting channels. Article 6.6 extended such control to 'perilous' news from foreign newspapers, magazines, books, brochures, and foreign films and other communication channels.

On the surface, press bans started to look increasingly erratic. On 30 May 1958, *Indonesia Raya* was banned for an undefined period of time, but was allowed to reappear on 26 July 1958. Bans could apply for a short period of time, even for a few hours only. While at first this may seem sympathetic and allowing for proportionality, bans were utterly unpredictable and thus contributed to instilling editors and journalists with terror – the ultimate aim being the collapse of an independent press industry (Atmakusumah 2009: 20).

The military further expanded its authority in controlling the press by establishing a system of publication permits (*Surat Izin Terbit/SIT*) for newspapers and magazines in Jakarta (Military Authority of Djakarta Raya on 1 October 1958). In order to prevent publications about 'sensational' and immoral matters all newspapers and magazines had to register with the Authority of Djakarta Raya Military, which could refuse or repeal the publication permit.<sup>58</sup> This was the first license mechanism for newspapers since independence in 1945.

During the same period, political developments moved in a negative direction for press freedom. In early 1959 President Soekarno and his cabinet accepted an army proposal on the concrete forms to be given to "Guided Democracy" (Feith 1964: 214). After a complicated and ultimately unsuccessful series of moves to persuade the *Konstituante*, the elected constituent assembly, to approve this proposal, President Soekarno finally promulgated Presidential Decree of 5 July 1959. This brought an end to the constitution-

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56 *Times*, 19 April 1958, p. 4.

57 In Medan, five Chinese language newspapers were closed down, including The Sumatera Times, New China Times, Sumatera Bin Poh, Hwa Choa Jit Poh, and the Democratic Daily News. Three hundred printers were left jobless. In Makassar, four newspapers were banned: Kuo Min-Tang, Chiao Seng Po, the Daily Chronicle and the Daily Telegraph (Smith 1969: 245).

58 According to Atmakusumah the new regulation was the reason why *Indonesia Raya*'s Director, Hasyim Mahdan asked Chief Editor, Mochtar Lubis to resign from *Indonesia Raya*. However, other editors refused Mochtar's resignation. (personal communication with Atmakusumah, 28 March 2012). Eventually, the SIT was introduced throughout Indonesia on 12 October 1960, based on Peperti (Supreme Martial Authority) 10/1960 (State gazette No. 116, 1960).



al debates, re-enacted the 1945 Constitution and disbanded parliament.<sup>59</sup> Guided Democracy had now become the official form of government and Soekarno turned it into a mantra to propagate his policies.

In order to control the political situation and overcome the opposition against it, the government enacted Government Regulation in Lieu of Law (Perpu) 23/Prp/1959 on the Emergency Situation, on 16 December 1959.<sup>60</sup> This regulation gave very broad rights and powers to the Military Emergency Authority for maintaining security and public order, including those for restricting publications and printed matters.<sup>61</sup> If there was still any press freedom left, it had disappeared by now. What remained was a lot of 'Guidance,' but very little 'Democracy.'

#### 3.4.1. National Press Political Manifesto

In 1960, President Soekarno formulated a development programme and established the National Planning Council (Dewan Perencanaan Nasional, henceforth as NPC), chaired by Muhammad Yamin. Soekarno instructed the NPC to draft an Eight Year Plan for National Press Development. The result appeared under the heading 'Penerangan Massa' (Mass Information) as Appendix A to the Majelis Permusyawaratan Rakyat Sementara (People's Provisional Consultative Assembly, henceforth as MPRS) Edict II/MPRS/1960.<sup>62</sup> This became the foundation for the Manipolisasi Pers Nasional (Bringing the National Press under the Political Manifesto) during Guided Democracy.<sup>63</sup> The edict stated that "all the media of mass communication such as press, radio, films, etc., should be operated in waves, as one co-ordinated unit, in a guided, planned and continuous way, thus leading to an awareness regarding Indonesian Socialism and the Pancasila (five principles)."

<sup>59</sup> For a discussion of the constitution, see Chapter 2.

<sup>60</sup> This government regulation repealed Law 74/1957 on State of Emergency (State Gazette 160/1957). This GR in Lieu of Law became a Law through Law 1/1961 about the Determination of All Emergency Laws and Lieu of Laws Prior to 1 January 1961 Becoming Law (State Gazette 1961/3; additional State Gazette 2124).

<sup>61</sup> Article 24 jo. 26 of Government Regulation in Lieu of Law 23/Prp/1959.

