

The Ban of Senyap (The Look of Silence) Movie in Indonesia by Film Censorship Agency Viewed from Human Rights Perspective

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Abstract:

Film is one of information delivering media that can be used by all people to implement right to know. One of the films banned in Indonesia by Film Censorship Agency is *Senyap (The Look of Silence)* movie that tells the historical event of Movement in 30 September 1965. The ban is contradicting with positive welcome addressed by Human Rights figures in Indonesia. The present research is conducted to comprehend the conformity between the ban of *Senyap* movie executed by Film Censorship Agency and human rights especially right to know. This is done through legal research towards primary, secondary, and tertiary law materials related to right to know and film. The result of research reveals that preventive action taken by Film Censorship Agency in form of banning *Senyap* movie is considered exaggerated and limiting rights of people to know as well as limiting opinion expressing of the maker, Joshua Oppenheimer. On the other hand, the ban limits the problem solving opportunity in form of serious human rights violation which is not solved until now. Moreover, it is suggested that there must be a review towards the ban of *Senyap* movie and censorship effort that should focus on the arts of movie as well as delivery of message and information contained in the film.

Keywords

Film censorship, human rights, right to know, *Senyap* Movie, *The Look of Silence*

1. Introduction

Human is a social creature that interacts with environment. The environment that supports human's life is a safe environment that can give chances for every individual to grow so that human can improve life quality and life welfare. In order to

be able to facilitate it, state sets legal regulations. However, it is found that problems of the regulation implementation are still many either in Indonesia or in other countries, especially the implementation in one of critical areas which is law regarding to Human Rights.

Human Rights defined as freedom, immunity, and benefit based on modern values which must be enjoyed by all human beings wherever they live [1]. In particular, Human Rights in Indonesia is set in Laws Number 39 of 1999 regarding Human Rights (Law of Human Rights). Based on the law, Human Rights is intended as a set of rights attached on the nature and the existence of human as the creature of the Almighty God and is His blessing that must be respected, upheld, and protected by state, law, government, and everyone for the sake of respect and protection of human's prestige and destiny.

This far, many problems of Human Rights implementation still related to the violation of life sustainability. In addition, Human Rights regarding to information from some media are lack of attention. Otherwise, media is the message container that has functions as a tool of delivery or information of learning from source to message receiver called society [2]. Media itself not only delivers messages, but also interprets it to society. Therefore, media has strong effects on society's perspective and it should pay attention on human rights element in its delivery in order to avoid the occurrence of Human Rights violation issues.

In Indonesia, government controls press very strongly. There have also many problems hidden in the system so that the society does not know it. Because of the closed system, the information is only owned by a group of people and it contradicts with the spirit of the 1945 Constitution, Universal Declaration of Human Rights, Laws of Human Rights, and Laws Number 12 of 2005. However, every limitation in the society should start to be paid attention. It is because right to know is one of vital

components in the state order that functions as truth teller on an event received by society [3]. On the other hand, information is also important to be had by every human as the part of thinking process, decision making process, and assessment on a case.

Information can be delivered through some media; one of them is through film. *Senyap* (The Look of Silence) is a documentary movie made by American director namely Oppenheimer with its central theme is the 1965 mass slaughter in Indonesia. The film is inspired by the movement in 30 September 1965 involving Indonesia Communist Party (PKI) that aims to express the truth on 1965/1966 slaughter event in North Borneo. Furthermore, it also becomes the public pressure in order that the findings of Human Rights National Commission on 1965/1966 on serious Human Rights violation event that has been issued on July 2012 are followed up by Attorney General Office.

Even though this film gains welcome from several Indonesia's figures, including Human Rights National Commission, Film Censorship Agency (LSF) refuses the show of the film for public in theater through a letter No. 04/DCP.NAS/TLK/LSF/XII/2014. The refusal reason is that the film content is not in line with principles, aims, and functions of filming mandated in Laws of Cinema and it directs the audience to address sympathy to Indonesia Communist Party (PKI) and communism preaching. The refusal is referred to Article 2 TAP MPR XXV/MPRS/1966.

