
THE MAKING OF THE 1999 INDONESIAN PRESS LAW

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Perhaps the single greatest achievement of Indonesian President B. J. Habibie's seventeen months in office was the freeing of the Indonesian press. Nearly all scholarly works on *Reformasi* or the post-Suharto years note how Habibie's minister of information, Lieutenant General Muhammad Yunus Yosfiah, "stunned the nation" by revoking the ministerial regulations that had choked the press during Suharto's time.¹ To Indonesian journalists, it has always been clear that many of the other notable achievements of the Habibie presidency would not have been possible without vigorous reporting by a newly revitalized press. Unprecedented scrutiny from the press uncovered scandals—including the Bank Bali and Habibie–Ghalib tape scandals—that easily would have been swept under the carpet during the Suharto years.² Public opposition to legislation supported by the administration, such as the State Security bill, was fanned into high flames by a newly unshackled press.³ Habibie's historic decision to offer the people of East Timor a referendum on their status received widespread coverage in the Indonesian press, much of it negative. And

¹ See, for example, Kevin O'Rourke, *Reformasi: The Struggle for Power in Post-Soeharto Indonesia* (Crows Nest: Allen & Unwin, 2002), pp. 146–47; Annette Clear, "Politics: From Endurance to Evolution," in *Indonesia: The Great Transition*, ed. John Bresnan (Oxford: Rowman & Littlefield, 2005), p. 172; Philip Kitley, "After the Bans: Modelling Indonesian Communication for the Future," in *Indonesia Today: Challenges of History*, ed. Grayson Lloyd and Shannon Smith (Lanham, MD: Rowman & Littlefield, 2001), pp. 256–69.

² In February 1999, the magazine *Panji Masyarakat* published a transcript of a taped telephone conversation purportedly between Habibie and Attorney General Andi M. Ghalib that seemed to suggest the president was less than serious about pursuing corruption charges against ex-president Suharto. The Bank Bali scandal refers to the July 1999 disclosure of a US\$78 million transfer from Bank Bali to a company run by Golkar party officials and individuals linked to the effort to reelect Habibie.

³ The proposed State Security bill gave the military wide-ranging power to deal with threats to state security if authorized to do so by the president.

such tragedies as what later became known as “Semanggi I,” in which fifteen protesters were killed and five hundred wounded in violent clashes with security forces during the first post-Suharto MPR (Majelis Permusyawaratan Rakyat, People’s Consultative Assembly) session, were also covered by the press in direct ways that would have been unimaginable only a few months earlier.⁴

Yet despite the obvious importance of the 1999 Press Law, there has been a surprising lack of scholarly interest in the complex negotiations and set of events that led to its passage. The law, which was arguably the crown jewel of *Reformasi*, was the result of a remarkable collaboration between journalists, the minister of information, the public, and the legislative assembly (DPR, Dewan Perwakilan Rakyat, People’s Representative Assembly). Beginning with the resignation of Suharto in May 1998, Indonesian journalists wasted no time in seizing the moment to institutionalize press freedom. As Warief Djajanto wrote, “During the brief seventeen-month Habibie presidency, media leaders worked fast and furiously with a forward-looking information minister and concerned legislators to make press freedom legally binding.”⁵ Signed into law by President Habibie on September 23, 1999, as one of his last legislative acts, UU Pers no. 40/1999 received widespread acclaim as a model press law. Leo Batubara, the head of the Indonesian Newspaper Publishers’ Association, called it a “masterpiece.”⁶

By effectively eliminating state control of print media, the 1999 Press Law redefined Indonesian press–government relations. Yet Indonesian courts have not been consistent in using the Press Law as *lex specialis* in cases involving the press. After tracing the events and negotiations leading up to the historic passage of the Press Law and noting the contradictions between it and the criminal defamation provisions of the Penal Code, this study concludes with a brief discussion of what might have motivated some of the players to become unlikely “heroes” of press freedom. It ends with a comment on the importance of the passage of the 1999 Press Law in securing lasting reform.

Under President Suharto, Indonesia’s press was tightly controlled through a series of regulations enacted and enforced by the Ministry of Information. Although the Basic Press Act of 1966 explicitly guaranteed freedom of the press in accordance with the fundamental rights of citizens, would-be press entrepreneurs were required to obtain two permits before they could publish a newspaper or magazine: the Permit to Publish (SIT, *Surat Izin Terbit*) from the Department of Information and the Permit to Print (SIC, *Surat Izin Cetak*) from the military security authority.⁷ As David Hill has written, to obtain a press publication enterprise permit, or SIUPP (*Surat Izin Usaha Penerbitan Pers*), during the Suharto years, a news organization had to produce “a raft of more than a dozen letters and preliminary permits, including letters of support from all relevant professional organizations (the Indonesian Journalists Association and the [Newspaper]

⁴ Theodore Friend, *Indonesian Destinies* (Cambridge, MA: Harvard University Press, 2003), p. 397.

⁵ Warief Djajanto, “The New Indonesian Press Law,” Southeast Asian Press Alliance, February 10, 2000.

⁶ Leo Batubara, email to author, October 23, 2007.

⁷ The Permit to Publish was renamed the Press Publication Enterprise Permit in the revised press law of 1982. For details of this law, see David T. Hill, *Press in New Order Indonesia* (Jakarta: Pustaka Sinar Harapan, 1994), p. 35.

Publishers' Association) at both the regional and national level, several permits from civilian and military authorities, [and] supporting letters from the financing bank and the printing company."⁸ When President Habibie took office in May 1998, 289 newspapers and magazines had permits to publish. This would change almost overnight.

A Decisive Break with the Past

In retrospect, it is clear that few people anticipated the positive effect of the Habibie presidency on the press in Indonesia. Most journalists were deeply suspicious of Habibie, the former minister of research and technology, and many held him at least partly responsible for the banning of *Tempo* magazine in 1994. A *Tempo* cover story focusing on the dispute between Habibie and the minister of finance, Ma'rie Muhammad, over an agreement to buy thirty-nine used war ships from the former East Germany, had raised the ire of Habibie and, through him, Suharto's.⁹ A few days after the story was published, President Suharto made a speech at the dedication of a naval facility in Teluk Ratai, Lampung, in which he criticized the press for fanning controversy and jeopardizing national security. Shortly thereafter, *Tempo*, along with the magazine *Editor* and the tabloid *DeTik*, was banned.

Although Habibie reportedly told several individuals that he had not intended to have *Tempo* banned, he did nothing to stop it.¹⁰ The letter that came from the Department of Information on June 21, 1994, gave no explicit reason for the withdrawal of the magazine's SIUPP or permit to run a press business; it stated only that *Tempo* had disturbed national security and had failed to safeguard the Pancasila press—two statements that, despite their vagueness, were at the heart of the New Order's concept of the role of the press.¹¹ Under Suharto, the withdrawal of a publication's SIUPP was tantamount to a banning.

Several years later, Habibie was involved in a different case involving the press, this time in his capacity as the founder and president of Nusantara Aircraft Industry (IPTN, Industri Pesawat Terbang Nusantara), a "strategic industry" and a state enterprise. In 1995, IPTN launched a prototype of a seventy-seat commuter plane, the N-250 Gatotkaca.¹² Two years later, disaster struck; on May 22, 1997, a CN-235 made by IPTN crashed and killed all six people aboard. The pilot, Erwin Danoewinata, had been the pilot of the N-250 on its test flight.

⁸ *Ibid.*, p. 48.

⁹ Janet Steele, *Wars Within: an Independent Magazine in Soeharto's Indonesia* (Jakarta: Equinox Publishing and the Institute for Southeast Asian Studies, 2005). See also Duncan McCargo, "Killing the Messenger: The 1994 Press Bannings and the Demise of Indonesia's New Order," *Press/Politics* 1,4 (Winter 1999): 29–45.

