

Internet Blocking Policy in Indonesia: Between Realities, Pros and Cons?

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Abstract. The telematics has rapidly progress, especially related to the use of the internet, also gives some negative impacts besides having positive ones. The irresponsible use of the internet such as propaganda or even racism of racial, ethnic, religious, and organizational issues by some parties often disturbs the stability of the country's security. In recent years, there has been an increase in the blocking of internet sites with negative content. Pros and cons occur over the internet blocking policy in Indonesia which then requires further analysis related to the legal study. The legislation only regulates the government's authority to block content with certain themes, such as pornography, blasphemy, and hate speech. However, these rules do not explicitly provide the scope, boundaries, mechanisms, and efforts to fight and complain about the blocking. It needs to be regulated in more detail related to internet blocking in Indonesia involves the human rights as stipulated in the provisions in Article 28F of the 1945 Constitution.

Keywords; telematics, internet blocking, negative content.

1. Introduction

In the millennial era, life cannot be separated from technological development. Technology always exists and is needed at all times, in any place, and by anyone. Major changes in technological developments have pushed Indonesia as a modern democratic country to embody its electronic system in the public interest. This was concretized by the existence of Law No. 14 of 2008 on Public Information Openness (KIP Law) and Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law) Juncto Law No. 19 of 2016.

Further arrangements related to the Electronic System cannot be separated from the laws of telematics. There are confusing opinions about a law that covers all regulations in the field of telematics, starting from the ITE Law, the Telecommunication Law, or other legislation such as the Criminal Code. It is certainly important to know together, starting from the understanding of telematics as a law for the development of the convergence of TELEMATICS (Telecommunications, Media and Informatics) in the form of organizing an electronic system, both connected through the internet (cyberspace) or not connected to the internet including aspects of law related to the existence of information systems and communication systems, especially those that are carried out with the implementation of electronic systems [1]. Therefore, it is not appropriate to say that telematics is part of telecommunications. On the contrary, telecommunications is the one becoming a part of telematics convergence.

In its development, telematics has progressed so rapidly that it could not be separated from every field in society in a country. The information technology advancements, especially related to the use of the internet, also gives some negative impacts besides having positive ones. The irresponsible use of the internet such as propaganda or even racism of racial, ethnic, and religious issues (SARA) by some parties often disturbs the stability of the country's

security. The spread of news with sources and data that cannot be accounted for has caused unrest among people and even led to disputes between citizens which indirectly disturb security stability that affects economic, social, cultural, political, and security conditions. This prompted the government to restrict the use of the internet on the grounds of maintaining the unity and integrity of the Indonesian Nation, for the sake of security and order created in the community.

In recent years, there has been an increase in the blocking of internet sites with negative content or that are considered breaking the law (illegal content). At the end of March 2015, at the request of the National Counterterrorism Agency (BNPT), the Ministry of Communication and Informatics (Kemenkominfo) blocked several internet sites calling for Islamic da'wah which was considered to be radically charged. They are said to be Islamic da'wah sites because of their names; these sites use names or attributes related to Islam [2]. In 2015, the government blocked 766,395 negative sites. In 2016, 773,097 sites were blocked which contained pornographic material [3]. Meanwhile in early 2017, the Ministry of Communication and Information has moved 6,000 social media accounts that contain elements of hate speech, slander, and hoaxes [4].

Southeast Asia Freedom of Expression Network (SAFENet) said that blocking internet access is one of the repression tools in the digital age of the 21st century. Until now, the government has blocked internet access and social media three times in Indonesia, namely during riots around Election Supervisory Agency (Bawaslu) building in late May, riots in Papua in August, and riots in Wamena, Monday (23/9). SAFENet further as an organization that fights for digital rights in Southeast Asia, urged the government to restart the internet in Wamena as it is used to, stop the practice of Internet Shutdown throughout Indonesia and comply with existing laws and respect the rights of citizens to access information as required protected by Article 19 of the UDHR and Article 19 of the Covenant on Civil and Political Rights. The pros and cons related to internet blocking are quite interesting to be discussed further. Therefore, the author will discuss related to: Is the policy on internet blocking in Indonesia in accordance with existing legal methods?

