



Reports on Freedom of Expression & Digital Rights **in Indonesia**

Bangkok, Thailand • 19 May 2016



Regulation

Internet Law

Indonesia have **Electronic Information and Transaction Law** (Undang-Undang No. 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik) since 2008.

The law forbids cyber crimes like online pornography, fraud/money laundry, online gambling, but also:

- Online defamation in Article 27 point 3
- Online blasphemy in Article 28 point 2
- Online threats in Article 29



Regulation

- Why Indonesia had those 3 articles inside the internet law?
According to the government **because the old Penal Code (Kitab Undang-undang Hukum Pidana) not regulate** online defamation, blasphemy, and threats in the internet. So, the EIT Law is *lex specialist*.
- The law said: If someone violate the law, he/she can be sentence to **jail for 6 years** and **penalty USD 71,000** (Rp 1 billion IDR)
- And because it is categorized as a big crime (more than 5 years), the police can put the suspect in jail for 20 days, another 40 days by the attorney and can be add to 20 more days more. In total **100 days in jail before the trial begin.**



Regulation

- Online Censorship

- Online Censorship derives from the EIT Law, especially from the online pornography and online gambling articles. To regulate this, the government releases **Ministerial Decree No. 19 / 2014 (Peraturan Menteri No. 19/2014) about Internet Negative Content Handling** in 2014.
- The ministerial decree gives government ability to implement **TRUST +™ POSITIF** list, an official blacklist of websites that need to be filter by the Internet Service Providers immediately.



Regulation

- TRUST +TM POSITIF is a combination between Proxy/Caching System with Content Filtering System. This application uses Squid-Cache as Proxy/Caching System and SquidGuard as Content Filtering System. So, TRUST +TM POSITIF is not single gateway system.
- In 2015, the government releases **Ministerial Decree No. 290/2015 (Keputusan Menteri No. 290/2015) about Internet Negative Content Handling Forum** to form a panel that screen and gives recommendations to ICT ministry which websites should be put in TRUST +TM POSITIF list.



Regulation

– The blocking panel consist of:

1. Pornography, Child Abuse, Online Security Panel
 2. Terrorism and Discrimination Panel
 3. Illegal investation, Faud, Gambling, Drugs, Food Panel
 4. Intellectual Property Panel
- Lately, the panel also receives request from military to block **West Papua websites** and from National Commission for Child Protection to block **Lesbian-Gay-Bisexual-Transgender/LGBT** websites.

- Against Freedom of Expression
 - Many critics from CSOs, intellectuals, parliament members address to Article 27 point 3 (online defamation), Article 28 point 2 (online blasphemy) and Article 29 (online threats) because those articles **against Article 19 ICCPR, Article 28 Indonesian Constitution, Article 23 Indonesian Human Rights Law**
 - Also according to lawyers and scholars, those articles are **duplicating the Penal Code**. They already regulate, but need to amend in the new revision. No need to include them inside the EIT Laws.

- Ways to Silent Democracy

- Based on **165 cases** records since 2008, SAFENET finds the use of EIT laws (article 27, 28, 29) aims mostly to *anti-corruption activists, whistleblower, journalists*. And can be profile to 4 patterns: **as a way to revenge, barter, silent critics, shock therapy.**