¹⁰ Habibie reportedly wanted to sue the magazine, not to have it banned. Interview with Yuli Ismartono, Jakarta, July 9, 1998. See also the interview with Adnan Buyung Nasution, cited in Arief Budiman and Olle Törnquist, *Aktor Demokrasi: Catatan Tentang Gerakan Perlawanan di Indonesia* (Jakarta: Institut Studi Arus Informasi, 2001), p. 129.

¹¹ Alumni Majalah *Tempo*, *Buku Putih Tempo: Pembredelan Itu* (Jakarta: Yayasan Alumni Tempo, 1994), pp. 12–13. For an excellent discussion of the concept of the "Pancasila press," see Angela Romano, *Politics and the Press in Indonesia: Understanding an Evolving Political Culture* (London: RoutledgeCurzon, 2003), pp. 37–52.

¹² O'Rourke, *Reformasi*, pp. 141–42.

Reporting on the tragedy the next day, the *Jakarta Post* gave considerable space to IPTN's chairman, Habibie, quoting at length his explanation that the crash had occurred when the plane stalled during a test drop of a sand bag weighing 4,000 kilograms. "The object was already set up at the open door and ready to be dropped," he said. "The parachute was also opened, but the parachute strings were torn. This caused the sand bag to become unstable."¹³ After devoting four paragraphs to Habibie's explanation of the disaster and another to sources quoted by Antara, the state-run news agency, the *Jakarta Post* included two sentences that led to threats of a lawsuit:

But a source at IPTN told the *Jakarta Post* that fire was seen billowing from the fuselage of the plane before it crashed.

The source said that there were indications that one of the plane's propellers broke before the fire started.

The next day, Habibie played a video recording of the incident at a news conference at IPTN's Bandung office and ruled out engine failure as the cause of the accident. "So it's completely wrong to suggest that a propeller broke and a fire broke out before it crashed," he was reported as saying. "I want to emphasize that the crash was not caused by problems with the plane. The plane was fine and good," he added.¹⁴

Although the *Post* immediately apologized for its article and offered a correction, this was not enough for IPTN, which claimed that the story had damaged the company's reputation. In subsequent days, lawyers for IPTN said that they would go ahead with a plan to sue the *Jakarta Post* unless it agreed to meet its terms for an out-of-court settlement—which included full-page apologies in five national dailies and eleven foreign publications for three consecutive days, and an unspecified amount of financial compensation. The *Jakarta Post's* lawyers, Todung Mulya Lubis and Trimoelja D. Soerjardi, who had also represented *Tempo* in its 1996 lawsuit against the Department of Information, said that the paper could not fulfill those demands, that they were excessive and out of line with the settlements suggested by the Press Law and the Press Code of Ethics.¹⁵

The *Jakarta Post* case was eventually dropped. But for many members of the Indonesian press community, IPTN's persistence in demanding compensation and additional apologies raised grave doubts about how much the new president really understood about press freedom—or even about journalism. As Bill Kovach and Tom Rosenstiel have argued in their seminal *Elements of Journalism*, although journalism's first obligation is to the truth, the search for truth is a process—and at any particular moment the press can only report on "the truth as nearly the truth may be ascertained."¹⁶

¹³ "Six Killed in CN-235 Accident in Serang," *Jakarta Post*, May 23, 1997. I am grateful to Tertiani ZB Simanjuntak of the *Jakarta Post*, Indria Prawitasari and Ayu Utari of LPDS, and Atmakusumah Astraatmadja for their help in finding these articles.

¹⁴ "Habibie Rules Out Engine Failure in CN-235 Crash," *Jakarta Post*, May 24, 1996.

¹⁵ "IPTN, 'Post' Dispute Likely to Go to Court," *Jakarta Post*, August 16, 1997.

¹⁶ Bill Kovach and Tom Rosenstiel, *The Elements of Journalism: What Newspeople Should Know and the Public Should Expect* (New York, NY: Three Rivers Press, 2001), pp. 36–49.

According to Habibie's autobiography, one of his first thoughts upon learning that he would succeed to the presidency was what to do about securing freedom of the press. He recalls that at about one o'clock in the morning of May 21, 1998, the day he would take the oath of office, he rose from a sleepless night and began to make some notes concerning the first steps he would take as president. Among the basic principles he intended to follow was the notion that "freedom of speech, freedom to express opinions, freedom of the press, and freedom to protest had to be implemented quickly."¹⁷ Several pages later he expanded upon these thoughts, adding, "I decided to give press freedom as a vehicle for channeling freedom of expression. I was fully convinced that freedom of the press *that is healthy and professional* [emphasis added] constitutes one of the most important pillars of democracy."¹⁸

One of Habibie's very first acts as president was the appointment of his "reform cabinet," which he named within twenty-four hours of taking office. His selection for minister of information was enough to give friends of the press pause: Lieutenant General Muhammad Yunus Yosfiah was the man who was widely believed to have been in command of the troops that killed five Australia-based journalists at Balibo, East Timor, in 1975. The Committee to Protect Journalists immediately lodged a complaint, sending out a circular that stated:

The Committee to Protect Journalists (CPJ) is deeply alarmed to learn that Lt. Gen. Yunus Yosfiah, Minister of Information in the newly appointed cabinet of President Jusuf Habibie, was implicated in one of the most brutal attacks ever on journalists, the October 1975 murder of five reporters during the Indonesian invasion of East Timor.

In October 1975 Yosfiah was in command of the special force troops that killed the five journalists—two Britons, two Australians, and a New Zealander—during the invasion. The five were attempting to film a documentary on the invasion when they were murdered in the small town of Balibo.¹⁹

In short, neither Habibie nor his minister of information were considered to be friends of the press. Yet Habibie and Yunus probably did more to free the press than any other two people in the history of Indonesia.

Indonesian journalists wasted no time in pressing the new government for reform. One day after Suharto's resignation, the still-outlawed Alliance of Independent Journalists (AJI, Aliansi Jurnalis Independen) circulated a list of three demands that had long been essential to its struggle for press freedom. AJI had been founded in 1994 as way of channeling the outrage that many young journalists felt as a response not only to the banning of *Tempo*, *Editor*, and *DeTik*, but also to the tepid reaction of the Indonesian Journalist's Association, or PWI (Persatuan Wartawan Indonesia), the state-sanctioned organization, which had stated that it could "understand" the banning of

¹⁷ Bacharuddin Jusuf Habibie, *Detik-Detik yang Menentukan: Jalan Panjang Indonesia Menuju Demokrasi* (Jakarta: THC Mandiri, 2006), pp. 56–57. All translations are the author's.

¹⁸ *Ibid.*, p. 115.

¹⁹ Committee to Protect Journalists, "Indonesia's New Minister of Information has Troubling Past," May 22, 1998, <http://cpj.org/news/1998/yosfiah.html>, accessed June 5, 2012.

the three magazines.²⁰ AJI's demands were, first, that the requirements to obtain a SIUPP or any other type of permit designed to interfere with freedom of the press be eliminated, and any publications banned under Suharto be allowed to return to production. Second, AJI demanded that all regulations mandating only one official body of journalists be abolished; and, third, that all methods of interfering with, intimidating, or censoring freedom of expression and the right of the public to obtain information be stopped. The circular was signed by Lukas Luwarso, the head of AJI.²¹

Lukas recalls that he met Yunus directly one or two days after he was installed as minister of information.²² Also attending the meeting were leaders of PWI, the Newspaper Publishers' Association (SPS, Serikat Penerbit Surat kabar), and senior journalists, such as *Kompas's* editor, Jakob Oetama. Lukas says he made several suggestions, including the idea that press freedom be included in an amendment to the 1945 Constitution—inspired, as he put it, by the First Amendment to the US Constitution. He adds, "I remember how, after the meeting, Jakob Oetama greeted me while saying 'Congratulations, *bung* [brother], you won.'" ²³