The issue of the ban letter leads to some questions regarding whether it is contradicting with the effort of society's basic rights fulfillment which are right to be informed; right to know; and right to disseminate guaranteed by Article 28 F of the 1945 Constitution and Article 2 Laws Number 33 of 2009 regarding Cinema asserting that filming principles are based on humanities, justices, benefits, and legal certainties. By refusing the dissemination of information over truth in the film, it can be questioned whether Indonesia Censorship Agency has contributed in the effort of hiding historical facts on serious Human Rights violation in 1965/1966 happened in Indonesia. The present research is conducted with the purpose to know the conformity between the ban of *Senyap* movie, done by Indonesia Censorship Agency, and human rights especially right to be informed.

2. Review of Related Literature

2.1. Study on Film and Censorship Agency

The definition of film has been expressed by a number of sources. According to Indonesia's Dictionary, film is defined as a story of life portrayal. Film is a significant part of system used by

individual and group to send and receive messages [4]. According to Laws Number 33 of 2009 regarding Cinema, film is a cultural art work considered as a social order and mass communication media made based on cinematography procedure with or without sounds and it can be shown. Generally, this type of film can be distinguished to be non-fiction film (its content is not a custom) and fiction film (its content is a custom).

One of the types of non-fiction film is documentary film. Documentary film is a film that documents a reality [5]. It is also an event recorder taken directly when the reality is occurring. In documentary film, entertainment element is not really shown, but it shows special message elements of the movie theme [6]. There are some kinds of documentary film, such as biography, history, science, and investigation.

Film can be one of information deliverer to society, so that censorship is done to protect society from effects that are considered not feasible or even harmful. Censorship is a work result from the credible party to check literature, film, and other forms of arts to be banned or even to be removed [7]. Besides, according to Laws Number 8 of 1992 Article 1 Verse (4), censorship is a research and an assessment on film and movie advertisement to determine whether a movie deserves to be shown or not to public, either full scenario or several scenarios containing certain picture or sound that have been removed. Article 33 verse (2) Laws Number 8 of 1992 regarding Cinema mentions some forms of censorship. The censorship forms generally seen covers fogging, sound censorship, and movie cutting. Censorship itself should not disturb the story content or the message in the film.

In Indonesia, the reliable parties related to censorship are Censorship Agency (LSF), Informatics and Communication Department, and Indonesia Broadcasting Commission. Among those boards, Indonesia Censorship Agency is considered as a researcher and assessor of film as the real manifestation of government's control on the movie's form and content or movie advertisement. Indonesia Censorship Agency plays a role as nation culture guard in facing globalization era by still respecting values, morals, and culture of nation especially in cinema.

In running its functions, Indonesia Censorship Agency is referred to Government Regulation Number 8 of 2014 regarding Film Censorship Agency. In the regulation, it has been explicated clearly about functions, duties, and authorities of Indonesia Censorship Agency. On the other hand, it also pays attention on Article 29 verse (1) and Article 30 of Government Regulation Number 18 of 2014 regarding Censorship.

2.2. Right to Know as Human Rights

Right to Know is a fundamental right that becomes main attention of The Universal Declaration of Human Rights formulator [8]. The 1945 Constitution in Article 28F also sets freedom of information. Based on the article content, it is clearly set that everyone, without exception, has a right to freely seek, receive, and give information and every kinds of opinion without paying attention on limitation. The arrangement becomes one of Human Rights. Government must be able to protect the freedom attached on society as the form of Human Rights protection. By the rights, human can grow themselves, roles, and contributions for the sake of human life welfare. It is expressed in Charter of Human Rights, TAP MPR. No. XII/MPR/1998 regarding Human Rights.