<sup>62</sup> MPRS Edict II/MPRS/1960 was enacted in Bandung on 3 December 1960. The MPRS was established by Presidential Decision. 2/1959 (*Penetapan Presiden*), following a Presidential Decree of 1959. The decree mandated that the president himself was to form MPRS in the shortest possible time, consisting of members of the House of Representatives and a delegation from regions and factions.

<sup>63</sup> *Manipol* (-USDEK) was introduced in 1960. *Manipol* was the Political Manifesto set forth in Soekarno's August 17, 1959, Independence Day speech, and USDEK was an acronym for a collection of symbols: the 1945 Constitution, Indonesian Socialism, Guided Democracy, Guided Economy, and Indonesian Identity.

Critical elements of the plan were providing assistance in printing news (item f); creating a press law (item h) with definitions of press functions within the *Manipol* framework in order to further 'the revolution' and the 'national construction of the country'; defining press rights and obligations; defining basic rights in accordance with Article 28 of the 1945 Constitution on freedom of expression; and the revision of existing regulations in accordance with the newly defined functions, rights and obligations of the press (item i). These 'socialist press' measurements would shape the situation of press freedom and result in promoting Soekarno's Guided Democracy.

MPRS Edict II/MPRS/1960 moreover stipulated 12 press 'functions': political; social; economic; educational and cultural; as an instrument for the implementation of overall planning; aiding the completion of 'the revolution'; criticising and correcting; being a collective instrument based on Indonesian socialism; as a barometer; as an indicator; as a controller; and assisting in the implementation of the *Manipol* and especially in the implementation of the plan for national construction.

The next session of the MPRS resulted in Resolution I/Res/MPRS/1963. The appendices to this resolution dealt specifically with the press, and demanded:

- (a) The implementation, as soon as possible, of MPRS Edict II/MPRS/1960 with regard to drawing up a press law that must define the area, functions, tasks and rights of the press as an instrument for informing and moving the masses.
- (b) The taking of measures within the shortest time with the aim of improving the quality of the press in order to make it a real instrument of 'the revolution' based on the revolutionary key forces and masses, and imbued with a collective awareness of the objectives of 'the revolution'.
- (c) Making an effort within the shortest possible time to ameliorate the system of press distribution with regard to quantity (circulation), extensiveness of field (area) and actuality (swiftness of dissemination). Such efforts can be made in the following ways, for example: by steadily increasing newsprint production, improving the graphic industry, perfecting the telecommunication apparatus and services, facilitating internal and external transportation and distribution, and improving the quality and technical aspects of the services of the national news agency.
- (d) The provision of aid to the organisation of the national press in their commendable efforts to fulfill their functions and tasks as instruments of 'the revolution' in both the national and international field. Such aid can stimulate the press in achieving integration with the struggle of the masses and in strengthening solidarity and cooperation with the international press and journalist associations.

By looking at the functions attributed to the *Manipol* press and the measures advocated by MPRS Edict II/MPRS/1960 and Resolution I/Res/MPRS/1963, the contours of an authoritarian press system begin to emerge (Lee 1971: 116). The press function under Guided Democracy was not to inform, to seek the truth, or to be a watchdog for regime activities, but the press should advance and promote the policies of the government. Press legislation was thus becoming increasingly authoritarian.

Based on these MPRS edicts, the government would successfully create press laws and regulations to promote the *Manipol*. In practice, “taking measures within the shortest time with the aim of improving the quality of the press in order to make it a real instrument of ‘the revolution’” was interpreted predominantly as a license for disciplining any newspaper or journal which dared to criticise the government. *Manipol* and ‘socialist press’ served to further legitimise restrictive regulations against the press.

### 3.4.2. Ten Restrictive Regulations

During Guided Democracy, especially from 1959 until 1965, the most important press regulations were produced by the Supreme Martial Authority (*Penguasa Perang Tertinggi*/Peperti). This does not mean that the military was somehow unconnected to Soekarno’s leadership. As Mortimer (2006: 327) wrote, “it is important to bear in mind that this was a period when the national press was under great pressure to report only what accorded with Soekarno’s view of events.”

The first of these press regulations was Peperti Regulation 3/1960 on the Prohibition of Newspapers/Periodicals that are not printed in the Latin or Arabic Script of a Regional Language. This regulation was the army’s second attempt to eliminate the Chinese press in Indonesia outside of Java.<sup>64</sup> The first one had been Presidential Regulation 10/1959 on the Prohibition of Small Business and Retail Trade for Foreigners Outside the Capitals of Autonomous Regions Level I and II as well as Residencies. This regulation addressed not only Chinese retail traders, but was also used to ban Chinese newspapers and magazines. According to Lee (1971: 118) the basic motive for wishing to prohibit Chinese-language newspapers and periodicals was to create a purely Indonesian press. There was also a deep-seated mistrust of the contents of Chinese publications due to the lack of censors fluent in Chinese, as referred to earlier. Peperti Regulation 3/1960 was the military way to ‘purify the press,’ which totally disregarded the minority population’s need for news or even communications from the government.

