

DRAFT
NATIONAL LAW OF THE REPUBLIC OF INDONESIA
NUMBER 40, YEAR OF 1999
ON
PRESS

BY THE GRACE OF GOD

THE PRESIDENT OF REPUBLIC OF INDONESIA

Considers :

- a. that the freedom of the press is one of the many embodiments of the sovereignty of the people and is the utmost important element in creating a democratic society, nation and state in order to insure the freedom of expressing ideas and opinions as stated in Article 28 Indonesian Constitution of 1945;
- b. that in the existence of a democratic society, nation, and state, the freedom of expressing ideas and opinions, in accordance to conscience and the right to acquire information, is the substantial right – necessary to preserve justice and truth, promote general welfare, and advance the nation’s intellectualism;
- c. that national press as the media of mass communication, information dissemination, and shape public’s opinion, must be able to perform at its best according to its principles, functions, rights, obligations and roles based upon the professional freedom of the press, guaranteed and protected by law and free from any interference and intrusion;

- d. that national press has the role to protect the order of the world in accordance to freedom, eternal peace and social justice;
- e. that Act No. 11 of 1966 on The Principles of the Press as modified with Act No. 1 of 1967 and amended with Act No. 21 of 1982 are considered inappropriate;
- f. that based upon considerations stated in letters a, b, c, d, and e, it is necessary to form a Press Act.

In view of:

1. Article 5 item (1), Article 20 item (1), Article 27, and Article 28 in Indonesian Constitution of 1945;
2. Stipulation made by National Assembly of Republic of Indonesia No. XVII/MPR/1998 on Human Rights;

With the Approval of
House of Representatives of
The Republic of Indonesia

It is hereby decided

To put into effect: THE ACT OF PRESS

CHAPTER 1

General Provision

Article 1

In this Act, what is meant by:

1. Press is a social and mass communication institution that operates within journalistic activities that include seek, acquire, own, record, analyze, and disseminate information, on all forms either in written, sound, picture, sound and picture, with data and graphic in any other form, by using printing media, electronic media and all kinds of available channel.
2. Press company is an Indonesian legal entity operating in press enterprise that includes printing media company, electronic media company, and news agency, and also other media company that specializes in operating, broadcasting or disseminate information.
3. News agency is press company that serves printing media, electronic media, or any other media and the public in general, in acquiring information.
4. Journalist is person who regularly conducts journalistic activities.
5. Press organization is journalists' organization and press companies' organization.
6. National Press is press conducted by Indonesia press companies.
7. Foreign Press is press conducted by foreign press companies.
8. Censorship is a coercive deletion on the part or whole of information materials to be published or broadcast, or warning or notice of intimidation in nature by any party, and/or obligation to report, and acquiring permission from the authorized body in conducting journalistic activities.
9. Ban or restriction of broadcasting is discontinuation of publishing and circulation or coercive broadcasting or against the law.
10. The Right to Refuse is the right owned by journalists as professional to refuse in divulging names and/or other identities from sources to be kept concealed.
11. The Right to Response is the right owned by individual or group to response or deny any factual news that is unfavorable for his/their good reputation.
12. The Right to Correct is the right owned by everybody to correct or restore any inaccurate information published by press, either concerning himself or any other person.

13. The Obligation to Correct is the obligation to correct or amend any information, data, facts, opinions, or pictures considered inaccurate that have been published by press.
14. Journalistic Code of Ethics is the compilation of ethics for journalistic profession.

CHAPTER II
PRINCIPLES, FUNCTIONS, RIGHTS, OBLIGATIONS AND ROLES
OF THE PRESS

Article 2

The freedom of the press is one of the embodiments of the sovereignty of the people based upon democratic, justice, and law supremacy principles.

Article 3

- (1) National press has the function as information, education, entertainment and social control media as well.
- (2) Besides the above-mentioned functions in item (1), national press can function as an economy institution.

Article 4

- (1) The freedom of the press is guaranteed as the basic human rights for every citizen.
- (2) Towards national press no censorship, prohibition or restriction of broadcasting will be imposed upon.
- (3) To insure the freedom of the press, national press has the right to seek, acquire, and disseminate ideas and information.
- (4) In terms of accountability towards the law, the journalist has the Right to Refuse.