Human Rights in Indonesia is based on and referred to Pancasila. It means that Human Rights obtains strong guarantee from state philosophy called Pancasila. For Indonesia, implementing human rights does not mean acting everything freely, but it must pay attention on provisions contained in life perspective of Indonesia namely Pancasila.

There are some forms of Human Rights; one of them is right to know. Instrument of International Human Rights also sets right to know covering The Universal Declaration of Human Rights; International Covenant on Civil and Political Rights (ICCPR); International Covenant on Economic, Social, and Cultural Rights (ICESCR); and The Johannesburg Principles on National Security, Freedom of Expression and Access to Information.

Besides, in national level, law instrument that sets right to freedom of information covers the 1945 Constitution especially Article 28F; Laws Number 39 of 1999 regarding Human Rights, specifically on Article 14 verse (1) and (2); Laws Number 12 of 2005 regarding Ratification of ICCPR, particularly Article 19 verse (2); and Laws Number 40 of 1999 regarding Press, especially Article 4; Laws Number 32 of 2002 regarding Broadcasting, Article 2, 3, and 5.

3. Research Method

This research is conducted by using normative juridical approach method or dogmatic juridical research method. The present research is also called Legal Research since it uses literature material or secondary data in form of primary, secondary, and tertiary law materials. In this research, the sources used are:

- 1) Primary Law Material:
- 2) The 1945 Constitution
- 3) Laws Number 33 of 2009 regarding Cinema
- 4) Laws Number 28 of 2014 regarding Copyright
- 5) Laws Number 39 of 1999 regarding Human Rights

6) Other related law regulations

Secondary law materials cover work results of the Law Graduates and literary studies. Tertiary law materials cover clue or explanation from primary law materials and dictionary, law encyclopedia, and other supporting materials.

This research is done in the library of Parahyangan Catholic University, Bandung, Mochtar Kusumaatmadja Library; Law Faculty of Padjajaran University, Bandung; and Central Library of University of Indonesia, Depok. The obtained data are then analyzed descriptively to answer the problems.

4. Research Findings and Discussion

4.1. The Significance of Right to Know as Human Rights

Right to know is a fundamental right for striving other rights. Everyone deserves to seek, receive, and give information through some media including film. Government must protect rights attached in society as the protection form of Human Rights. By Human Rights enforcement, society can develop themselves and their environment, so that their rights are fulfilled especially right to express opinion.

Human rights, including right to know, is universal. Thus, protection on right to know is not only in Indonesia, but also in international level. In Indonesia, it is emphasized that right to know is essential to be protected. It is seen from Indonesia's national instruments that regulate about right to know, as expressed in Article 28F in the 1945 Constitution, Article 19 verse (2) Laws Number 12 of 2005 regarding Ratification of ICCPR, and Article 14 verse (1) and (2) Laws Number 39 of 1999 regarding Human Rights.

Through those regulations, everyone deserves to have and express opinions, either in Indonesia or in international level. Therefore, everyone is free to express opinion without disruption, free to seek, receive, and deliver information and ideas through any kinds of media. The freedom of expression and the freedom of information are extremely important for democratic society and are needed for development and welfare of society.

4.2. Information Limitation on Film by Indonesia Censorship Agency (LSF)

Every human is free to utilize any kinds of media to access information, including film. In film, including fiction film, there is information that can be accepted by society. Information delivered in the film can be a tool to widen society's perspective, so that it creates an ability to express wider opinion.

Besides some useful information, film also has other elements feared by government because it can

harm society. Hence, film distribution cannot be freed as it is, but it must obey the provisions set by government related to film distribution. Indonesia Censorship Agency (LSF) plays a role as government control towards film's forms and contents. In addition, the censorship agency runs duties and authorities in form of supervision.