2. Method

The research method used in this paper is the normative legal research method, using the statute approach. The purpose of the statute approach is an approach based on a review of legal regulations related to the problem being discussed.

3. Result and Discussion

Interconnecting networking or the internet can simply be interpreted as a global network of computer networks, with its global characteristic and spread within broadly unlimited reach [5]. The internet is a network that connected and contains information with common protocols with powerful features, connected through a communication network, regardless of creation, operating system or location with widely distributed resources and network management [6]. Internet resources can be divided into 2 (two), namely: IP address and Domain Name. Meanwhile, if we observe further the inseparable resource is the existence of every data and/or information that crosses the internet, especially the Personal Data of every person who makes a transaction. In internet governance, the applicable legal provisions are community law. The government does not have authority to regulate IP Addresses and Domain Names so that the rules for self-regulatory provisions are known, as well as the existence of a system for recording IP addressing and Domain Names [7].

Some Legal Standing on Digital Issues

- a) Law No. 19 of 2016 Juncto Law No. 11 of 2008 on Electronic Information and Transaction

Article 15 paragraph (1) of Law No 11 of 2008 Juncto Law No. 19 of 2016: every electronic system provider must operate its electronic system reliably and safely and be responsible for the proper operation of the Electronic System. In paragraphs (2) and (3), it is stated that the Electronic System Operator is responsible for the Electronic System Operation, unless an urgency, error, and/or negligence of the electronic system user is proven.

In the context of the internet, the terms of the limitations are regulated in the provisions of Article 40 paragraph (2), paragraph (2a), and paragraph (2b) of Law No. 19 of 2016 on amendments to Law No. 11 of 2008 on Electronic Information and Transactions. In the provisions of paragraph (2), it is stated that the government protects the public interest from all types of disturbances as a result of misuse of electronic information and transactions that interfere with public order, in accordance with statutory regulations.

In the provisions of paragraph (2a), the government is obliged to carry out prevention, dissemination, and use of electronic information and transactions that have prohibited contents in accordance with statutory regulations. Provisions in paragraph (2b) state that in conducting prevention as referred to in paragraph (2a), the government has the authority to terminate access and/or order the electronic system operator to block access to information or electronic documents that have unlawful contents. The limitation on internet access is only intended if the information or electronic documents have contents violating the law, especially violations of criminal law. The authority to restrict the internet to constitutional rights is in the hands of the president, but the limitation is stated openly before the public, and it must also be stated the time limit on the rights.

b) Law No. 40 of 1999 on Press

Freedom of the press is right granted by the constitutional or legal protection relating to the media and published materials such as disseminating, printing, and publishing newspapers, magazines, books, or in other materials without any interference or censorship from the government. In Article 4 paragraph (1) of Law No. 40 of 1999 on Press, it is stated that press freedom is guaranteed as a human right of citizens, in paragraph (2) that Towards national press no censorship, prohibition or restriction of broadcasting will be imposed upon., paragraph (3) that to ensure freedom of the press, the national press has the right to seek, acquire, and disseminate ideas and information and paragraph (4) that in holding accountable before the law, journalists have the right to refuse even as stated in the UUD 1945 (1945 Constitution), among others, in Article 28F that everyone has the right to communicate and obtain information to develop their personal and social environment, and has the right to seek, obtain, possess, store, process and convey information using all types of available channels. The Press Law does not cover social media, search engines, and e-commerce sites. In the Press Law, there is also no legal standing for blocking the internet.

c) Law No. 32 of 2002 on Broadcasting

The Broadcasting Law does not fully regulate media such as Youtube which does not use electromagnetic wave infrastructure. This law does provide guidelines for broadcasting behavior as stipulated in Article 48 of Law No. 32 of 2002 on Broadcasting and sanctions provided in the event of a violation of the provisions in this Broadcasting Law as referred to in Article 55 (administrative sanctions), criminal provisions as regulated in Articles 57, 58 and 59. However, the said provisions do not include internet sanctions that can be imposed by the state in this matter.

d) Law No. 36 of 1999 on Telecommunication

The provisions of Telecommunication Law also only regulate telecommunications operators, rights and obligations of the organizer and the public, licensing, tariffs, and telecommunications security, which are related to administrative and criminal sanctions. There is no regulation related to internet blocking that can be done by the state.

