

# Implikasi Peraturan Menteri Komunikasi dan Informatika No. 5 Tahun 2020 Terhadap Hak Kebebasan Berekspresi Pengguna Sistem Elektronik di Internet = Implications of the Ministerial Regulation of Communication and Information Technology No. 5 of 2020 Against the Right to Freedom of Expression of Electronic Systems Users on the Internet

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## Abstrak

Skripsi ini membahas hak kebebasan berekspresi pengguna sistem elektronik di internet setelah berlakunya PM Kominfo 5/2020. Landasan penelitian ini ialah pemutusan akses terhadap beberapa situs dan aplikasi PSE Lingkup Privat oleh Kemenkominfo, kondisi kebebasan menggunakan internet di Indonesia yang bebas setengah, dan pembatasan hak kebebasan berekspresi di internet yang marak dilakukan, baik oleh pemerintah ataupun individu. Perlindungan atas hak kebebasan berekspresi pengguna sistem elektronik di internet merupakan amanat UUD NRI 1945, kemudian dijelaskan lebih lanjut di dalam UU HAM dan UU Kemerdekaan Berpendapat. Tidak hanya di skala nasional, hak kebebasan berekspresi pengguna sistem elektronik di internet juga dilindungi oleh instrumen HAM internasional, baik yang sudah diratifikasi oleh Indonesia seperti ICCPR maupun yang berbentuk rekomendasi dari para pakar hukum. Meski hak ini sudah diatur secara tegas, pasal – pasal di PM Kominfo 5/2020 terkait moderasi dan pemutusan akses terhadap informasi dan dokumen elektronik yang tidak memiliki standar jelas dan subjektif berpotensi melanggar hak kebebasan berekspresi pengguna sistem elektronik di internet. Dengan demikian, rumusan masalah yang diangkat di dalam penelitian ini ialah lingkup pengaturan dan konsep hak kebebasan berekspresi pengguna sistem elektronik di internet menurut instrumen hukum secara internasional serta nasional, dan implikasi hak kebebasan berekspresi pengguna sistem elektronik di internet setelah berlakunya PM Kominfo 5/2020. Penelitian ini merupakan penelitian kualitatif dengan desain deskriptif. Penelitian ini menemukan bahwa PM Kominfo 5/2020 melanggar hak kebebasan berekspresi pengguna sistem elektronik di internet.

.....This thesis discusses the right to freedom of expression of electronic system users on the internet after the enactment of PM Kominfo 5/2020. The research's basis is access termination to several Electronic System Providers in the Private Sector by the Ministry of Communication and Informatics, freedom to use the internet in Indonesia, and restrictions on the right to freedom of expression on the internet which are widely practiced, both by the government and individuals. Protection of the right to freedom of expression for users of electronic systems on the internet is a mandate of the 1945 Constitution, which is further explained in the Human Rights and the Freedom of Opinion Law. Not only on a national scale, the rights to freedom of expression of electronic systems users on the internet are also protected by international human rights instruments that Indonesia has ratified, such as the ICCPR and recommendations from legal experts. Albeit this right has been strictly regulated, articles in PM Kominfo 5/2020 regarding moderation and terminating access to electronic information and/or documents that do not have clear and subjective standards potentially violate the right to freedom of expression of electronic systems users on the internet. Thus, the problem raised in this study is the regulation and the concept of the right to freedom of expression of electronic systems users on the internet according to international as well as national legal instruments

and the implications of it after the enactment of PM Kominfo 5/2020. This research is qualitative, using a descriptive method. This research found that PM Kominfo 5/2020 violated the right to freedom of expression of electronic system users on the internet.