The elements of censorship criteria in Government Regulation Number 18 of 2014 regarding Film Censorship Agency are concerned extremely by Indonesia Censorship Agency in order that sensitive contents do not give huge effects for society. Censorship is also done for the sake of keeping values and culture of nation. In Indonesia Censorship Agency, the parties that run censorship must be those who understand arts, so that film that has passed censorship process still has art values and good information. The censorship done very tight can lead to the bridle of society to access information contained in film. In other words, a very tight censorship has a possibility to violate right to know owned by all society. It must be noticed that this thing is also related to right to communicate and right to express opinion owned by film maker.

4.3. The Ban of *Senyap* (The Look of Silence) Movie by Indonesia Censorship Agency

Since there are many criteria of film censorship set by Indonesia Censorship Agency, therefore it causes many films that get censorship on its contents even many films are banned. One of the banned film is *Senyap* (The Look of Silence). The film is completely refused by Indonesia Censorship Agency to show to public and/or to cinema in letter No. 04/DCP.NAS/TLK/LSF/XII/2014, date of December 29, 2014. In the letter, there are seven points of refusal that cover:

- a. *Senyap* movie made by Joshua Oppenheimer is not in line with principles, aims, and functions of filming mandated in Law of Cinema; especially the Almighty God, benefits, togetherness, and policies. It is also not in line with the aim of filming which is to keep unity of nation.
- b. The actors' authenticity in *Senyap* movie call into a doubt in journalism views because the interview is the child of a Communist. Therefore, the narrated story is doubtful which does not also explain the background and social contexts.
- c. North Borneo as the setting of place portrayed in *Senyap* movie is the place which its society are heterogeneous, once involve in a conflict, and contradiction until social revolution, so that it recalls revenge when the situation was on tense in 1965-1966.
- d. *Senyap* movie is valued as directing audience implicitly to address sympathy to Indonesia Communist Party (PKI) and communism

preaching that can lead to the social-political clearance and weaken national defense. This film is taken from history as what is narrated, not as what happened, and in form of fragments that contain certain purposes. Thus, this film only can be shown for limited group and not feasible to show to public.

- e. Film substance is made based on personal experience of a person involving in the slaughter event. Hence, evil element is reduced into a very limited individual experience.
- f. From education view, this film is not acceptable as its visual display can plan attitude and behavior of continuous hatred in young generation. This film extremely tells slaughter of Indonesia Communist Party (PKI) people with sarcastic words.
- g. Actions shown in this film have expressed unfeasible actions to be watched because it can spread hatred to the society developing social-political system that appreciates diversity in multiculturalism principle. Nowadays, some societies in Indonesia that once involve in a conflict are heading to reconciliation process naturally.

Government of Indonesia strictly avoids any kinds of direction that can influence society to have sympathy to Indonesia Communist Party (PKI) and communism preaching because it is considered that it can harm national defense. It is referred to TAP MPR XXV/MPRS/1966 Article 2. Historically, government of Indonesia has deep trauma regarding to scenarios related to Indonesia Communist Party (PKI) and preaching of Communism/Marxism-Leninism because those preaching contradict to ideology of Pancasila.

Actually, *Senyap* movie has significant content and information to support solving of Human Rights violations happening in that era. A number of welcome has been addressed to the film; one of them from members of Human Rights National Commission. According to the figures, *Senyap* has important content and supports the improvement of Human Rights on the Movement in 30 September 1965 [9]. By that support, information in *Senyap* movie is significant to distribute. If concerning on Article 7 point f in Government Regulation Number 18 of 2014, the support is enough to represent society's appreciation over information in the film and to be positive reason to be allowed to distribute in Indonesia.

The refusal reasons regarding to unfeasible picture and sound should be able to be prevented through censorship by picture cutting, fogging, sound and/or film cutting. Basically, film is an audio-visual communication medium to deliver a message for a group of people gathering in a certain place [10]. Communicating itself is one of human rights that must be protected, as emphasized in Laws Number 39 of 1999 regarding Human Rights. By banning

Senyap movie, Indonesia Censorship Agency (LSF), can be considered, has disturbed right to communicate or right to have information freedom owned by Joshua Oppenheimer and society.