- e) Law No. 14 of 2008 on Public Information Openness
 This law was born as an example of the existence of Article 28F of the 1945 Constitution which regulates the right to communicate and obtain information [8]. The Law on Public Information Openness guarantees all people to obtain information that constitutes Human Rights as a manifestation of democratic national and state life. This law regulates the right of every person to obtain information; Public Agency's obligation to provide and service requests for information in a fast, timely, low-cost/proportional, and simple way; exceptions are strict and limited; and the obligation of the Public Agency to improve the documentation and information service system. It is also regulated in Article 7 paragraph (3) of the Public Information Openness Law. However, the Public Information Openness Law does not regulate internet blocking policies that can be carried out by the state.
- f) Law No. 25 of 2009 on Public Services
 The Law contains regulatory provisions on the definition and limitations of public services administration; the principles, objectives, and scope of the administration of public services; guidance and arrangement of public services; rights, obligations and prohibitions for all parties involved in the administration of public services; aspects of the administration of public services which include service standards, service announcements, information systems, facilities and infrastructure, service costs/tariffs, complaint management, and performance appraisal; community participation; settlement of complaints in the administration of services; and sanctions. However, the Public Service Act does not regulate state authority in internet blocking.
- g) Law No.44 of 2008 on Pornography
 This law explicitly stipulates the form of punishment for violations of the making, distribution, and use of pornography that is adjusted to the level of violations committed, namely severe, moderate, and mild, as well as giving weight to criminal acts involving children. In addition, weights are also given to the perpetrators of criminal acts committed by corporations by multiplying the main sanctions and providing additional penalties. To provide protection for victims of pornography, this Law requires all parties, in this case, the state, social institutions, educational institutions, religious institutions, families, and/or the community to provide guidance, assistance, social recovery, physical and mental health for every child who is a victim or perpetrator of pornography.
 Article 19 of the Pornography Law stipulates that in order to take precautions as referred in Article 17, the Regional Government is authorized to: a. terminating the network of making and distributing pornographic products or pornographic services, including blocking pornography through the internet in its region; b. supervising the making, dissemination, and use of pornography in the region; c. carrying out cooperation and coordination with various parties in the prevention of the making, dissemination, and use of pornography in the region; and d. developing a communication, information, and education system in the context of preventing pornography in the region.
 As explained in Article 18 letter a and Article 19 letter a, what is meant by "blocking pornography through the internet" is blocking pornographic goods or pornographic services' providers. In Law No. 44 of 2008 on Pornography, there are provisions relating to internet blocking, but only for matters relating to pornography.
- h) Government Regulation No.52 of 2000 on Telecommunication Operation
 Further elaboration of the arrangements regarding telecommunication operations, it is deemed necessary to draw up implementing regulations in the field of telecommunication operations. This Government Regulation stipulates that telecommunications network operators in conducting their business are required to build and/or provide telecommunications networks in accordance with the Technical Basic Plan. The Technical Basic Plan referred to is further stipulated by the Minister. The Government

Regulation on Telecommunication Operation does not regulate internet blocking provisions.

- i) Government Regulation No. 71 of 2019 on Organisation of Electronic Systems and Transactions revokes Government Regulation No. 82 of 2012 on Organization of Electronic Systems and Transactions.

Explanation of Government Regulation No. 71 of 2019 on Organisation of Electronic Systems and Transactions states:

"The stipulation of this Government Regulation is intended to further regulate several provisions in Law Number 19 of 2016 on Amendment to Law Number 1 of 2008 on Information and Electronic Transactions that were formed to guarantee recognition and respect for the rights and freedoms of others and for meet fair demands in accordance with considerations of security and public order in a democratic society Some provisions that need further regulation are: a) the obligation for each Electronic Systems Provider to delete irrelevant Electronic Information and/or Electronic Documents under his control at the request of the Person concerned based on a court decision; and b) the role of the Government in facilitating the use of Information Technology and Electronic Transactions, protecting the public interest from all types of disturbances as a result of the misuse of Electronic Information and Electronic Transactions that disturbed public order, and prevent the dissemination and use of Electronic Information and / or Electronic Documents which have prohibited contents in accordance with the provisions of the legislation ".