The second and most notorious regulation restricting press freedom during this period was Peperti Regulation 10/1960 on publishing permits for newspapers and magazines. It was enacted on 12 October 1960, two months after the banning of the political parties Masyumi and PSI<sup>65</sup> and led to a complete subversion of the press to the political aims of the government.

64 As mentioned earlier Government Decree of 19 April 1958 had already banned the Chinese press in Java.

65 Presidential Letter 3568/HK/1960, issued on the same day, used this regulation as a basis to purge the press of ‘enemies of the revolution’ and banned the newspapers *Pedoman* (PSI) and *Abadi* (Masyumi).

According to this regulation, newspapers and magazines henceforth had to adhere to a number of conditions before receiving a publication permit. These conditions were supporting and propagating the *Manipol* and the political programme of the government with the aim of eliminating imperialism and colonialism, liberalism, federalism and separatism; defending the independent and active foreign policy of the government and to contribute to its implementation; strengthening the belief of the Indonesian people in the basic tenets, orientation, programme and leadership of 'the revolution'; supporting all measures in maintaining public order, security and political climate; strengthening an awareness of the existence of an Indonesian personality, for example by banning articles, pictures and drawings having a sensational character and therefore antagonistic to good morals; and criticising, if necessary, the state of affairs and the execution of government policy on the condition that this criticism is of a constructive nature and always takes the *Manipol* as a guideline.

In addition to these conditions, newspaper and magazine publishers and editors were required to sign a '*dokumen kesetiaan*' (loyalty document). These documents contained 19 points, which mostly overlapped with the requirements already stated in the regulation itself.<sup>66</sup> Signing the loyalty document kept one's newspaper alive, a refusal meant the end of it.<sup>67</sup>

The requirement to sign the loyalty document elicited different responses. Rosihan Anwar, the chief editor of *Pedoman*, signed the agreement. His newspaper had actually just been banned, but signing the document meant it could be published again. Anwar argued that in the current transitional phase towards democracy it was difficult to fully implement press freedom. In this situation the main task of the media was to make sure that they could at least continue publishing some news. Tasrif from *Abadi* and Mochtar Lubis from *Indonesia Raya* refused to sign the loyalty document, which meant that their newspapers were closed down. Mochtar Lubis denounced Rosihan Anwar's choice as ethically wrong and as 'kowtowing' to the government. According to Hill (2010: 61), in 1961 Mochtar even recommended the expulsion of his long-term close friend Rosihan Anwar from the Inter-

66 They included the obligation to obey guidance announced by Peperti and other government institutions; to support and defend the *Manipol* and the government programme, as well as the Presidential Decree of 5 July of 1959; UUD 1945, the Pancasila, Indonesian Socialism, Guided Democracy; Guided Economy; Indonesian National Character; Dignity of the Indonesian State; the effort to establish public order, security and political stability; and restrictions against press reports of a sensational or a morally degrading nature, insulting the head of the state and head of government of foreign countries friendly to the Republic of Indonesia, and defending disbanded and prohibited organisations.

67 The so-called loyalty document raised a debate among the members of the International Press Institute (IPI) since both Rosihan Anwar and Mochtar Lubis sent letters to the IPI explaining their arguments, as mentioned in the IPI reports of January 1961 and September 1966.

national Press Institute (IPI). Indeed, because of Mochtar's letter, Rosihan Anwar's IPI membership was temporarily suspended.

The third piece of legislation relevant to press freedom was Peperti Regulation 2/1961 on the Monitoring and Supervision of Private Printing Houses. This regulation was based on the same paradigm of controlling the press, and aimed to reinforce the '*Manipolisasi*' of printing houses owned by private corporations by submitting them to direct government supervision, notably by the Regional Authority for an Emergency Situation (Article 1). The latter's members included the army, the information department, the police, and the public prosecutor. The regulation stated that the private printing houses that printed the major part of the Indonesian newspapers and magazines should be used for the dissemination of *Manipol* and as a means to put an end to sentiments of imperialism, colonialism, liberalism, federalism and separatism. The authorities could employ preventive and repressive control to ensure the printing houses obeyed the purpose of the political manifesto (Article 4). This regulation also provided sanctions in the form of imprisonment of one year and fines if the printing houses refused to implement the *Manipol* ideology (Article 6).