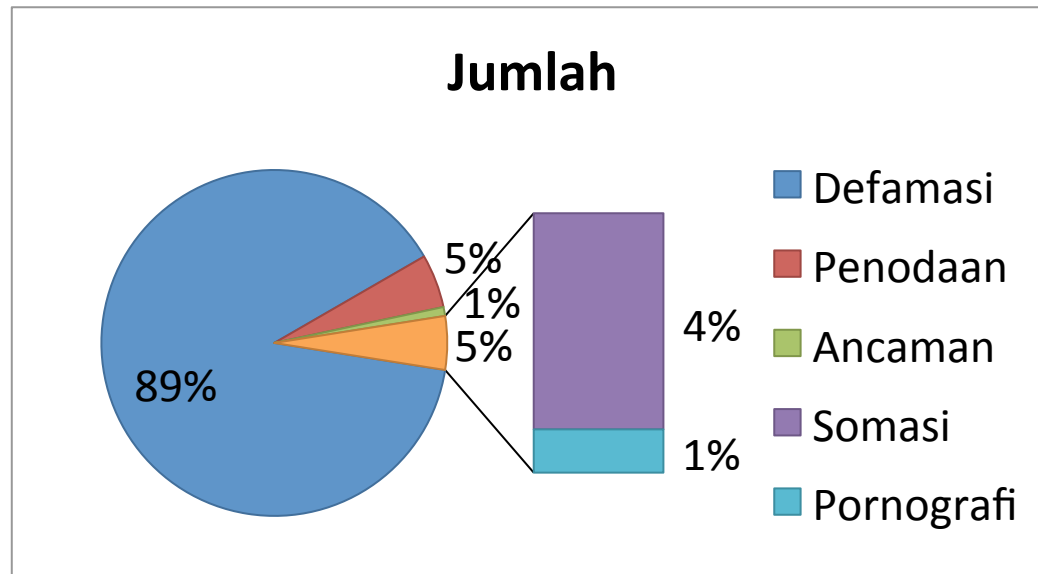
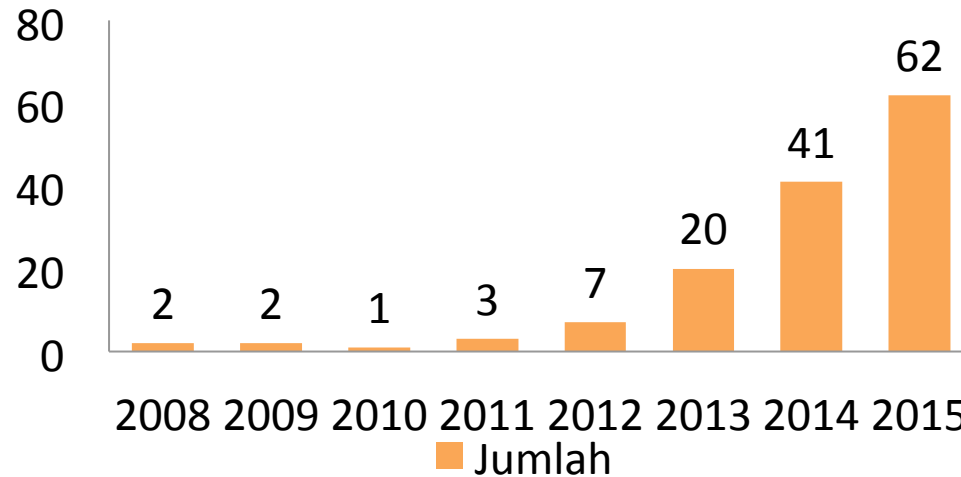
Defamation/
Blasphemy/
Threats