Provisions in Article 3 paragraph (1), each Electronic System Operator must operate the Electronic System reliably and safely and are responsible for the proper operation of the Electronic System. Paragraph (2), the Electronic System Operator is responsible for the operation of the Electronic System. The provisions referred to in paragraph (2) do not apply if conditions of force, error, and/or negligence of the Electronic System Users can be proven.

Article 4 from letter a to letter e, as long as no other statute is specified, each Electronic System Operator must operate the system by meeting the minimum requirements.

Article 5 paragraph (1), Electronic System Operator must ensure that its Electronic System does not contain Electronic Information and/or Electronic Documents that are prohibited under statutory provisions. Paragraph (2), the Operator of an Electronic System must ensure that the Electronic System does not facilitate the dissemination of Electronic Information and/or Electronic Documents that are prohibited under statutory provisions.

In Government Regulation No. 71 of 2019 on Organization of Electronic Systems and Transactions has been regulated related to the operation of Electronic Systems which must comply with statutory provisions and be conducted reliably and safely and responsibly. Although there are no provisions that govern directly related to internet blocking, with the existence of this Government Regulation there is a reference for the organizers of the Electronic System in carrying out its Electronic System to provide benefits and not violate the law.

- j) Regulation of Minister of Communications and Informatics No. 19 of 2014 on Controlling Internet Websites Containing Negative Content

The legal standing for blocking internet network access refers to the Regulation No. 19 of 2014 on negative content. Based on that rule, blocking the internet is a new form of filtering negative content. Indonesia already has censorship (filtering content) in the form

of the Ministry of Communication and Informatics Regulation No. 19 of 2014 which is about negative content, this is its new form (internet blocking).

Regulation about Controlling Internet Websites Containing Negative Content, under Article 2 letter b written negative content filtering, aims to "protect the public interest from internet content that has the potential to have a negative or detrimental impact." There is procedure in viewing the Regulation, there are First, Reporting from the public on: negatively charged internet sites; Reporting submitted by the public to the Minister c.q. Director-General through the facility for receiving reports in the form of e-mail complaints and/or site-based reporting provided; Reporting from the public can be categorized as emergency reporting when it concerns personal rights, child pornography, and rapid negative impacts on the community and/or special requests.

Regulation No. 19 of 2014, in Chapter IV Role of the Society and the Government, Article 10 and Article 11 states that; The procedure for receiving reports and requests for blocking as referred to in Article 5 paragraph (2) must have been assessed by the relevant ministry or agency by loading the site address, type of negative content, type of violation and information.

- k) Regulation of Minister of Communications and Informatics No. 36 of 2014 on the Procedure of Registration of Electronic System Operator. This provision only regulates procedures for the registration process of electronic system operators. It does not contain provisions relating to the authority granted to the state to restrict or revoke prohibited content.
- l) Regulation of Minister of Communications and Informatics No. 20 of 2016 on the Protection of Personal Data in Electronic System. This regulation does not regulate the authority related to internet blocking, but rather regulates the protection of personal data and other provisions.
- m) Regulation of Minister of Communications and Informatics No. 7 of 2018 on Electronically Integrated Business Licensing Service, which only regulates related to licensing procedures for electronic, licensing, and telecommunications operations services, not related to state authority in limiting or blocking internet usage.
- n) Presidential Instruction No.6 of 2001 on Telematics Development and Productivity
This Presidential Instruction regulates the use of telematics technology and information flow aimed at improving the welfare of the community, including eradicating poverty and inequality, and improving the quality of life of the people. In addition, regulating telematics technology must be directed to bridge political and cultural gaps, and improve harmony among the people. However, the Presidential Instruction No. 6 of 2001 on Telematics Development and Productivity does not regulate the Government's authority in blocking or limiting internet in Indonesia. This Presidential Instruction regulates policies related to Telematics, the use of telematics technology and information flow must always be aimed at improving the welfare of the community, including eradicating poverty and inequality and improving the quality of life of the community. In addition, telematics technology must also be directed at bridging political and cultural gaps and enhancing harmony among the people.
- o) Circular Letter of the Minister of Communication and Informatics No. 3 of 2016 on the Delivery of Application and/or Content Services through Internet (Over the Top)
In this Circular letter is regulated related to service provider obligations (over the top) and content that is prohibited to be provided
Obligations of Over the Top Service Providers
5.5.1 comply with monopoly prohibition provisions, prohibitions on unfair business competition and other relevant regulations;