Article 5

- (1) National press has the obligation to report events and opinions with respect towards religious norms and moral norms possessed by the public, completed with the presumed innocent principle.
- (2) Press is obliged to attend to The Right to Response.
- (3) Press is obliged to attend to The Right to Correct.

Article 6

National press must play its roles in the following matters:

- a. fulfill the public's right to know;
- b. enforce democratic basic principles, promote the embodiment of supremacy of law and human rights, while at the same time respect the diversity;
- c. develop public opinion based upon factual, accurate and valid information;
- d. conduct control, provide criticism, correction, and suggestion towards any public concern;
- e. fight for justice and truth.

CHAPTER III

Journalist

Article 7

- (1) Journalist is free to choose journalist's association.
- (2) Journalist owns and adheres to The Ethic Codes of Journalistic.

Article 8

In conducting the activities of his profession, journalist is protected by law.

CHAPTER IV
PRESS COMPANY

Article 9

- (1) Indonesian citizen, as well as the state itself, has the right to establish a press company.
- (2) Each press company must be in the form of Indonesian legal entity.

Article 10

Press company must provide welfare towards its journalists as well as its employees with shareholdings and/or net distribution and other fringe benefits.

Article 11

Re-capitalization from foreign enterprise for press company can be conducted through stock exchange.

Article 12

Press company is obliged to disclose name, address, and accountable party through its own media; particularly for publication press, it must be added with name and address of printing company.

Article 13

Press company is prohibited to have advertisement that:

- a. caused in degrading the dignity of a certain religion and/or create disorder in the harmonious relationships between diverse religions' followers, and contrary to the public sense of morality;

- b. contains alcoholic, narcotics, psychotropic and other addictive substances as against the statutory laws;
- c. show the form of cigarette and/or its usage.

Article 14

In order to develop the report of domestic as well as foreign news, each Indonesian citizen and the state can establish news agency.

CHAPTER V

THE BOARD OF THE PRESS

Article 15

- (1) In an effort to develop the freedom of the press and expand the existence of national press, a Board of the Press is established.
- (2) The Board of the Press has the following functions:
 - a. protect the freedom of the press from any intervention;
 - b. conduct studies to develop the existence of the press;
 - c. decide and control the compliance of Code of Ethics of Journalistic;
 - d. give consideration and find solutions any complaint lodged by public towards cases concerned with press' reportage;
 - e. develop communication between press, public and government;
 - f. facilitate press' organizations in order to form regulations in press as well as increase the quality of journalistic professionalism;
 - g. register press companies.
- (3) The membership of the Board of the Press includes:
 - a. journalists nominated by journalist's associations;
 - b. management of press companies, nominated by press companies' associations;

- c. public figures, experts in press and/or communication, and other occupations nominated by journalist and press companies' organizations.
- (4) Chairman and Vice Chairman of the Board of the Press are appointed from and by members.
- (5) Membership of the Board of the Press as stated in article (3) is stipulated by a Presidential Decree.
- (6) The period of membership of the Board of the Press is three (3) years and afterwards can only be extended for an additional one period.
- (7) The financial sources for the Board of the Press are from the following:
 - a. press organizations;
 - b. press companies;
 - c. assistance by the state and other unattached aid.

CHAPTER VI

FOREIGN PRESS

Article 16

Foreign press circulation and its representatives company's establishment in Indonesia must be in accordance to statutory law.

CHAPTER VII

PUBLIC PARTICIPATION

Article 17

- (1) The public can conduct activities in order to develop the freedom of the press and to ensure its right in acquiring necessary information.
- (2) Activities as mentioned in item (1) can be in the form of:
 - a. observing and analyzing reports of infringement on law, ethics, and technical faults over reportage conducted by press;

- b. convey suggestion and proposal to the Board of the Press in an effort to preserve and increase the quality of the national press.

CHAPTER VIII

CRIMINAL PROVISION

Article 18

- (1) Everyone who, against the law, deliberately take action that caused hindrance or prevention of the criteria stated in Article 4 item (2) and item (3) will be sentenced to jail for 2 (two) years at the maximum or charged with fine of Rp. 500,000,000.- (five hundred millions rupiahs) at the maximum.
- (2) Press company who violates the criteria as stated in Article 5 item (1) and item (2), and Article 13, will be charged with fine of Rp. 500,000,000.- (five hundred millions rupiahs) at the maximum.
- (3) Press company who violates the criteria as stated in Article 9 item (2) and Article 12 will be charged with fine of Rp. 100,000,000.- (one hundred millions rupiahs).