In order to control the National News Agency, *Antara*, Soekarno promulgated Presidential Decision 307/1962 on the Establishment of the Institute of the National News Agency *Antara* (24 September 1962). This was the fourth regulation targeting press freedom. It was issued to resolve an internal conflict within *Antara* that started in September 1961, between an anti-PKI group chaired by Zein Effendi against a pro-PKI group led by Djawoto.<sup>68</sup> The decision assigned Peperti to run *Antara*. (Said 1988: 126-127)., President Soekarno merged Persbiro Indonesia (PIA) into Antara on 13 December 1962. The President also closed down two other news agencies: the Asian Press Board (APB) and the Indonesian National Press and Publicity Service (INPS). According to Atmakusumah, the ultimate aim of this presidential decision was to control the flow of information and opinion in the media.<sup>69</sup>

Inseparable from the martial law framework was the fifth anti-press regulation, Presidential Regulation 4/1963 on the Securing of Printed Papers which Disturb Public Order, Especially Bulletins, Newspapers, Magazines, and Regular Publications. This law resembled the pre-censorship system during the colonial period, when publishers had to submit copies of the printed materials to the authorities. As found in Article 2 section (1),

Within 48 hours of the printing being concluded, the printer shall submit a copy of the printed material [...] to the High Public Prosecutor, carrying the signature of the printer.

<sup>68</sup> Djawoto was the former chair of the PWI.

<sup>69</sup> Personal communication with Atmakusumah Asraatmadja through email, 11 September 2014.

This legislation gave the public prosecutor the authority to control and curb publishers. If the latter provided services to critical newspapers, they could be prosecuted. Most restrictive for the press was Article 6 of this regulation, which stated that prohibited printed material could be confiscated by prosecutor, police and other state institutions, which were to maintain public order. Hence, the military was also allowed to control the press. Although the state of emergency was lifted on 1 May 1963, and Government Regulation in Lieu of Law 23/Prp/1959 was therefore no longer applicable, the government imposed an even more oppressive system by introducing the Anti-Subversion Law 11/PNPS/1963. This change of emergency regime required a new military press control regulation, i.e. Presidential Regulation 4/1963.

Sixth, a fortnight after lifting the state of emergency, on 15 May 1963, the president passed Presidential Decree 6/1963 on Stipulations regarding the Promotion of the Press, which replaced Peperiti Regulation 10/1960. This was henceforth the most important press regulation enacted after 1959, promoting a 'guided press' under civil rather than martial law. Article 1 and 2 stated that all guidance of the press would be entrusted to the minister of information, assisted by the chief of staff of the armed forces, the commanders of the army, navy, air force, the head of the police force, and by the attorney general, all acting in their capacity as ministers of the Cabinet. Article 3 stipulated that in giving guidance to the press, the minister of information was required to: (a) promote the function of the press in the climate of Guided Democracy; (b) act as a liaison between the leadership of 'the revolution' and the press organisations with regard to problems of the press under Guided Democracy; (c) lend his ear to voices of public opinion or to proposals from the side of representatives of the press, all within the context of the general press policy of the leadership of 'the revolution'; (d) forward his views to the leadership concerning the policy of promoting the press; and (e) draw up directives concerning the implementation of this press policy within the context of Guided Democracy. Article 4 stated that in fulfilling his task the minister of information was accountable only to the president as the 'great leader of the revolution.'

Article 6 of the Presidential Decree also stated that a publication permit was needed for the publication of newspapers and magazines, in accordance with conditions laid down by the minister of information. Article 8 stipulated that Indonesian publishing companies should fulfill several obligations, such as: (a) to support, defend and disseminate Pancasila and *Manipol*; (b) to publish invariably constructive articles and commentaries about the situation and implementation of government policy, using the *Manipol* for guidance, and (c) to pay attention to the conditions of public order and to existing government regulations.



The regulation also provided for sanctions. As stipulated by Article 9, a sanction against the violation of any obligation following from this law would be imposed in the form of a revocation of the publication permit. Article 10 stated that the firm, or its leadership, which printed newspapers and magazines without a printing permit was liable to a maximum penalty of a one-year imprisonment or a maximum fine of Rp. 50,000. In addition, Articles 11 and 12 stated that the stapling and printing machines could be confiscated and/or destroyed, as well as the stocks of newspapers and magazines concerned.