- 5.5.2 conduct data protection under statutory provisions;
- 5.5.3 do content-filtering under statutory provisions;
- 5.5.4 implement censorship mechanism under statutory provisions;
- 5.5.5 use a national payment gateway incorporated in Indonesia;
- 5.5.6 use Indonesian internet protocol numbers;
- 5.5.7 provide guaranteed access to legal tapping of information (lawful interception) and retrieval of evidence for the investigation or investigation of criminal cases by the competent authority under statutory provisions; and
- 5.5.8 include information and/or instructions for use of the service in Indonesian under statutory provisions.
- 5.6 Over the Top Service Providers are prohibited from providing services that have the following content:
 - 5.6.1 contrary to Pancasila and the 1945 Constitution of the Republic of Indonesia, threatening the integrity of the Unitary State of the Republic of Indonesia;
 - 5.6.2 cause conflicts or contradiction between groups, between ethnic groups, between religions, between races, and between groups (*SARA*), insulting, harassing, and/or tarnishing religious values;
 - 5.6.3 encourage the general public to take actions against the law, violence, narcotics, psychotropic, and other addictive substances, degrading human dignity, violating decency and pornography, gambling, insults, extortion or threats, defamation, hate speech (hate speech), infringement of intellectual property rights; and/or
 - 5.6.4 contrary to statutory provisions

- p) Circular Letter of the Minister of Communication and Informatics No. 5 of 2016 on the Limitations and Responsibilities of Platform Providers and Merchants in E-Commerce Using User-Generated Content Platforms

In this provision, prohibited content is any type of material and/or content that violates the provisions of the legislation. This provision governs the obligations and responsibilities of the UGC Platform (User Generated Content), including carrying out the removal and/or blocking of prohibited content.

- q) Joint Regulation of the Minister of Law and Human Rights and Minister of Communication and Informatics No. 14 of 2015 and No. 26 of 2015 on the Implementation of Closing Down Content and/or a User's Right to Access over Copyright Infringement and/or Related Rights in an Electronic System.

In this regulation the closure of content and/or access rights are only for content that violates Copyright and/or Related Rights (Article 1 number 5). Related to the provisions of closing content and/or access rights regulated in Chapter IV, Article 13 (1), the Minister who organizes governmental affairs in the field of communication and informatics closes the internet.

Article 15, the closure of access to content that violates copyright and other regulated rights. Article 16, in the case of the closing of an internet site or blocking as referred to in Article 13 paragraph (1) concerning the period of internet blocking. In this regulation there are provisions relating to content restrictions or internet blocking specifically for violations of Copyright and/or Related Rights on the official website of the ministry.

Internet Blocking in Indonesia

In the Indonesian context, the Press Law cannot regulate social media, search engines, and e-commerce sites. The Press Law only regulates online news sites that contain journalistic content. The Broadcasting Law also does not reach out to regulations on new media such as YouTube that do not use electromagnetic wave infrastructure. The presence of new media has so far been regulated in the Information and Electronic Transactions Law. The problem is that the Electronic Information and Transaction Law has not fully taken into account the different positions, functions, and impacts of new types of media, such as social media, search engines, and e-

commerce sites. The dynamics of the development of new media are too broad and complex to be regulated by just one law [9].