In his inaugural speech on May 23, Yunus promised that he would support journalists in their profession.²⁴ Still unconvinced that he would keep this promise, a group of journalists calling themselves the Indonesian Press Solidarity Society, led by *Suara Pembaruan* journalist and AJI activist Roy Tumpal Pakpahan, demonstrated in front of the Department of Information on May 28, and demanded to meet the new minister. To their great astonishment, they were admitted to his reception room. Veteran journalist Atmakusumah Astraatmadja, who had been blacklisted from working in journalism after the 1974 banning of Mochtar Lubis's newspaper *Indonesia Raya*, and who was also present at the meeting, recalls what happened next:

They'd come up with a list of ten demands of various types. They wanted to give it to Yunus. But there was no certainty that they could meet with him. And then there was news. He was there, and he was willing to meet. We were invited to come into the meeting room at the Department of Information. I remember that among senior journalists, there was only me and Goenawan Mohamad. Everyone else was very young, including Roy. So Roy read the ten demands. And when Yunus answered Roy's speech, he said "I agree with all of them."²⁵

The ten demands were comprehensive, ranging from the cancellation of regulations enacted by former Minister of Information Harmoko (including the ministry's right to revoke a publication license) to the ending of the requirement that the PWI be the only organization allowed to represent journalists. One week later,

²⁰ For a discussion of the founding of AJI and its relation to the banning of *Tempo*, see Steele, *Wars Within*, pp. 254–55.

²¹ "Pernyataan Aliansi Jurnalis Independen (AJI) Tentang Reformasi Media Massa," May 22, 1998, www.library.ohiou.edu/indopubs/1998/05/23/0007.html, accessed June 5, 2012.

²² Lukas Luwarso, email message to author, October 5, 2007.

²³ Jakob Oetama is the founder of *Kompas* newspaper and the managing director of the Kompas–Gramedia media group.

²⁴ "Minister Yunus Yosfiah Claims He Sides with the Media," *Jakarta Post*, May 29, 1998.

²⁵ Interview with Atmakusumah Astraatmadja, Jakarta, August 14, 2007. For details of this meeting, see also Atmakusumah Astraatmadja, "LPDS in the Midst of Media Reform in Indonesia," *Reflexie* 3,1 (March 2000).

Yunus fulfilled the promise he had made and annulled the 1984 regulations signed by Harmoko. Stating that a review of the Press Law would take time because it had to involve the legislative assembly, he nevertheless removed many of the more restrictive rules that had been used to shackle the press.

Yunus was incredulous when he discovered that to obtain a license a publisher must fulfill sixteen conditions and obtain three different permits ... Now applications need only meet three conditions to start up a publication: Fill in an application form, register the company, and present a list of executives.

Yunus promised a speedy licensing process. "If you apply today, *Insha Allah* (God willing), the permit will be issued the day after tomorrow."²⁶

The minister further announced that the PWI would no longer be the sole body allowed to represent journalists, and that the government had no objection to journalists joining AJI, or, indeed, any other organization. And, finally, he confirmed that publishers who had lost their licenses under Suharto should simply apply for a new one. The most important of AJI's demands had been met.

Yunus was, in fact, an unlikely champion of press freedom. Born in South Sulawesi in 1944, he was of Bugis descent. After graduating from the National Military Academy in 1965, he was assigned to RPKAD (Resimen Para Komando Angkatan Darat, Army Commando Regiment), the Army's special forces command, which was eventually renamed Kopassus (Komando Pasukan Khusus). Details of Yunus's early military career are hazy, but it is known that in 1974 he was sent to East Timor as part of an intelligence operation called Operation Komodo, which was under the command of General Benny Moerdani.²⁷ In the 1975 invasion, it was Captain Muhammad Yunus Yosfiah who led Indonesian forces into the East Timorese border town of Balibo. Several eye witnesses have claimed that Yunus personally gave the order to fire on the Australia-based journalists, who became known as the Balibo 5.²⁸ Although Yunus has steadfastly denied these charges, saying, "I am not involved in that case, I deny the allegation. I never got any information about the journalists, I never met the journalists," the allegations have continued to dog him to the present day.²⁹

Yunus was in East Timor until 1979. That year he was assigned to the US Army Command and General Staff College at Fort Leavenworth, Kansas, where something happened that may have changed the course of Indonesia history. When he was a student at Fort Leavenworth, Yunus wrote a thesis titled "The Role of Mass Media in Developing Countries." It focused on the media in India and South Africa, and writing it convinced him that only countries with free press systems would join the ranks of

²⁶ "Government Eases Restrictions on Press," *Jakarta Post*, June 6, 1998.

²⁷ For an exhaustively researched study of this event, see Jill Jolliffe, *Cover-up: The Inside Story of the Balibo Five* (Carlton North: Scribe Publications, 2001).

²⁸ *Ibid.*, pp. 130, 224, 269.

²⁹ Quoted in Andreas Harsono, "Indon Information Minister Who Killed Journalists?" *The Nation*, October 30, 1998. More recently, Yunus has been the subject of an Australian inquest into the deaths of the five journalists. He continues to deny his involvement, and to refuse to appear either in person or by video link. See Committee to Protect Journalists, "Indonesia Must Cooperate with Australian Coroner's Investigation," May 4, 2007; <http://cpj.org/news/2007/asia/indonesia04may07na.html>, accessed January 25, 2012.

developed nations.³⁰ But it was not only the role of the press in developing countries that made an impression upon him. While in the United States, Yunus also absorbed much of the American understanding of the role of the press in a democracy, most of which was strikingly at odds with the New Order's concept of the proper relations between media and the government. As minister of information, Yunus's speeches and interviews were peppered with examples and aphorisms from the history of American journalism, including Thomas Jefferson's comment about how, were it left to him "to decide whether we should have a government without newspapers or newspapers without a government, I should not hesitate a moment to prefer the latter," and *New York Sun* editor Charles A. Dana's famous "man bites dog" definition of news.³¹ Some of this thinking was apparent on June 23, 1998, when Yunus told a group of legislators at a Commission I hearing of the DPR that he could imagine a day when the Ministry of Information might be scrapped. Pointing out that "rich countries" like the United States and Japan do not have information ministries, he was quoted as saying,

... we are a poor country. But because we organize our bureaucratic structure inappropriately, we hamper our own pace of development ... We feel that the state has spent too much money for the operational and salary costs of civil servants (within the ministry of information), while on the other hand it has in reality so far only restricted the flow of information to society.³²

The press community moved quickly to take advantage of the changes, while at the same time keeping pressure on the government to remove remaining restraints and institutionalize new freedoms. As Eros Djarot, the editor of the banned tabloid *DeTik* said, "I trust Yunus's commitment to press freedom. But he is not going to be minister for thirty years. What will happen to the press if subsequent ministers are like Harmoko?"³³ A particular point of contention was that the minister of information still retained the right to suspend the licenses of publications if they violated their permits, but only for "a certain period of time." Atmakusumah Astraatmadja described Muhammad Yunus's response to demands for looser press control as "quite astounding," but pointed out that the ministry's retention of the right to suspend press permits as well as its requirement that all journalists become members of "a press organization" indicated that the government had not yet fulfilled the journalists' demands for "total reform."³⁴

³⁰ "Obsesi Saya: SIUPP Tidak Ada," *Panji Masyarakat*, September 30, 1998. This thesis has become legendary, but, unfortunately, a copy no longer seems to exist. I contacted the US Army Command and Staff College library and tried to track down a copy of this thesis. The response was brief: "I am sorry that we do not have a copy of General Yunus's paper in our archives. We do not receive or keep copies of all student papers done at CGSC." Response via email to the author from AskALibrarian@oclc.org, September 19, 2007.