Presidential Decree 6/1963 thus emphasised non-military control of the press, but its spirit and content were quite similar to Peperti Regulation 10/1960. In fact, by enacting such regulation as part of the post-emergency situation, the government revealed its intention to make the restriction of press freedom permanent and to move Indonesia further towards an authoritarian state.

However, despite the fully-fledged framework to control the press already in place, press control regulations continued to appear, aiming to turn the press even more into an ideological agent for the government. A good example is the regulation enacted on 19 December 1964, a week after the official banning of the Body for the Support/Diffusion of Soekarnoism (BPS).<sup>70</sup> This presidential decree in the form of Supreme Commander of the Armed Forces/KOTI Regulation D/450/64 on the Publishing of the Writings of the Great Leader of the Revolution without Interpretation put the press under the obligation to publish Soekarno's ideas without any further questions or comments, and in particular sections from the book *Di Bawah Bendera Revolusi* (*Under the Flag of the Revolution*). The implementation of this regulation led to the requirement for all newspapers and magazines to include a column under the heading 'The Teachings of the Great Leader of the Revolution Bung Karno.' In this way, Soekarno claimed the commitment of the press to the 'revolutionary struggle'. Soekarno said in front of the *Antara* (National News Authority) staff in Jakarta (14 October 1962) that "many journalists argue that the press is capable of spreading all sorts of thinking, even if this contradicts the spirit of the revolution." On another occasion, Soekarno complained, "[Journalists] argued that this is a press democracy. I don't want to see *Antara* become such an institution. Therefore, *Antara* should become a tool of 'the revolution' that is capable of refusing all counter-revolutionary thoughts" (*Indonesian Observer*, 15 October 1962, p. 1, in Smith 1983: 12). He repeated a similar statement when he inaugurated the Monitor Agency of *Antara* News in the presidential palace on 18 December 1962: "Objective reporting during a time of revolution is impossible. [...] I don't want the news to be objective, but I want it to

70 The *Badan Pendukung Soekarnoisme* or BPS was an institution to create solidarity among journalists against the communist press, journalism politics and the communist influence in the press association. Since Soekarno was close to the communist party elite he disagreed to be supported by BPS and in the end decided to disband the organisation.



be committed to our revolution and to become an instrument to fight against the enemies of the revolution" (*Indonesian Observer*, 19 December 1962, p.1, in Smith 1983: 12). By demanding such a 'revolutionary press,' Soekarno arbitrarily threatened journalists, especially those who criticised him, his administration, or his leadership.

Ministerial Decision 17/SK/M/65 and 27/SK/M/65 were a sequel to the disbanding of the BPS. They banned all newspapers associated with the BPS after a longstanding conflict between pro- and anti-communist press. The latter had long pushed for such a measure; the PKI newspaper *Harian Rakjat* for instance published the anti-BPS article "Clear the Press and the Ideas of the BPS and the Counter-Revolution" ("*Bersihkan Pers dan Ide-Ide BPS dan Kontra Revolusi*") (*Harian Rakjat*, 17 February 1965, XV, 4024). Previously, the leftist writers organisation Lekra had also pushed for a press ban against BPS newspapers (*Harian Rakjat*, 10 January 1965, XIV, 3980). Minister of Information, Major General Achmadi responded by revoking the printing permit (*Surat Ijin Cetak*) of 21 newspapers and magazines associated with the BPS (*Harian Rakjat*'s headline, "21 Koran BPS di Djakarta dan Medan Dit-jabut Idjin Terbitnya," on 25 February 1965, XV, 4024).<sup>71</sup> How grim the situation was, is clearly demonstrated by Soekarno's speech in Istora Senayan, Jakarta, at the occasion of PWI's anniversary:

I dissolved the BPS... my order to dissolve the BPS was surely with reason. I received information, secret information, that the CIA drove the BPS ... Well, after getting such information and after looking at its practice, the BPS is anti-Nasakom, so then I dissolved the BPS. I said firmly, any newspapers, any organisation, any tool that becomes part of the BPS cohorts, dissolve it! I repeat, I am not *plintat-plintut* (a 'weather cock'). The thing that must be dissolved is whatever is related to the BPS cohorts (Soekarno 1965: 30).

BPS journalists and editors were detained and prosecuted, although the public prosecutor soon released them due to lack of evidence regarding the involvement of the CIA and the intention to attack Soekarno. In 1966 many BPS newspapers were re-established (Said and Moeljatno 1983: 109-110).