In the midst of the dynamics of the development of new media that are too broad and complex and have not been balanced with the regulations with existing laws in Indonesia, furthermore, no less important needs to be discussed concerning the internet blocking itself, how is the regulation in existing laws in Indonesia.

In its development, the state provides a stronger legal standing to overcome the pros and cons associated with internet blocking in Indonesia. The Government established Law No. 19 of 2016 which replaced Law No. 11 of 2008 on Information and Electronic Transactions, providing the basis for internet blocking policies as stipulated in Article Article 40 paragraph (2), paragraph (2a), and paragraph (2b).

The legal standing for internet blocking, especially related to sites with negative content, is based on the Ministry of Communication and Informatics Regulation No. 19 of 2014 on Controlling Internet Websites Containing Negative Content. The Minister's Regulation is intended to answer the legal vacuum based on the internet blocking policy in Indonesia, but instead it has given birth to a separate polemic.

Content restrictions or internet blocks containing pornography are also contained in the Law on Pornography. As explained in Article 18 letter a and Article 19 letter a, what is meant by "blocking pornography through the internet" is blocking pornographic goods or pornographic services' providers. In Law No. 44 of 2008 on Pornography, there are provisions relating to internet blocking, but only for matters relating to pornography.

In the Joint Regulation of the Minister of Law and Human Rights and the Minister of Communication and Informatics No. 14 of 2015 and No. 26 of 2015 on the Implementation of Closing Down Content and/or a User's Right to Access over Copyright Infringement and/or Related Rights in an Electronic System, there are provisions relating to content restrictions or blocking internet specifically for violations of Copyright and/or Related Rights on the official website of the ministry.

Examples of Cases of Blocking Internet Access in Wamena by the Ministry of Communication and Informatics

Quoted from the news channel *www.cnnindonesia.com*, Acting Head of the Public Relations Bureau of the Ministry of Communication and Informatics Ferninadus Setu said the circulation of a suspected video of racism of racial, ethnic, and religious issues (*SARA*) of a teacher in Wamena who issued harsh words and was mocked became the start of blocking internet access. The harsh words allegedly offended the black people in Wamena. The video was widespread to the point of triggering a demonstration in Wamena resulting in considerable riots in Wamena. The increasingly widespread dissemination of the video results in the disruption of security stability so that the National Police and the Indonesian National Military must calm the masses who demand insults in the video distributed for trial. The Ministry of Communication and Informatics then took action so that the news would not spread by blocking internet access in Wamena [10].

Analysis of Blocking Internet Access Conducted by the Ministry of Communication and Informatics

When viewed from the laws and regulations governing content restrictions on the internet, according to the author the content in the video distributed on Wamena has violated the provisions as described in Act Number 19 of 2016 on Information and Electronic Transactions (ITE Law).

Content that is prohibited in the ITE Law can be described as follows:[11]

Regulations	Content definition	Information Dissemination Medium	Scope of Prohibited Content	Protection Mechanism
ITE Law	The sound of one or a	Electronic Data	• Content that is	• Instruct

<p>set of electronic data, including but not limited to writing, sound, images, maps, designs, photographs, electronic data interchange (EDI), electronic mail (e-mail), telegram, telex, telecopy or the like in the form of letters, numerical signs, access code, or perforation</p>	<p>considered violating decency</p> <ul style="list-style-type: none"> • Content that contains gambling content • Content that contains elements of insult and/or defamation • Content that contains extortion and/or threats • Content that spreads false news, causing consumer losses • Hateful content based on the racism of racial, ethnic, and religious issues (SARA). • Content that contains violent threats 	<p>Electronic system operators to terminate access</p> <ul style="list-style-type: none"> • Criminal Acts for Perpetrators
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Based on the data presented in the table it is clear that the videos distributed in Wamena can be categorized as prohibited content where the content creates hatred based on the racism of racial, ethnic, and religious issues (*SARA*). Then the action taken by the Ministry of Communication and Informatics by blocking internet access in Wamena is under the protection mechanism stipulated in Article 40 of Law No. 19 of 2016 on Information and Electronic Transactions.