CHAPTER IX

TRANSITIONARY PROVISION

Article 19

- (1) By the enforcement of this Act, all statutory laws in press' area that are effectual, as well as organizations or institutions, remain in effect as long as their functions do not supersede or being supplanted with new ones in accordance to this Act.
- (2) Press company existed prior to this Act enactment is obliged to make adjustment according to this Act at least 1 (one) year since the enactment date is in effect.

CHAPTER X
CLOSING STIPULATIONS

Article 20

By the enactment of this Act:

1. Act No. 11 of 1966 concerning the Press Regulations' Principals (State Document of Republic of Indonesia year 1966 No. 40, Supplement to State Document of Republic of Indonesia No. 2815), amended lately with Act No. 21 of 1982 concerning Amendment to Act No. 11 of 1966 concerning Press Regulations' Principals as modified with Act No. 4 of 1967 (State Document of Republic of Indonesia year 1982 No. 52, Supplement to State Document of Republic of Indonesia No. 3235);
2. Act No. 4 PNPS of 1963 concerning Protection Towards Printing Matters which Contain Can Cause Public Unrest (State Document of Republic of Indonesia of 1963 No. 23, Supplement to State Document of Republic of Indonesia No. 2533), Article 2 item (3) that concerns newspapers, magazines and regular publications;

Are hereby declared null and void.

Article 21

This Act will be put into effect on the date of its enactment.

In order that it is made known, the enactment of this Act is mandated by its placement within the State Document of the Republic of Indonesia.

Made official in Jakarta,

On this date of ... year ...

THE PRESIDENT OF REPUBLIC OF INDONESIA

BACHARUDIN JUSUF HABIBIE

Enacted in Jakarta

On the date of ... year of ...

THE STATE MINISTER

OF THE REPUBLIC OF INDONESIA

MULADI

STATE DOCUMENT, REPUBLIC OF INDONESIA, YEAR OF ... NO. ...

**CLARIFICATION OF
NATIONAL ACT OF THE REPUBLIC OF INDONESIA
NO. ... YEAR OF ...
ON
PRESS**

I. GENERAL

Article 28 of Indonesian Constitution of 1945 guarantees the freedom to form a union and congregate, expressing ideas in written or oral form. Press that comprises printing medium, electronic medium and any other medium is but one of the many methods to express ideas in written or oral form stated above. To make sure press functions optimally, as stated in the Article 28 of Indonesian Constitution of 1945, it is considered that Press Act is necessary. The optimal function is required as the freedom of the press embodies the sovereignty of the people and an important element in the democratic lives of society, nation and state.

In such democratic existence, the accountability towards the people is guaranteed, as well as the transparent system of administering the state, and that justice and truth are manifested.

Press has the freedom to seek and convey information, which is an important element in manifesting the Human Rights Principles as stated in the Republic of Indonesia National Assembly's Stipulation No. XVII/MPR/1998 on Human Rights, that, among others declare, every individual has the right to communicate and acquire information as defined in the Article 19, Charter of United Nations: *"Every individual has the right over the freedom in possessing and expressing opinions; on this right it is included the freedom to possess opinion without intervention, and to seek, receive, and convey information and idea through any media, regardless of the borders."*

Press also can play its social control role to anticipate any attempt of *de tournement du pouvoir* through corruption, collusion, nepotism, or any other such abuse of power.

In conducting its functions, rights, obligations and roles, the press must respect every individual's human rights, thus made it imperative to have a professional and transparent press – controlled by the people.

Control by the people may be conducted, among others: by every individual with his Right to Response and the Right to Correct, by non governmental organizations such as media watch, and by the Board of the Press in every form and method.

To avoid overlapping any regulation, this Act does not provide any provisions already provided by other regulations.

II. ARTICLE PER ARTICLE

Article 1

Sufficiently Clear

Article 2

Sufficiently Clear

Article 3

Item (1)

Sufficiently Clear

Item (2)

Press Company is managed according to economy's principles to maintain its quality and increase the welfare of journalists as well as its employees without neglecting its social obligations.