³¹ "Lenin di Senayan," *Tempo*, March 16–22, 1999; "Wartawan itu Bukan Penjahat," *Tempo*, March 23–29, 1999. Like nearly everyone else who quotes the *New York Sun*'s famous definition of news ("when a dog bites a man, that is not news, but when a man bites a dog, that is news"), Yunus did not credit either Dana or the *Sun*. Janet E. Steele, *The Sun Shines for All: Journalism and Ideology in the Life of Charles A. Dana* (Syracuse, NY: Syracuse University Press, 1994), p. xi.

³² "Yunus: Information Ministry may Become Obsolete," *Jakarta Post*, June 24, 1998.

³³ "Government Eases Restrictions on Press," *Jakarta Post*, June 6, 1998.

³⁴ Atmakusumah, "Half-hearted Reform of Media Policy," *Jakarta Post*, June 24, 1998.

In July 1998—in a complete reversal of the usual way of doing things—the Department of Information began to work with journalists on drawing up a new Press Law.³⁵ Atmakusumah was invited to join these discussions, and he remembers them as being quite heated. There were many contentious issues, including whether a code of ethics should be included in the law, whether it would be compulsory to require media companies to set aside shares for journalists, and whether the government should set standards of journalistic competence.³⁶ Draft 6, for instance, included two articles stating that “the national press is obligated to uphold truth, justice, and responsibility to God” (Article 6), and “press publications that oppose the Constitution and/or are based on Communism or Marxism-Leninism are forbidden” (Article 8). Atmakusumah was opposed to both of these articles. He recalls how one day, just as Chairman Ishadi Sutopo Kartosaputro was getting ready to close the meeting, he (Atmakusumah) felt so frustrated by their inclusion that he burst out with the following statement:

How can we measure whether or not the press and journalists are “responsible to God?” If there is a Muslim journalist, will his responsibility to God be measured by how devout he is? By whether he prays five times a day? Or whether or not he gives alms?

Concerning the article on Marxism-Leninism, I get chills whenever I read that sentence, because I’m reminded of how many victims—hundreds of thousands of them—were killed because of this.

My children and our grandchildren will not understand, why does a sentence like this belong in a law? Why not include other ideologies, like fascism, Nazism, or authoritarianism, especially because we have just experienced it?³⁷

Ishadi, who was chairing the discussions, promised to request that Atmakusumah’s view of these two paragraphs be taken into consideration by those who were drafting the law, but the former managing editor noted that they still appeared in Draft 7. Several days later, when Atmakusumah was at home reviewing Draft 8, he saw that the offending articles had been removed. Jubilant, he woke up his wife to tell her. Three years later, Atmakusumah asked Ishadi what had happened. The former director general of radio, television, and film explained that many Department of Information staff members had agreed with Atmakusumah’s opinion, “but were not brave enough to say it in an open session.”

If anyone had earned a right to be skeptical of the government’s promises, it was Atmakusumah Astraatmadja.³⁸ Born in 1938 in Banten, West Java, Atmakusumah was the fifth of six children of Ratu Kartina and Junus Astraatmadja. His father, Junus, was a *patih*, or vice-regent. After an early childhood marked by the Japanese occupation and the fight for independence, Atmakusumah was sent to school in Jakarta, where he

³⁵ Anneli Ström Leijel, “The New Press Law in Indonesia—Just a Paperwork or a Real Step towards More Freedom of the Press?” (MA thesis, Department of Culture and Communication, Malmö University, Sweden, 2002), p. 39.

³⁶ Interview, Atmakusumah Astraatmadja, Jakarta, August 14, 2007.

³⁷ Ibid.

³⁸ Biographical details come from Lorna Kalaw-Tirol, “Atmakusumah Astraatmadja,” the Ramon Magsaysay Awards—Journalism, Literature, and Creative Communication Arts, 2000 (event brochure).

studied at Taman Siswa.³⁹ He attended junior and senior high school in Jakarta, and upon graduation in 1958 found a job as a junior reporter on the Sunday edition of Mochtar Lubis's famously combative investigative newspaper, *Indonesia Raya*.

The first phase of his career was short-lived, however, because *Indonesia Raya* was banned in October of that same year—for the sixth time. After a year of unemployment, Atmakusumah found a job at the Indonesian Press Bureau (Persbiro Indonesia), and enrolled in the Graduate School of Journalism at the College of Mass Communication. In 1961, he went to Melbourne, where he worked as an announcer in the Indonesian section of Radio Australia. After three years in Australia, he traveled to Europe before returning to Indonesia in 1965 to work at Antara, the government news agency. Ironically, his first day of work in the editorial section was on October 1, 1965—the day after the aborted coup that ultimately led to the rise of General Suharto and the New Order government. Atmakusumah worked at Antara until 1968, when he learned that *Indonesia Raya* would be resuming publication. He returned to *Indonesia Raya* as chief reporter and, by 1973, had risen to the position of managing editor. In 1974, *Indonesia Raya* was shut down again—this time by Suharto—in the wake of the Malari incident.⁴⁰ The government accused the paper of inciting unrest, and shut it down along with eleven other publications. Mochtar Lubis was jailed.

Atmakusumah was not jailed, but he was punished. After several months without a job, he contacted Jerry Kyle, the press attaché at the US Embassy. When his prospective boss made some routine inquiries at the Ministry of Information concerning Atmakusumah's status, he was informed that eleven senior journalists had been banned from rejoining the media or writing articles. Four of the journalists were from *Indonesia Raya*. When Kyle asked if Atmakusumah was one of them, the answer was yes. He was hired anyway.

For many years, Atmakusumah bided his time in the US Information Service (USIS), working as an information specialist, meeting young journalists to discuss freedom of the press, and gaining a deeper knowledge about the American press system. In 1992, he was invited to join the Doctor Soetomo Press Institute—Indonesia's premier journalism training institute—as a lecturer, and he eagerly agreed. From this platform he trained hundreds of young journalists, not only in the basics of reporting, writing, and editing, but also in ethics and what it means to be a journalist. He became even more outspoken as a champion of press freedom, frequently serving as an expert witness in cases of defamation, or in the trials of writers who published in unlicensed publications, such as AJI's *Independen*.⁴¹

³⁹ Taman Siswa was an influential educational movement founded in 1922 by Raden Mas Soewardi Soerjaningrat that combined teaching modern subjects with indigenous and nationalist elements.

⁴⁰ For a detailed account of the events leading up to this incident and its aftermath, see Steele, *Wars Within*, pp. 79–86.

⁴¹ *Independen* was the newsletter of the Alliance of Independent Journalists. In 1995 it was banned by the Department of Information for publishing without a license, and three of its staff members were arrested. *Ibid.*, p. 262.

Fears of Backsliding

At a meeting with the Newspaper Publishers' Association on July 10, President Habibie suggested that journalists be required to get "renewable licenses" in order to maintain high standards of professionalism.⁴² PWI Secretary General Parni Hadi, who was known to be a close advisor to the president on media matters, explained that, in Habibie's view, the license would be like that required by the medical profession, valid for one year, but subject to revocation if the journalist was regarded as unprofessional or unqualified. The reaction to the president's proposal was swift. Goenawan Mohamad, the former editor of *Tempo*, called it "pathetic" and "a major setback."⁴³ Pointing out that journalism—unlike medicine—was an open profession, he said that editors are the ones who should be responsible for the quality of journalism. Despite these objections, *Antara* reported that Habibie's media advisor and the government-sanctioned board of PWI continued to support the licensing plan.⁴⁴

By September 1998, the battle lines were clear; journalists had to force the Habibie government to keep its promises of reform, and they had to be ever vigilant against possible backsliding. In addition to the president's apparent support of licensing, there were other disturbing signs. On September 8, a spokesman for the Jakarta Military Command said it would sue *Tajuk* over a report alleging the military's complicity in the May riots.⁴⁵ Later that same month, journalists and activists spoke out against legislation drafted by the Ministry of Defense and Security designed to control street protests during the upcoming MPR session. Submitted to the DPR for deliberation on September 11, 1998, the "Freedom of Expression" bill actually limited freedom of expression by requiring permits for gatherings, and limiting the number of protestors allowed at each event to fifty. Most worrisome to the press community was a clause stating that broadcast and print media must obtain police permission to report on demonstrations, something that journalists saw as a thinly veiled attempt to reestablish censorship by other means.

