

ITE law poses threat to 99% of Indonesia's internet users: SAFEnet

Sunday 13 December 2020, by [ADITYA Nicholas Ryan](#) (Date first published: 5 December 2020).

Jakarta — The head of the Southeast Asia Freedom of Expression Network's (SAFEnet) Association of Victims of the Transactions Law (UU ITE) sub-division, Muhammad Arsyad, says that ITE law lies in wait for 99 percent of internet users in Indonesia.

This is because, he said, 99 percent of Indonesian internet users also use social media which has been used as evidence in trials against violators of the ITE law.

"Based on a survey by the Katadata Insight Center, 99 percent of Indonesian internet users use mobile phones, and all of them use social media. Now, social media users themselves mostly use WhatsApp, Facebook, YouTube and so forth", said Arsyad during a webinar on criminal policy in cyberspace titled "Reading Jerinx's Ruling: The Dangers of the UU ITE Continue" on Friday December 4.

According to Arsyad, anyone is subject to being prosecuted for social media posts because this is stressed by Article 28 Paragraph 2 and Article 27 Paragraph 3 of the ITE Law.

Article 28 Paragraph 2 reads, "Whosoever intentionally and without the right disseminates information aimed at creating hatred or hostility against a certain individual and/or social group based on SARA [ethnic, religious, racial and inter-group inspired conflicts]."

Article 27 Paragraph 3 meanwhile reads, "Whosoever intentionally and without the right distributes and/or transmits and/or obtains access to information and/or electronic documents which have contents which insult and/or tarnishes the good name [of a person or organisation]."

It is these two articles, according to Arsyad, which are most often used to silence people who want express a view about or criticise the government.

Yet, said Arsyad, Article 27 Paragraph 3 is about tarnishing the good name of a person or organisation which is private space and should not be included in criminal law.

"So we think, because this is private in nature it should be dealt with under civil law. Not criminal law. The state doesn't need to interfere in the emotional affairs of the public. For example, if I say someone is rotten on social media, should I then so easily end up in prison?" he said.

On the other, Arsyad found that government advice that social media users behave in a good and health way has not been understood as something positive.

"Why? Because it's just the same as asking the public not to criticise. Moreover we understand, the government and the DPR [House of Representatives] for example are always inviting us to play a role and take part in monitoring government performance, but when we do this, publish it on social media, then we're faced with jail time," he said.

It is because of this that he is urging the government to consider abolishing the vague and catch all article in the ITE Law if it was democracy in Indonesia to improve.

A recent case last month, I Gede Ari Astina alias Jerinx was indicted under the ITE Law in after he allegedly accused the Indonesian Doctors Association (IDI) association of being “flunkeys” of the World Health Organization (WHO) in a post on his Instagram account.

On Thursday November 19, Jerinx was found guilty by the Denpasar District Court in Bali and sentence to two years in prison and a fine of 10 million rupiah

Jerinx found guilty of committing a crime regulated under Article 28 Paragraph 2 and Article 45 Paragraph 1 of the ITE law in conjunction with Article 64 Paragraph 1 of the Criminal Code (KUHP).

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