Article 4

Item (1)

The phrase "the freedom of the press is guaranteed as the basic human rights for every citizen" means press is free from any attempt of interruption, prohibition, and/or intimidation in order that the right of the public in acquiring information is insured.

The freedom of the press is the freedom with the awareness over the importance of law enforcement supremacy, conducted by judicial forum, and professional accountability as depicted in the Code of Ethics of Journalistic and the conscience of every press' personage.

Item (2)

Censorship, prohibition or restriction of broadcasting is not valid towards printing and electronic media. Broadcasting is not part of journalistic operation as regulated in the statutory laws.

Item (3)

Sufficiently Clear

Item (4)

The main objective of the Right to Refuse is for journalist to protect his information sources by refusing any identification of such information sources.

This right can be used should the journalist is interrogated by investigator and/or requested to stand as witness in Court.

The Right to Refuse can be annulled for the greater concern of state safety or public order as stated by Court.

Article 5

Item (1)

National press, in disseminating information, must not judge or jump into conclusion over the mistakes made by individual, moreover in the cases still in process in Court, and it must accommodate each involved party in any reportage.

Item (2)

Sufficiently Clear

Item (3)

Sufficiently Clear

Article 6

National press has the important role in fulfilling the public's right to know and develop public opinion, by conveying factual, accurate and valid information.

This will promote the enforcement of justice and truth, as well as law supremacy manifestation towards an orderly society.

Article 7

Item (1)

Sufficiently Clear

Item (2)

The term "Code of Ethics of Journalistic" means code of ethics as agreed by journalist's organizations and stipulated by the Board of the Press.

Article 8

The term "protected by the law" means the guarantee provided by government and/or public to journalist in conducting his functions, rights, obligations and roles in accordance to the statutory laws.

Article 9

Item (1)

Every Indonesian citizen has equal right to work as required in Human Rights' principles which includes the establishment of press company in accordance to statutory laws.

National press has the function and role that are important and strategic in the lives of society, nation and state. Thus, state can also establish a press company by forming an institution or corporation to conduct press' enterprise.

Item (2)

Sufficiently Clear

Article 10

The phrase “other fringe benefits” means salary increase, bonus, insurance and etc.

Such fringe benefits are conducted based upon agreement reached between company’s management and journalist as well as its employees.

Article 11

Re-capitalization by foreign party in such press company must not exceed majority limit and must be conducted in accordance to statutory laws in effect.

Article 12

The disclosure must be conducted by the following method:

- a. printing media must publish name, address and responsible individuals for publishing, including the name and address of printing company;
- b. electronic media must broadcast name, address, and responsible individuals in the beginning or in the end of each broadcasting of journalistic efforts.
- c. other media can adjust according to form, nature, and character of respective media.

Such disclosure is meant to display the accountability over journalistic efforts being published or broadcast.

The phrase of “responsible party” means responsible party in the press company that includes its enterprise and editorial subjects.

As long as criminal accountability is concerned, the statutory laws are in effect.

Article 13

Sufficiently Clear

Article 14

Sufficiently Clear

Article 15

Item (1)

The objective in establishing the Board of the Press is to develop the freedom of the press and increase the quality as well as the quantity of national press.

Item (2)

Consideration over complaint made by public as stated in article (2) letter d is involving the Right to Response, the Right to Correct, and assumption of breaching over Code of Ethics of Journalistic.

Item (3)

Sufficiently Clear

Item (4)

- Sufficiently Clear
- Item (5)
- Sufficiently Clear
- Item (6)
- Sufficiently Clear
- Item (7)
- Sufficiently Clear

Article 16

Sufficiently Clear

Article 17

- Item (1)
- Sufficiently Clear
- Item (2)

To perform public participation as stated in this article, we can establish an institution or media watch organization.

Article 18

- Item (1)
- Sufficiently Clear
- Item (2)
- Item (3)
- Sufficiently Clear

In cases where criminal violation is conducted by press company, it will be represented by responsible parties as meant in Clarification of Article 12.

Article 19

Sufficiently Clear

Article 20

Sufficiently Clear

Article 21

Sufficiently Clear