71 Under Ministerial Decision No. 17/SK/M/65 (24 February 1965), 21 publications were prohibited, including Jakarta-based: *Berita Indonesia* (News of Indonesia), *Berita Indonesia Sport and Film*, *Merdeka* (Independent), *Indonesian Observer*, *Warta Berita* (News Journal), *Revolusioner*, *Garuda* (Eagle), *Semesta* (Universe), *Karyawan* (Labour), *Gelora Minggu* (Sunday Surf); *Suluh Minggu* (Sunday Torch); Medan-based: *Mimbar Umum* (Public Platform); *Waspada* (Vigilant); *Tjerdas Baru* (New Intelligence); *Bintang Indonesia* (Star of Indonesia); *Mimbar Taruna* (Youth Platform); *Suluh Masa* (Torch of the Masses); *Resopim* (Presidential speech on 17 August 1961); *Genta Revolusi* (Revolution Bells); *Duta Minggu* (Sunday Envoy); and *Indonesia Baru* (New Indonesia). On account of the same regulation, several newspapers and weeklies were also prohibited, including Jakarta-based: *Mingguan Film* (Film Weekly); Medan-based: *Pembangunan* (Development); *Waspada Teruna* (the youth edition of *Waspada*); *Mingguan Film* (Film Weekly); *Siaran Minggu* (Sunday Transmission); *Sjarahan Minggu* (Sunday Lecture); Padang-based: *Aman Makmur* (Securely Prosperous); and Semarang-based: *Pos Minggu* (Sunday Post).

The next anti-press measure was Ministerial Decision 29/SK/65 about the Basic Norms for Press Enterprises within the Context of the Promotion of the Indonesian Press (issued on 26 March 1965 by the minister of information). Its aim was reorganising press enterprises along new lines based on the idea of a closer relationship between these enterprises on the one side and political parties, 'functional groups' and mass organisations on the other. The basis for this reorganisation could be found in the Introduction of Presidential Decree 6/1963.

The first chapter of Ministerial Decision 29/SK/65 prescribed the ideological basis of the press, as well as its tasks and duties. The Indonesian press as a tool of 'the revolution' had to reflect and defend the ideals of 'the revolution' unconditionally. According to this decision, the press ought to support the idea of Pancasila as the basis of the state and *Manipol* as the general orientation of state policy. The press must strengthen national unity by being of a progressive nature and should subscribe to the so-called *Nasakom* (*Nasionalisme, Agama, Komunism* [Nationalism, Religion, Communism]) as an ideology. It furthermore had to function as an instrument for disseminating the teachings of President Soekarno as the 'great leader of the revolution', as well as the 'message of the people's suffering' (*Ampera* or *Amanat Penderitaan Rakyat*).

The second chapter was about the management of press enterprises. It stated that newspapers and periodicals should only be managed by those who supported the basic tenets and objectives of 'the revolution,' and possessed the required technical and journalistic capabilities. Journalists who had been involved in a rebellion against the republic or in counter-revolutionary activities were excluded. The remaining 'patriotic' and *Manipol* journalists needed the official support from a political party, functional group or mass organisation, or the 'Single Five Pillars' (*Pantja Tunggal*).<sup>72</sup> Journalists furthermore needed a written recommendation and approval of their biographies from the police before they could be forwarded to the minister of information, together with an application for a publication permit. Such recommendations were also needed for the managerial staff and editorial personnel of newspapers. The newspaper's management needed a recommendation from the *Serikat Perusahaan Suratkabar* (Federation of Newspaper Enterprises or SPS), and from the Press Division of the *Organisasi Perusahaan Sejenis, Pers* (Organisation of Similar Enterprises or OPS, Pers). Junior journalists had to obtain a recommendation from the PWI.

72 The *Pantja Tunggal* (Single Five Pillars) was an institution formed to promote the *Manipol* ideology. Actually it started in March 1964 by the *Tjatur Tunggal* (Single Four Pillars): four institutions at three levels of regional government – provincial, regency and city), comprised of the provincial governor (or regent or mayor), army commander, police chief and public prosecutor. The fifth pillar was the 'national front leader'.

The third chapter dealt with financial management and determined that the national press should be fully financed by Indonesian capital. The fifth chapter, on accountability, held the important clause that political parties, functional groups or mass organisations and *Pantja Tunggal* were responsible for publications from the newspapers and magazines whose editorial boards they had officially supported and recommended. The sixth chapter contained sanctions, in the form of a temporary suspension or definite closing-down of a newspaper or magazine. This could happen if a newspaper or magazine was found to no longer reflect an *aliran* (school of thought) of a particular constituency as stated in the publication permit, either because it aired other opinions or because this *aliran* had been prohibited; when it introduced ideological deviations that damaged and/or were in contradiction with the teachings of the president; when it undermined the authority of the government and the president; when it disturbed public order and security; when it harmed the cooperative principle of *Nasakom*; and when it harmed the development of the national press by transgressing the limits of its publication permit. Existing newspapers and periodicals were given three months for applying for a new publication permit in accordance with the stipulations of this decision as from the date of its enactment (Chapter 7).