Members of the DPR succeeded in deleting from the government's proposal the section pertaining to the media, and also the provision requiring a police permit for any demonstration that might attract more than one hundred people. They substituted a clause stating that protestors had to notify the police in writing three days before any planned demonstration. The legislation, which was approved on October 22, 1998, prompted this editorial comment from the *Jakarta Post*:

We cannot think of any other motive for the government's obsession with this law other than that ministers will use it to prevent a repetition of the "people's power" revolution that swept Soeharto from power.⁴⁶

⁴² Leo Batubara, email to author, October 23, 2007.

⁴³ "Habibie Backs Licenses to Keep Media in Line," *Jakarta Post*, July 11, 1998; and "Government Sticks to Its Guns on Licensing Reporters," *Jakarta Post*, July 15, 1998.

⁴⁴ "Indonesian Press Enters Gray Area," *Jakarta Post*, July 25, 1998.

⁴⁵ "Military to Sue 'Tajuk' for Defamation," *Jakarta Post*, September 9, 1998.

⁴⁶ "A Truly Express Law," *Jakarta Post*, October 23, 1998. See also "House Passes New Freedom of Expression Bill," *Jakarta Post*, October 23, 1998.

In short, during the last few months of 1998, there was a heightened awareness of the need to institutionalize press freedom—either with a constitutional amendment, or in a Press Law. On October 14–15, a group of journalists, activists, and press organizations created a new association, the Indonesian Press Society, or MPI (Masyarakat Pers Indonesia). At the end of their two-day summit in Jakarta, they signed a statement calling on the MPR to issue a decree guaranteeing press freedom during its special session from November 10 to 13.⁴⁷

One of the drivers behind MPI was Leo Batubara, a former National Intelligence (Bakin) official and head of the Newspaper Publishers' Association. After May 1998, Batubara became such a passionate champion of press freedom that he was once described as being more American than Indonesian.⁴⁸ When a reporter from *Pantau* magazine asked about this turnabout from Bakin to coordinator of the “ultra-liberal” MPI, he responded (in English), “[Have] you read the story of Gorbachev?” Explaining that Gorbachev had worked for the KGB, and was thus in a position to understand the true conditions of life in the Soviet Union, Batubara concluded that “he [Gorbachev] knew that communism had failed to bring prosperity to the people. I want to atone for my sins,” Batubara said.⁴⁹

On the positive side, something that gave Indonesians cause for celebration in October was the return of *Tempo* magazine. Launched to much fanfare on October 6, the first edition of the new *Tempo* featured an investigative report on the May rapes.⁵⁰ The irony of the magazine's reappearance during Habibie's presidency was not lost on most observers. As Amir Sidharta wrote, although it was still unclear exactly why *Tempo* had been banned, it could be concluded “without much doubt” that the magazine was shut down as a result of its report on the purchase of the thirty-nine East German naval ships.

What is most interesting is how Habibie, now president, will deal with *Tempo*. Will he really be the open-minded and worldly individual he portrayed himself to be during his early days in office?

So far, with regards to *Tempo* he has acted fairly by allowing it to resume publishing. But if *Tempo* once again stings him with its sharp criticism and investigative reporting, will that herald yet another reverse in the pendulum of press freedom?⁵¹

⁴⁷ Two months later, the Indonesian Private National Radio Broadcasting Association (Persatuan Radio Siaran Swasta Nasional Indonesia, PRSSNI) was invited to join MPI, and the organization changed its name to MPPI, or Indonesian Press and Broadcasters' Society (Masyarakat Pers dan Penyiaran Indonesia). Leo Batubara, email to author, October 23, 2007.

⁴⁸ Max Wangkar, “Medan Penyiaran Siapa Mau Kuasa,” *Pantau*, March 2001, p. 10.

⁴⁹ “Saya mau menebus dosa,” *Pantau*, March 2001, p. 10.

⁵⁰ The 1998 US Department of State Indonesia Country Report on Human Rights Practices states: “Following the riots, allegations of mass rape of ethnic Chinese women were made, forcing the government to establish a fact-finding team to investigate the riots and rapes. The team found that elements of the military had been involved in the riots, some of which were deliberately provoked. It also verified sixty-six rapes of women, the majority of whom were Sino-Indonesian, as well as numerous other acts of violence against women.” www.fas.org/irp/world/indonesia/indonesia-1998.htm, accessed January 25, 2012.

⁵¹ Amir Sidharta, “Will New Press Freedom Survive?” *Jakarta Post*, October 10, 1998.

At *Tempo*, the atmosphere of freedom was heady and infectious. Just a few days after the launch, Goenawan told me that *Tempo* could now be more assertive, for example, when government or military officials refused to be interviewed. "Wiranto refused to be interviewed by *Tempo*," he said. "I don't know why. Because maybe he knew my hostility toward the army. That's what I heard. But I said to the reporters, 'Don't worry, he needs us.' This is a kind of power."⁵²

Of Yunus, Goenawan said, "he is one of the great figures in the history of press freedom. I am going to tell him that after he steps down as minister. He changed, he created history."⁵³

"The Struggle Is Not Yet Over"

The extraordinary session of the People's Consultative Assembly on November 10–13, 1998, was an event of great significance in the reform process. The MPR, Indonesia's highest legislative body, had to repeal the five-year mandate it had given to Suharto and Habibie in March of 1998, and approve the schedule for new elections in June 1999. It was further expected to amend the constitution to limit the number of presidential terms to two five-year terms, and to issue a number of "MPR resolutions" that would bind the nation to various courses of action.⁵⁴ One of these proposed resolutions would require the government to investigate Suharto and his family; another was designed to eliminate the military's automatic right to a certain number of seats in Parliament.

Violent clashes between student protestors who feared that the MPR was ignoring their demands for reform and paramilitary groups charged with "securing" the parliamentary grounds led to the worst bloodshed since the fall of Suharto. The paramilitary groups, who were armed with sharpened bamboo sticks, had been brought into the capital by Defense Minister Wiranto and Jakarta Garrison Commander Djadja Suparman. An altercation that began late in the afternoon near the Semanggi interchange on November 13 escalated to a pitched battle when troops were brought in armed with rubber bullets, water cannons, and teargas. After twelve hours of fighting, fifteen people had been killed and five hundred wounded.

While blood was literally flowing in the streets, the MPR considered a number of draft decrees, including the one that had been written by the Indonesian Press Society, or MPI. Comprising five chapters seeking to guarantee freedom of expression and the public's right to information, the decree was ultimately watered down to a much less specific stipulation that was included in a decree on human rights. In a discussion on media freedom that was covered by the *Jakarta Post*, Atmakusumah Astraatmadja expressed his disappointment and warned Indonesians that "the struggle for media freedom is not yet over."⁵⁵

⁵² Interview with Goenawan Mohamad, Jakarta, October 10, 1998.

⁵³ Ibid.

⁵⁴ O'Rourke, *Reformasi*, p. 160. For a detailed discussion of the November 1998 special session, see O'Rourke, chap. 12.

⁵⁵ "Expert Warns against Moves to Gag Freedom of the Media," *Jakarta Post*, November 19, 1998.