Even though in Article 40 of Law No. 19 of 2016 on Electronic Information and Transactions the Government has the authority to terminate access and/or order the Electronic System Operator to terminate access to Electronic Information and/or Electronic Documents that have unlawful contents, however in the process of its implementation the government is obliged to conduct socialization on the use of the internet or social media, how exactly the way to use the internet and social media so that the general public can filter themselves against negative content or destructive hoaxes. The limitation of internet access is only shown if the information or electronic documents that have contents that violate the law, especially violations of criminal law. The authority to restrict the internet to constitutional rights is in the hands of the president, but the limitation is stated openly to the public beforehand, and it must also be stated also the time limit of the limitation on that right.

In Law No. 19 of 2016 on Information and Electronic Transactions, there is no transparency regarding the indicators and parameters of internet restrictions, as well as the less conducive situations such as what requires blocking. It does not explain the gradient of urgency and its duration so that people feel that human rights related to freedom of communication have been seized and restricted by the State as stipulated in Article 28E of the 1945 Constitution states that everyone has the right to freedom of association, assembly, and expression. But of course, the enactment of Article 28E of the 1945 Constitution cannot be separated from the provisions of Article 28J of the 1945 Constitution which states that there are restrictions to guarantee respect for the rights of others in accordance with fair considerations and the values of security and public order in society. Therefore, it is considered legitimate when the government considers that the conditions that have occurred are likely to be anarchic and destructive, the government has the authority to limit the rights of its citizens [12].

In addition to Law No. 19 of 2016 on Information and Electronic Transactions, statutory regulations that expressly authorize the government to block internet content, are the provisions of Article 18 of Law No. 44 of 2008 on Pornography, which states: "*For taking precautions as referred to in Article 17, the Government has the authority to: a. terminating the network of making and spreading pornographic products or pornographic services, including blocking pornography through the internet, etc.*".

The Government's authority in this matter is carried out by the Ministry of Communication and Informatics related to internet blocking technically stated in the Regulation of the Minister of

Communication and Informatics of the Republic of Indonesia No. 19 of 2014 on Controlling Internet Websites Containing Negative Content. In implementing the provisions containing the internet blocking authority, the Ministry of Communication and Informatics must refer to the existing mechanism, which is as contained in Chapter IV Government Regulation No. 19 of 2014 which regulates the procedures for blocking and normalizing the blocking. These blocking and normalization procedures are the guidelines for dealing with negative internet sites. The mechanism is upheld to avoid pros and cons responses in the community.

Steps taken by the Ministry of Communication and Informatics (Article 14 of Regulation of Minister of Communications and Informatics): carry out report management before asking internet service providers to block. The management includes storing the original report file into a database, placing the addresses of sites that are requested to be blocked on the blacklist, and taking some sample images on the sites that are requested to be blocked.

As an example of blocking content that is considered radical, in following up on the request report from the National Counter Terrorism Agency (BNPT), the Ministry of Communication and Informatics will only take action as stated above. The Ministry of Communication and Informatics does not assess the sites that are requested to be blocked, whether they are radical sites or not as stated by BNPT. The assessment of these sites is entirely entrusted to the assessment of BNPT [13]. This certainly raises back the pros and cons of the people over-blocking sites that are considered radical.

Access to the internet is related to freedom of expression which is part of human rights [14]. Based on some of the cases that have been stated, between the riots in Wamena and the blocking of radical sites, it can be said that they do not fulfill the sense of justice of internet users because they do not involve public participation at the beginning as stated in Chapter III of Article 7 of the Regulation No. 19 of 2014 on Controlling Internet Websites Containing Negative Content. Getting information through social media is everyone's right and part of human rights.

The authority of the Government in blocking the internet cannot be separated from the provisions of Article 28 of the 1945 Constitution on Human Rights and also Article 19 of the ICCPR which states, "Everyone has the right to hold opinions without interference and everyone has the right to freedom of expression". That right includes freedom of communication too. Law No. 12 of 2005 has ratified the ICCPR and restricted access to social media to protect human rights.