Revenge

Barter

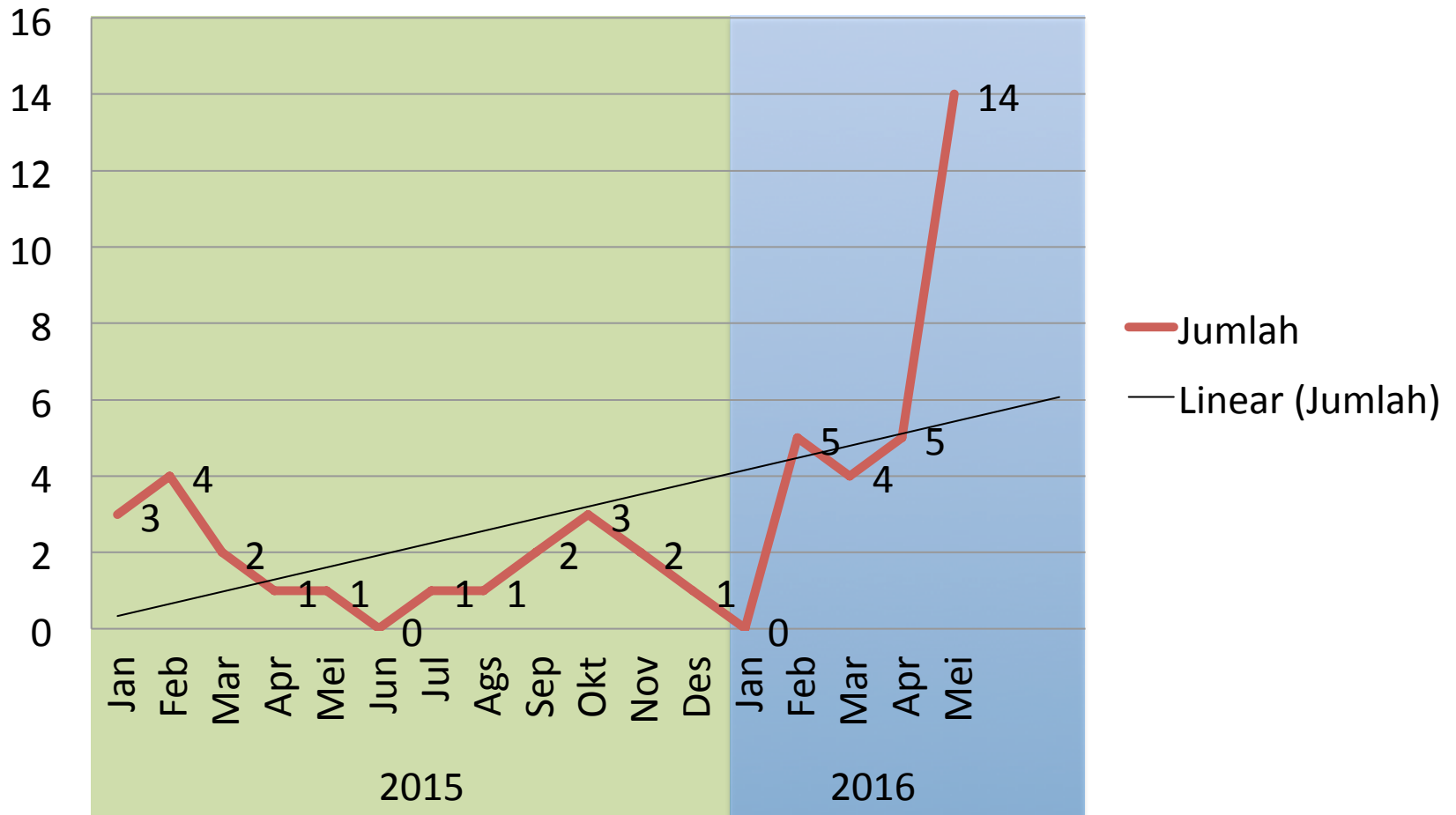
Silent Critics

Shock Therapy

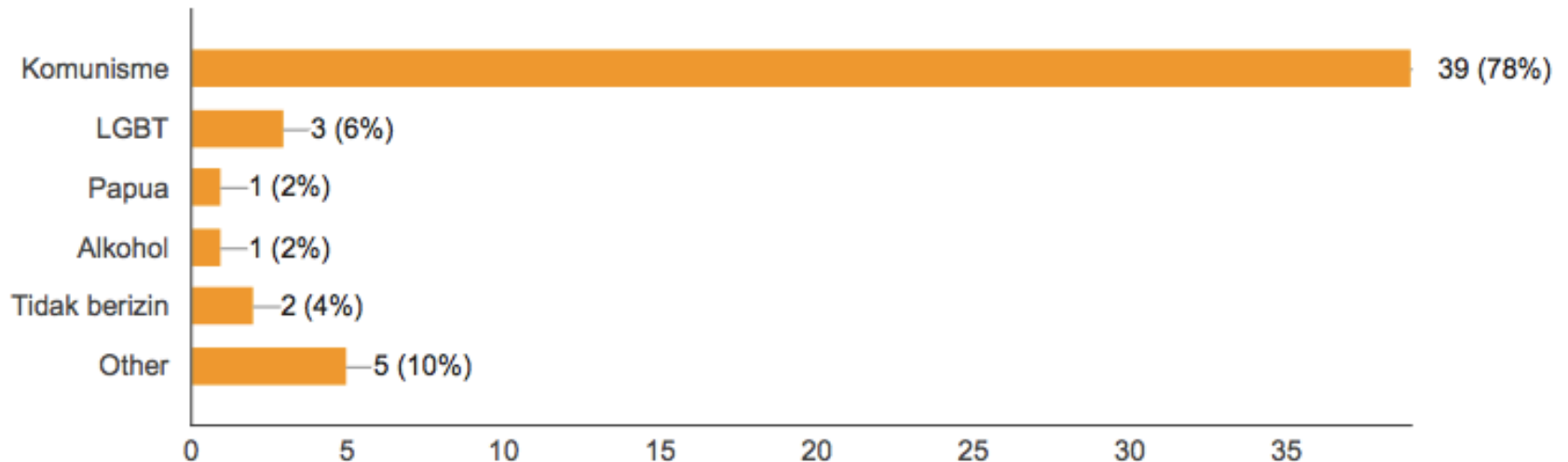




TABEL: Violation on freedom of assembly and expression in Indonesia
Jumlah



- After Soeharto step aside 18 years ago, the military and vigilante groups “orchestrating negative issues” attacks LGBT, West Papua, activist using stigma “proxy war”, “separatism”, and “Communism” and have impact to internet regulation.





On 10 May 2016, Adlun Fiqri and his friend being capture by military intellegent from KODIM 1501 Ternate and send to jail during his interrogation with the Ternate, North Maluku Police for spreading communism in social media.

Actually he is only showing his T-shirt PKI Pecinta Kopi Indonesia means Indonesian Coffee Lovers in instagram. He and his friend Yunus is being jail for 5 days.

- **Draft of Revision on EIT Law**
 - Not as promising as the name, after activists long struggle to raise the important to revise the EIT Law, the government agree to do the revision on EIT Law **BUT only to lower the jail sentence and penalty to 4 years and Rp 750 millions.** The draft still under discussion with Parliament.
- **Draft of Broadcasting Bill**
 - One of the article inside the Broadcasting Bill **allowed the censorship through all content including the news content.** This is against the Press Law (UU Pers Tahun 1999). The draft still under discussion with Parliament.

- **Draft of Online Data Protection Law**
 - ICT Watch will focus on addressing public awareness on the importance of privacy and pushing Indonesia to have law of online data protection.
 - ICT Watch work together with UNPAD and Citizen Lab – Toronto University is doing online survey on netizen perception privacy and online data protection law.
 - In the end, the survey will be used to complete the academy draft that being arranged by Padjadjaran University (Cyber Law Center – Faculty of Law UNPAD).



INITIATIVES

- **ID-CONFIG/Indonesian CSOs for Internet Governance:** A coalition of civil society groups that focuses on multi-stakeholder principle of internet governance.
- **SIKA/Solidarity of Fair Information and Communication:** A group of CSOs which conducts intervention on internet and media law to parliament members and mainstreaming issues in media.
- **FDD/Digital Democracy Forum:** A forum which promotes freedom of expression as a basic element for democracy, develops democratic tools for people to participate in politics, and run digital literacy through School of Digital Democracy for youngster.
- **KNRP/National Coalition Broadcasting Reform:** A group of intellectuals and activist, which conducts legal intervention on digital broadcasting issues.



KEY ISSUES

1. Wipe out defamation article!
2. Demand transparency in online/media censorship mechanism!
3. Protect privacy / personal data protection!