It was at about this time that MPI drew up its own draft press law. As Batubara of the Newspaper Publisher's Association pointed out, the government's current version of the law (Draft 8) still had thirteen articles that would empower the government to control the media through regulation. It was like giving the government a "blank check," he said.⁵⁶

Apparently others in the Ministry of Information were also unhappy with the draft law as it stood, and, in early November, Minister Yunus quietly asked UNESCO for assistance.⁵⁷ One of UNESCO's partners in the promotion of freedom of the press is ARTICLE 19, an inter-governmental organization devoted to defending and promoting freedom of expression and access to information as enshrined in Article 19 of the UN's "Universal Declaration of Human Rights." Toby Mendel of ARTICLE 19 explained, "the minister realized that [the ministry] simply did not have the capacity to take it forward (that is, they did not know how to draft a democratic press law)."⁵⁸ According to Mendel, this was the first time that UNESCO had provided actual drafting assistance for a law affecting freedom of expression.

In November 1998, Mendel spent two weeks in Indonesia and had discussions with the ministry staff about the law. He recalls:

We had very intensive and high-level discussions for about a week, with me basically deconstructing the draft they had prepared and, as appropriate, suggesting replacement provisions which were consistent with international law. After about a week, they asked me to do the "redraft," which was more-or-less an entirely new version, based on the "agreements" we had achieved. I had also consulted as much as possible with civil society during the process.⁵⁹

Mendel's draft, which he wrote during his second week in Indonesia, became the ministry's ninth draft.⁶⁰ Mendel said, "I should note that the Minister, Yunus, provided full support throughout the process. When we met, he basically indicated that he had instructed his staff to do whatever I insisted was necessary to bring it into line with international standards."⁶¹

Soon after, in early 1999, a new issue arose: pornography. One of the consequences of Yunus's lifting of the ministerial regulations that had shackled the press was that it was suddenly a lot easier to get a permit to publish. Previously it had taken months, if not years, to get a SIUPP; now, once requirements were met, a permit could be granted in about fifteen days. The press delighted in reporting how many new SIUPPs had

⁵⁶ "Masih Ada Cek Kosong di RUU Pers," *Tempo*, November 9, 1998.

⁵⁷ A delegation from UNESCO (United Nations Educational, Scientific, and Cultural Organization) had visited Indonesia in July 1998 and recommended a number of key changes. Toby Mendel, email message to author, October 15, 2007.

⁵⁸ Toby Mendel, email to the author, October 15, 2007.

⁵⁹ Toby Mendel, telephone interview, October 26, 2007.

⁶⁰ Atmakusumah explained that, although there were twelve "main drafts" of the UU Pers 1999, some of the drafts had "small corrections" as well. "There were, for example, draft 11, 11a, or 9, 9a, 9b. So, all together, there were about twenty drafts (twelve 'main drafts' and 'small corrections' in another eight or so drafts)." Atmakusumah Astraatmadja, email to author, October 18, 2007. Mendel said in a phone interview on October 26, 2007, that somewhere between 85 and 95 percent of his draft appeared in the final version of the law.

⁶¹ Toby Mendel, email message to author, October 15, 2007.

been granted. For instance, stories in *Tempo* and the *Jakarta Post* announced that there had been 535 new SIUUPs issued ... then 630 ... then 900 ... and finally, 2,000!⁶² One report told of a man who finally received his SIUUP after waiting thirteen years.⁶³ Yet an unanticipated outcome of the lifting of restrictions on press licenses was that a new crop of “pornographic” publications emerged as well—magazines with names like *Kiss*, *Top*, and *Popular*—creating problems for defenders of press freedom. When the police started raiding places that sold such magazines, press observers were asked to respond to the charge that the rise in pornography was the result of press freedom. While much of the discussion focused on the seemingly endless debate over how to define what was and was not pornographic, some were suspicious that opponents of press freedom were using the debates about pornography as a kind of Trojan Horse, or as a means of persuading an uncertain public that a free press would unleash all kinds of licentiousness.⁶⁴ The minister, Yunus, remained calm throughout the controversy, arguing that a free press did not mean there were no limits whatsoever, and that pornography was already regulated by the Criminal Code.⁶⁵

By the beginning of 1999, four major groups emerged in the struggle to institutionalize press freedom. They were the president, the minister of information, journalists, and the public. Yet who was setting the agenda and who was following it? One rough measure can be found by determining which of the four groups emerged as the “main actor” in the news. An analysis of seventy-four news stories published in the English-language *Jakarta Post* between May 29, 1998, and June 24, 1999, can be found in the table below. Although the *Jakarta Post* is read primarily by expatriates and elites, it had a reputation during the Suharto years for being more outspoken than other papers, precisely because its use of English made it unavailable to the broader public.⁶⁶

It is interesting to note that, during this twelve-month period, journalists, editors, and owners appeared as the main actor in the news stories reported in the *Jakarta Post* nearly 40 percent of the time (see table on next page). This is a remarkably high percentage, especially given that one of the most striking elements of journalism in New Order Indonesia was journalists’ reliance on official sources and statements.⁶⁷ Angela Romano found that the views of cabinet ministers dominated news coverage during the New Order, and Thomas Hanitzsch likewise concluded that journalism

⁶² For examples of stories keeping track of the number of permits issued, see “Di Tengah Banjir Media,” *Tempo*, January 4, 1999; “Former Minister of Mines to Sue Tabloid for Libel,” *Jakarta Post*, January 12, 1999; “Press Reminded of Its Obligations,” *Jakarta Post*, February 10, 1999; and “Minister Yunus Will Not Stop Issuance of Press Licenses,” *Jakarta Post*, April 26, 1999.

⁶³ “Publisher Gets Permit at Last,” *Jakarta Post*, June 27, 1998.

⁶⁴ Janet Steele, “Banning Porn Curtails Freedom of Expression,” *Jakarta Post*, September 16, 1999.

⁶⁵ “Berdebat Soal Pornografi,” *Tempo*, July 11, 1999.

⁶⁶ In August 1998, shortly before returning to the United States at the end of my Fulbright year, I hired Arasuli from the American Studies MA program at the University of Indonesia to be my research assistant. I paid for a subscription to the *Jakarta Post* and asked Arasuli to collect all stories pertaining to journalism in Indonesia. He collected nearly one hundred stories, a total that included op-eds and editorials, as well as a few articles from other Indonesian-language newspapers. After I eliminated everything other than news stories, this left a sample of seventy-four articles, which turned out to be an invaluable collection from an era in which newspapers generally did not keep electronic archives.

⁶⁷ In this regard, Indonesian news norms were remarkably similar to those of the United States, albeit for different reasons. See Herbert Gans, *Deciding What’s News: A Study of CBS Evening News, NBC Nightly News, Newsweek, and Time* (New York, NY: Pantheon, 1979).

under Suharto was characterized by “a kind of ‘A said X and B said Y’ journalism that passively relied on official sources and statements.”⁶⁸ Yet in some ways, the *Jakarta Post*’s reliance on journalists, editors, and media owners is not surprising, because it is clear that it was these groups that were pushing the agenda with regard to press issues, and pushing it hard. For example, in one of the five stories in which President Habibie

<i>Main actors:</i>	<i>Number of stories</i>
Habibie	5
Yunus	4
Journalists, editors, owners	30
Government officials*	15
Communication experts	6
Public	3
Military	4
Other	5
None	2
<i>Total</i>	<i>74</i>

* Includes cabinet ministers as well as members of DPR

was the main actor, he was quoted as raising concerns about press freedom while unveiling the 1999–2000 draft budget in a plenary session of the DPR. Citing exaggerated and unbalanced news reports that can cause confusion and unrest, he said “behind the freedom, the press is developing worrisome behavior.” According to the *Jakarta Post*’s story, “the President reminded the media of its responsibility to preserve national unity, which he said was important in the context of building a modern civil society. He also called on media employees to ‘act professionally.’”⁶⁹

Although at first glance these remarks seem innocuous enough, they raised a firestorm of criticism, particularly among journalists who remembered the Suharto regime’s reliance on terms like “responsibility” and “national unity” to control the press. In addition to a follow-up news story, the *Post* published an editorial titled “Press Freedom or Fiefdom” that concluded “while Habibie recognizes, at least in his

⁶⁸ Romano, *Politics and the Press in Indonesia*, pp. 117–33; Thomas Hanitzsch, “Journalists in Indonesia: Educated but Timid Watchdogs,” *Journalism Studies*, 6,4 (2005): 499.