Referring to Frank La Rue's report, the act of blocking internet content falls into the category of violation, if the action is carried out in the following situations: *First*, the special conditions that justify the blocking are not contained in the law, or regulated by law but the regulation is very broad and indirect, causing wide and arbitrary blocking of content; *Second*, blocking is not carried out to fulfill the objectives described in Article 19 paragraph (3) of the ICCPR, and the blocking list is generally kept confidential so it is difficult to determine whether access to the restricted content; *Third*, even when the justification for blocking is carried out, the blocking action has created unnecessary and inappropriate tools to achieve the goal because such actions often do not have sufficient objectives to be carried out and cause the content to be inaccessible because it is considered illegal; and *Fourth*, blocking is carried out without intervention or the possibility of retesting by a court or an independent body [15].

The act of blocking social media has also violated Law No. 8 of 1999 on consumer protection. The blocking violates the most basic public rights of getting information and even harming economically. Indeed, the government has explained that social media blocking measures have been taken to prevent the spread of hoax or hoax news since the riots of May 22, 2019. However, blocking must still have a clear legal standing because it is related to public rights. The ITE Law still cannot be a strong legal standing for internet blocking in Indonesia.

Regarding the internet blocking policy, there are several problems faced by Indonesia at this time, although several laws and regulations have governed the internet blocking policy, but there are no adequate regulatory provisions regarding procedures, including complaints against blocking content. The legislation only regulates the government's authority to block content with certain contents, such as pornography, blasphemy, and the spread of hatred as stipulated in the ITE Law, Pornography Law, Regulation of Minister of Communication and Informatics No. 19 of 2014 and

the Joint Regulation of the Minister of Law and Human Rights and the Minister Communication and Informatics No. 14 of 2015 and No. 26 of 2015 on the Implementation of Closing Down Content and/or a User's Right to Access over Copyright Infringement and/or Related Rights in an Electronic System. However, these rules do not explicitly provide the scope, boundaries, mechanisms, and efforts to fight and complain about blocking. Of course it needs to be regulated in more detail related to internet blocking in Indonesia, given clear parameters about procedures, community participation, gradient of urgency and duration, as well as including complaints against blocking content.

4. Conclusion

Based on the analysis described previously, conclusions and suggestions can be given as follows: The government has made laws and regulations that provide the authority to block internet content that is negatively charged, based on Article 28 A - J of the 1945 Constitution and also Article 19 of the Covenant on Civil and Political Rights associated with restrictions on the application of human rights, the Law No. 19 of 2016 Juncto Law No. 11 of 2008 on Information and Electronic Transaction (ITE), Law Number 44 of 2008 on Pornography, the Regulation of Minister No. 19 of 2014 on Controlling Internet Websites Containing Negative Content, and Joint Regulation of the Minister of Law and Human Rights and the Minister of Communication and Informatics No. 14 of 2015 and No. 26 of 2015 on the Implementation of Closing Down Content and/or a User's Right to Access over Copyright Infringement and/or Related Rights in an Electronic System related to the provisions in Law on Copyright. The government gives blocking and screening authority to Internet Service Provider (ISP) to protect the public interest from all types of disruption or misuse of information and electronic transactions that disturb public order, with the existence of a trusted institution to guarantee accountability and transparency as part of the protection of rights consumers or users of internet content, which is a derivative of statutory provisions and government regulations that form the basis for the application of blocking measures in the prevention of crime based on electronic media content.

Suggestion:

- a) Internet blocking in Indonesia needs to be regulated in more detail, given clear parameters about procedures, community participation, the gradient of urgency and duration, as well as including complaints against blocking content.
- b) In regulating internet blocking, it is necessary to respond to concepts from international standards and pay attention to all values and contexts in their entirety. Thus, the government's restrictions and controls on the internet content in Indonesia can be done to protect the public interest from all types of disruption or misuse of electronic information and transactions in the future and a good community can be created both in the present and in the future.
- c) Gives great attention to the measures and objectives of the policy, namely by communicating to the implementers and the consistency or uniformity of the basic measures and objectives that are communicated with various sources of information. This is done to make the policy measures and objectives be implemented as expected.

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