While it seemed that Ministerial Decision 29/SK/65 had exhaustively suppressed any remaining press freedom and brought newspapers and magazines under full control of the state, both practically and ideologically, a tenth and final restriction was added to this regulatory framework. It consisted of Ministerial Decisions 51, 52 and 53/SK/M/65, which dealt with respectively government and other official publications, and newspapers and periodicals in scripts other than Latin, Arabic or a regional language, and the circulation of these. The aim of these regulations was to also bring these specific categories under the ideological wings of Guided Democracy and infuse them with its stipulations and phraseology.

In defence of this complete suppression of press freedom, Soekarno told Cindy Adams (Adams 1965: 279):

In Guided Democracy the key ingredient is leadership [...]. Revolution needs leadership. Without it, there is panic and fear. It is because we are still in an economic revolution that I shall not allow destructive criticism of my leadership nor do I permit freedom of the press.

It is clear that Guided Democracy had produced a myriad of regulations that not only suppressed press freedom, but befitted a state on its way to becoming totalitarian. Not only was press freedom systematically subverted by all these rules and regulations from various state institutions, the press was moreover forced to actively support the propaganda of the state. Press publications were increasingly forced to promote Soekarno's *Manipol/USDEK* and other policies, at the risk of being banned if they would not cooperate.

Guided Democracy thus became the worst period for press freedom after Indonesia became independent in 1945. Indonesia's identity in Soekarno's *USDEK* was merely 'Soekarno's identity,' not that of the nation nor of a constitutional democracy as stipulated in the 1945 Constitution. The creation of this myriad of suppressive legislation clearly violated the principles of justice and the protection of substantive liberties underpinning the rule of law. Soekarno's Guided Democracy introduced law as guidance ('rule by law'), but at the same time he imposed an ideological perspective that tended towards 'rule by men.' The law was not used to protect freedom of the press, but adversely, to conceal and mistify the abuse of power. Paraphrasing Tamanaha (2006: 219), Soekarno considered law as an "empty vessel that can be applied to achieve any end."

### 3.5. CONCLUSION

As shown in this chapter, press freedom in the territories now known as Indonesia has known highs and lows over the centuries. Limitations on press freedom were introduced long before Indonesia became an independent state, with the VOC already keeping strict controls on the printed press in their Javanese territories. The Dutch government, which took over after the VOC collapsed, continued to do so. The enactment of the *Drukpersreglement* in 1856 enabled the Netherlands-Indies' government to exert excessive control over the press, an opportunity it immediately and enthusiastically deployed. The *Drukpersreglement* introduced a pre-censorship system, which imposed the rule that printing houses and newspaper owners had to submit their newspapers to the authorities for approval prior to publication.

However, not all colonial policies were equally detrimental to press freedom. The 'Ethical Policy' that was implemented at the start of the twentieth century not only included education, improving irrigation in agriculture and transmigration, but also introduced more freedom for the press. This became most evident in the revision of the *Drukpersreglement* in 1906. Although it did not lift all press control, this revision allowed for the development of a vernacular and *Bumiputera* press under Governor-General Van Heutz.

Press freedom declined in 1914 with the introduction of the Netherlands Indies Penal Code, which included several so-called 'hatred sowing' articles. These were often applied in a discriminatory way, targeting the *Bumiputera* rather than the Dutch language press. This development shows that from 1914 onwards criminal law became more dominant than administrative law and repressive control more prevalent than preventive control. A real low was reached when in 1931, during the final period of conservatism, the Netherlands Indies' government enacted the Press Banning Ordinance. Both the Penal Code and the Press Banning Ordinance provided for severely repressive criminal sanctions in order to control press.

The arrival of Japanese troops replacing the Dutch authorities in 1942 first meant few changes to the repressive system in place, as the Japanese military administration continued to apply the preventive and repressive law introduced by their predecessors. Later, the system of press control became rigorously authoritarian in character and was only used to serve the Japanese army and Japanese propaganda in the occupied territory.

Indonesia's independence in 1945 was followed by three years of conflict and chaos, between Indonesians and Dutch, but also among Indonesians themselves. In the territory controlled by the republic, the first press ban was effected in 1948 after the 'Madiun affair', and was directed against the communist press. To this end, the government applied Law 6/1946, which it had enacted barely eight months after independence.