⁶⁹ “President Worried about Press Freedom,” *Jakarta Post*, January 6, 1999.

speech, the importance of freedom of the press in a democracy, he fell short of what even his information minister, Yunus, has often underscored: that a critical press is vital in a democracy in providing an effective check on the government."⁷⁰

The 1999 Press Law

Once the draft press bill was complete, it was sent to the State Secretariat for study. Meanwhile, MPPI (the former MPI that had now added broadcasters to the mix) had completed its own bill, and both groups began to hold a series of seminars, hearings, and programs to "socialize" the public about the new law. During a hearing at Commission 1 of the DPR (which oversees press issues), Minister Yunus himself spoke firmly in defense of press freedom. Responding to concerns raised by several members of Parliament, he emphasized that, in his view, "the press has not yet overstepped its boundaries."⁷¹

On March 23–24, an important seminar, titled "Media and Government in Search of Solutions," took place in Jakarta. The program was officially opened by President Habibie at the State Palace. The first speaker was Goenawan Mohamad, who pointed out that the riots and violence of the preceding year could have been avoided if there had been more openness and information. "If there is a place for honest dialogue, a source of reliable information, a source to encounter [*sic*] the poisonous rumors, then the free media can play its social role and obligations," he said.⁷² The seminar, organized by UNESCO in cooperation with the Ministry of Information, was funded by the Canadian International Agency for Development. ARTICLE 19's Toby Mendel was one of the speakers, and he introduced a panel on "Laws and Norms Governing the Press." Much of the seminar focused on the tension between the role of free media in promoting accountability and good governance, on the one hand, and the desire to control press excesses on the other. The consensus, which had been hammered out during the preceding months of debates and discussions, was that self-regulation by journalists and an independent press council should be the means of ensuring professionalism, and that Suharto-era control of the media—be it through the press law, departmental regulations, or provisions of the criminal code—should be avoided at all costs.⁷³

With this seminar, the process of socializing the public had begun. The next step was to convince the people's representatives in the DPR—a legislative assembly that, as Batubara pointed out, had been selected as the result of the "undemocratic" 1997 general election.⁷⁴

In August 1999, the DPR began its deliberations on the bill. For eleven days, the legislators carefully compared and considered the three different versions they had

⁷⁰ "Press Freedom or Fiefdom," *Jakarta Post*, January 7, 1999.

⁷¹ "Yunus Defends Press Freedom," *Jakarta Post*, March 9, 1999.

⁷² "Honest Reports Could Avoid Riots: Goenawan," *Jakarta Post*, March 24, 1999.

⁷³ Toby Mendel, "Developing a New Press Law," seminar presented at the ARTICLE 19 conference "The Media and the Government: In Search of Solutions," London, March 23–24, 1999.

⁷⁴ Leo Batubara, email to the author, October 23, 2007.

before them: the government's draft, the DPR's draft, and the MPPI's draft.⁷⁵ The three draft versions had many similarities. According to Atmakusumah, the DPR draft was basically the MPPI's draft, and it had been created primarily to keep the pressure on ministry officials not to add clauses that would undermine the version that Toby Mendel had written. As Atmakusumah explained:

Toby helped both the ministry and MPPI in drafting their press laws. But, of course, the ministry drafters must have filled in many articles of the press law with their own ideas ... since the supporters of press freedom were not satisfied with the government's press law draft, MPPI offered its own draft as a pressure to both the government and parliamentarians to consider a draft that was more supportive of the establishment of press freedom.⁷⁶

Yunus appeared twice before the DPR, on August 26 and 27, to defend and explain the government's view of the bill, and in doing so demonstrated a firm command of the particulars of the bill and the larger issues at stake. But it was not the minister's articulate defense of freedom of the press that impressed the press community; rather, it was his willingness to let journalists themselves testify before the DPR. It was a heady day for Indonesian journalism when Atmakusumah Astraatmadja and Leo Batubara—two great lions of press freedom—appeared in parliament as “government experts,” defending a Press Law that they themselves had been involved in drafting.⁷⁷

The DPR passed the bill on September 13, 1999, and ten days later President Habibie signed it into law. As Atmakusumah wrote in *D&R* magazine, it was a law that had been 255 exhausting years in the making.⁷⁸ Based on the fundamental principles of freedom of expression and the right to gather and disseminate information, the 1999 Press Law guaranteed freedom of the press, eliminated licensing as a means of controlling the press, removed the government's ability to ban publications, and limited the power of the government to introduce subsequent regulations. It also removed restrictions on who might practice journalism, and guaranteed the rights of journalists to join associations of their own choice, to seek, acquire, and disseminate ideas and information, to be free of censorship, and to refuse to divulge the names of their sources. Significantly, for the first time it provided penalties of fines or imprisonment for those who attempted to *restrict* press freedom rather than the reverse, and it allowed for self-regulation of the press through the establishment of an independent press council. It was hard not to agree with *Tempo* when it concluded, “If this law is truly applied as it is written, the Indonesian press is going to experience an era as sweet as honey.”⁷⁹

⁷⁵ Indonesia Media Law and Policy Centre, *Memorie Van Toelichting: Undang-Undang Nomor 40 Tahun 1999 Tentang Pers* (Jakarta, Indonesia Law and Policy Centre, April 2006), p. 1.

⁷⁶ Atmakusumah, email to the author, October 18, 2007.

⁷⁷ The minutes of the 1999 deliberations note that Atmakusumah appeared before the committee as a government witness on August 27, August 30, September 1, and September 2, and Leo Batubara gave expert testimony on September 1 and 2. *Memorie Van Toelichting*, appendix 6, p. 4.

⁷⁸ Atmakusumah, “UU Pers Baru: Perjalanan 255 Tahun yang Melelahkan,” *D&R*, September 13, 1999.

⁷⁹ “Setelah Pers tanpa Belenggu,” *Tempo*, September 19, 1999.

Indonesian Journalism Post-Suharto

Despite the 1999 Press Law being a “masterpiece,” Indonesian journalists today still face a number of serious challenges—most notably from the defamation provisions of the Criminal Code (KUHP, *Kitab Undang-Undang Hukum Pidana*) that are at odds with the Press Law. The Criminal Code contains at least forty clauses that can be used against journalists. Although the independent Press Council (created by the 1999 Press Law) is supposed to adjudicate in media disputes, authorities continue to undermine its mandate by bringing defamation charges to the courts.⁸⁰ As recently as May 24, 2011, the South Jakarta District Court awarded Hutomo Mandala Putra (the youngest son of former Indonesian president Suharto) damages worth 12.5 billion Rupiah (US\$1.46 million) for a magazine article that described him as a “convicted murderer,” in reference to his 2002 conviction for ordering the murder of a Supreme Court judge. The ruling stated that the article had “damaged the plaintiff’s credibility as a local and international businessman.”⁸¹

The contradictions between the 1999 Press Law and the Criminal Code have erupted many times, perhaps most notably in 2003, when business tycoon Tomy Winata sued *Tempo* magazine for criminal defamation. *Tempo*’s story insinuated that there was a connection between Tomy’s business interests and the fire that ravaged the Tanah Abang textile market.⁸² Although the Supreme Court ultimately overturned the lower court’s decision to sentence *Tempo*’s chief editor, Bambang Harymurti, to a year in jail, the case, which dragged on for months and involved seven different lawsuits, seemed to show the dangers of publishing hard-hitting stories that touched on prominent individuals with connections to senior government and military officials. Despite a 2005 Supreme Court ruling that the 1999 Press Law should be used in all cases involving the press, the Criminal Code continues to be used to file defamation cases against journalists and others.

Although the Habibie administration put a stop to government interference with the press, Indonesian journalists today still face a number of threats, many of them from the public. Being perceived as “insulting religion” is especially dangerous. In June 2005, the management of *Radar Sulteng*, the largest newspaper in Central Sulawesi, voluntarily stopped publication for three days following protests over a guest editorial titled “Islam, A Failed Religion.”⁸³ Despite the fact that the article focused on a well-publicized theft of funds from the Department of Religion by a former cabinet minister—and was therefore about corruption and hypocrisy rather than religion *per se*—such subtleties were lost not only on the mob that attacked the office but also on the police. The writer, a lecturer at the Muhammadiyah University of Palu, was charged with “insulting Islam.” Other examples include attacks on *Playboy* magazine by the Front Pembela Islam (Islamic Defenders’ Front), and intimidation of *Tempo* newspaper journalists by members of Forum Betawi Rempug (FBR), a local Jakarta

⁸⁰ See Indonesia entry in Karin Deutsch Karkelar, ed., *Freedom of the Press 2011: A Global Survey of Media Independence* (New York, NY, and Washington DC: Freedom House, 2011).

⁸¹ See www.ifex.org/indonesia/2011/05/30/million_dollar_award/, accessed April 28, 2012.

⁸² “Ada Tomy di ‘Tenabang?’” *Tempo*, March 3, 2004.

⁸³ “Islam, Agama Yang Gagal,” *Radar Sulteng*, June 23, 2005.

organization that often acts in the name of religion.⁸⁴ Atmakusumah Astraatmadja has pointed out that even in the Press Council it is extremely difficult to reach consensus on the topic of “insulting Islam.” When the Press Council discussed which of the defamation provisions of the draft Criminal Code should be eliminated, it was able to reach agreement on offenses such as insulting the president, the vice-president, the government of Indonesia, and the heads of friendly nations, but there was no discussion at all of Articles 336, 339, or 340, the articles that make it a criminal offence to insult religion.⁸⁵

Heroes of Press Freedom?

Although we will never know for certain, it is nevertheless interesting to speculate as to what might have motivated members of the political elite like President B. J. Habibie and Lt. General Muhammad Yunus Yosfiah in their efforts to free the press. One is tempted to apply the formulation offered by Batubara, and conclude that perhaps they, too, wanted to “atone” for past mistakes. Yet Lukas Luwarso, the head of the Alliance of Independent Journalists during the Habibie years, offers a different perspective. Quoting Goenawan Mohamad, he takes as a starting point the idea that there are no heroes, but only heroic acts:

I feel that Yunus wasn't a hero of press freedom; he didn't struggle, bleed, or sacrifice anything to bring forth press freedom in Indonesia. He was more of a facilitator than an inspirer; he was an official who did his duty to the best of his ability. Was this a heroic act? Maybe yes, in the Indonesian context of the crisis of freedom at the time. And in shootings at Balibo, maybe Yunus also performed a “heroic act” (for the Indonesian military) in the context of performing his assigned duty.⁸⁶

According to Lukas, Yunus never wavered from doing his duty as a soldier. Perhaps this perspective helps to explain why every Indonesian journalist I have ever interviewed refuses to criticize Yunus for what almost certainly occurred in Balibo, or even to acknowledge that these events might somehow be linked to his later acts as minister of information. For example, former *Tempo* journalist Yusi Parnom, who frequently covered Yunus in 1998–99, writes, “Yunus wasn't barbaric/heroic in the '70s or heroic/romantic in 1998–99 ... he was just doing his job. Insofar as I know, Yunus wasn't an ideologue or a thinker, nor was he a person who was ambitious. He goes with the flow.”⁸⁷

Perhaps not coincidentally, Muhammad Yunus Yosfiah, the consummate soldier, is also the most decorated man in the Indonesian army.⁸⁸

⁸⁴ For detailed accounts of violence and other acts of intimidation against the press in Indonesia, see the annual *Freedom of the Press* surveys, accessible online at www.freedomhouse.org, and the reports of the Committee to Protect Journalists, *Attacks on the Press*, accessible at www.cpj.org.

⁸⁵ Interview with Atmakusumah, Jakarta, August 6, 2006.

⁸⁶ Lukas Luwarso, email to author, October 22, 2007.

⁸⁷ Yusi Parnom, email to author, October 29, 2007.

⁸⁸ See www.globalsecurity.org/military/world/indonesia/kasspspol.htm, accessed October 28, 2007.

In the final analysis, it is clear that without Yunus's persistence in elucidating, advocating, and institutionalizing a new understanding of press freedom, Indonesian journalists would not be enjoying the freedom they have today. When I interviewed the minister in October 1998, he told me with a smile that, in his opinion, President Habibie himself had not anticipated how far he would go in putting forward a reform agenda. "He didn't know me before!" Yunus said. "But when I spoke to him for the first time, [saying] 'Mr. President I would like to change some regulations, the SIUPP, etc.,' 'Okay I agree,' he said. 'That is a real democracy.' So I was encouraged by him because of his understanding of democracy."⁸⁹

Atmakusumah says this about Habibie: "I saw Habibie as a person who had more of a sense of press freedom than most of our politicians because he had lived in a Western nation for a pretty long time ... He could understand it, feel it, but he was not certain if it was good or fitting for Indonesia. This was what usually emerged in the minds of Indonesian politicians. They would always say, yes, it's only good in Western nations, where education is high, where education is more widespread, but it's not appropriate in Indonesia."

Atmakusumah notes that, several years ago, when he asked Yunus what kind of support he got from other ministers in the cabinet, the former minister's reply was "almost none."

"[Yunus] said that there wasn't one person in Habibie's cabinet who supported press freedom," Atmakusumah added. "But Habibie didn't refuse! So it was only Yunus and Habibie."

Although there will always be a variety of opinions about who deserves credit for the passage of the landmark 1999 Press Law, it was ultimately Indonesian journalists—and the students and civil society groups that backed them—who kept up the political pressure that led to the institutionalization of press freedom. As Atmakusumah put it, the initiative came from Yunus and the context from Habibie, but the movement came from the Indonesian people. "The atmosphere, the euphoria pushed all sides to support the movement," he said, "and it was they who pushed the DPR to create the new law."

As the events of the 2011 Arab Spring have demonstrated, without an independent press a democratic revolution can be neither secure nor complete. In 1999, an international team of journalists writing a Media Assessment for USAID/Indonesia noted the importance of press freedom in Indonesia's transition to democracy:

Perhaps more than any single variable (with the possible exception of the student movement), the freeing of the media has had the greatest impact on Indonesia's democratic transition to date ... It is fair to say that without a free press during the period since the ouster of President Suharto in May 1998, it would not have been possible for Indonesia to achieve the relatively harmonious change of

⁸⁹ Interview with Muhammad Yunus Yosfiah, Jakarta, October 12, 1998.

administration that recently occurred ... Indeed, press reform may have been the most significant structural reform to emerge from the Habibie government.⁹⁰

In Indonesia, it was thus an unlikely coalition of journalists, old-school political elites, and forward-looking civil society groups that led to the historic passage of the 1999 Press Law, and paved the way to real and lasting reform. Such an alliance should not only be recognized for what it achieved in Indonesia, but could also, perhaps, serve as an example to other societies that are undergoing rapid post-revolutionary change. In short, there is a lot that the rest of the world can learn from Indonesia.

⁹⁰ Melinda Quintos De Jesus et al., "Indonesia's Media: Status and Needs," USAID/Indonesia, Task order No. 802 under Contract AEP-5468-I-00-6012-00, December 10, 1999.