Much changed after the Netherlands recognised Indonesia's independence in late 1949. Four years later the more open political atmosphere resulted in the revocation of the Press Banning Ordinance of 1931. This ushered in what Schumacher called the period of "greatest press freedom in Indonesia," and newspapers used it to the full. As most newspapers were closely allied to particular ideologies and political parties, the press became extremely partisan in nature and published many accusations and recriminations, series about scandals, feuds, and frauds – often without much fact-checking. However, this period was not to last for very long. The introduction of martial law in 1956 allowed the army to arrest and detain journalists and editors, without judicial process. The ample space left open to interpretation caused by the law gave broad discretionary powers to the military and no guarantees for press freedom.

Atmakusumah has argued that, from the time the first newspapers in the Netherlands Indies were published in the mid-eighteenth century to the present, "there has not been a single period of considerable length without government pressure and suppression of the press."<sup>73</sup> This goes against Gazali's argument that perhaps the period 1950-1957 was an exception (Gazali 2004: 4). However, this chapter confirms Atmakusumah's point of view. Only the brief period between 1954 and 1956 deserves praise from a press freedom perspective, but as we have seen, Military Ordinance PKM/001/9/1956 put an end to this.

Press freedom declined drastically after 1957. Under Soekarno's Guided Democracy, journalists, editors, and publishers were submitted to all kinds of anti-press freedom actions. Part of it was a mere 'ideological' effort, with Soekarno calling for a 'revolutionary' press; part of it consisted of legal measures. After the return to the 1945 Constitution through the Presidential

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73 Atmakusumah, personal communication, on 30 March 2010 in Leiden, cf. Basori 2001.

Decree of 5 July 1959 and the renewal of the state of emergency, the government intensified its anti-press freedom policies by military (Peperti), presidential and ministerial legislation. These served to impose Soekarno's *Manipol* policy, specifically the 'national press political manifesto.' This meant that the press had to promote 'the revolution' and the struggle for developing the nation. The regime introduced various mechanisms to create a 'guided press' through the control of ideology, organisation, personnel, and circulation of publications. This allowed Soekarno to arbitrarily act against journalists who criticised him, his administration or leadership. The press freedom situation reminisced of communist China, where the press was controlled in a similar way by the communist political party (Chu 1983).

Opposition against the concept of a 'guided press' proved ineffective. Military legislation using administrative controls was applied to easily close down papers opposing Soekarno. At the same time, journalists and editors were silenced by being sent to jail without judiciary process, although the Penal Code actually enabled the government to prosecute them. Twenty-nine papers were closed down for their support of an anti-communist (as opponents argued, anti-Soekarno) bloc, in February and March 1965. Alternatively, in the backlash that followed the political chaos of 1 October 1965, 46 of Indonesia's 163 remaining newspapers were banned indefinitely because of their presumed association with or sympathy for the PKI or its allies. The year of 1965 thus became the worst year for press freedom in Indonesia (Hill 1995: 34).

In theoretical terms, the Indonesian press situation during Soekarno's Guided Democracy resembled an authoritarian system, rather than the Soviet one that has sometimes been suggested as its primary model (Siebert, Peterson and Schramm 1956, see the first Chapter for this typology). In an authoritarian system the government has absolute power and control over the press, over its ownership, content, license, and the use of mass media. Soekarno's regime was characterised precisely by such authoritarianism. Since the idea of *trias politica* was weakly developed, Soekarno's administration forced the judiciary and the legislative to bow to the executive power. The military played a key role in producing the law, interrogating and detaining journalists, and banning particular papers and magazines. Put bluntly, from 1957 until the end of Guided Democracy in 1965, press freedom languished until it ceased to exist altogether.

The restrictions or limitations were formulated into laws, but these laws substantively violated the fundamental principles of press freedom. Albeit restrictions to protect security and public order are justified by law, military installment for regulating the press as shown in this chapter illustrate that there were unclear borders as to what extent such restrictions are necessary in a democratic society. However, this chapter shows that those military laws, S.O.B. and also their implementation were applied beyond the inter-

ests of justice and the development of a constitutional democracy as stipulated under the constitution. The involvement of the military in regulating the press and the extra-judicial detention are strong evidence to confirm that press freedom was severely curtailed during the parliamentary years and Soekarno's Guided Democracy.

This period demonstrates how a lack of democracy, ideology and contradictory lower legislation undermined the Constitution and the legal system more generally. Law was simply practiced as a tool to legitimise suppressing voices critical of Soekarno.