Article 19 of the Universal Declaration of Human Rights and Article 1b of The Johannesburg Principles on National Security, Freedom of Expression and Access to Information emphasize freedom of expression on every person through any kinds of media without limitation. However, the existence of Indonesia Censorship Agency can limit rights of film makers and society to communicate one another or exchange information, as what happens on the distribution ban of *Senyap* movie.

In fulfilling freedom of expression, right to know should be fulfilled. It is because, by insufficient information, society does not get thought consideration to manage and express their opinions. The relation between information and ability to express opinion is reflected in Article 19 of ICCPR verse (2). In Indonesia, it is also expressed in Article 19 verse (2) of Laws Number 12 of 2005 regarding Ratification of ICCPR. Information and idea of Joshua Oppenheimer through *Senyap* movie must be protected. The ideas in *Senyap* movie can be used by society to develop themselves, both personally and socially, in accordance with Article 28f of the 1945 Constitution.

Based on the content of Article 28f of the 1945 Constitution, the type of media that can be utilized to obtain information is unlimited, as long as it gives the receivers information either for self-development or social-environment development. The distribution ban of *Senyap* movie certainly hampers society to obtain information in developing themselves, both personally and socially.

Since information contained in *Senyap* movie and regulations regarding to Human Rights, either in international or national instruments, are essential; therefore there should not be any reason for Indonesia Censorship Agency or any agency to ban the film distribution which is furthermore supported by the vision, mission, and aim of establishing Indonesia Censorship Agency. The vision of Indonesia Censorship Agency is to make Indonesians to have information competitiveness in maintaining values and culture of nation. Besides, the missions of it are to protect society from negative effects probably caused by distribution, performance, show, and advertisement of film; participate wisely to prepare society to encounter revolution era by keep respecting cultural morals; and bridge cultural diversity so that same perception is made for the sake of nation unity [11].

If matched to those aforementioned vision and missions, the distribution ban of *Senyap* movie by Indonesia Censorship Agency can cause bigger negative effects to society. Indirectly, Indonesia Censorship Agency closes communication access on important information that probably can be taken as

problem solving of serious Human Rights violations and society who needs it. Otherwise, the fulfillment of rights is significant to support society development either personally or socially. The society development has further effects on their ability to value government's performance. In other words, society can have opinions or can criticize the performance of government related to the solving of 1965/1966 Human Rights case. Hence, it can be concluded that it is not in line with vision of Indonesia Censorship Agency.

Without restricting information in it, Indonesia Censorship Agency is expected to run society protection function from film's negative elements through picture censorship, sound censorship or even film cutting. If after doing those efforts and the film is still not feasible to watch, then audience's age classification should be done in accordance with Government Regulation Number 18 of 2014. Those things can be implemented for the sake of saving *Senyap* movie in order to avoid distribution ban so that essential information contained in it can be accessed by society and can be delivered by director in terms of information freedom right fulfillment and right to communicate without disruption.

5. Conclusion and Suggestion

5.1. Conclusion

Based on analysis results on distribution ban of *Senyap* (The Look of Silence) movie, Indonesia Censorship Agency seems to make exaggerated preventive actions. The distribution ban of the film is valued as not needed because other censorship actions can be done by Indonesia Censorship Agency to avoid bad effects in the film especially as mentioned in the prohibition letter No. 04/DCP.NAS/TLK/LSF/XII/2014. Actions regarding to censorship that are possibly done are picture censorship, sound censorship, film cutting, and audience's age classification. The censorship methods can save film from distribution ban so that its essential information can be accessed by society without fear that negative effects will happen. In other words, the action of Indonesia Censorship Agency in banning *Senyap* (The Look of Silence) movie is not needed and causes the violation of right to know guaranteed by laws of Human Rights in national level or international level.

5.2. Suggestion

Some suggestions that can be given based on research results are as follows.

- a. Review of distribution ban of *Senyap* (The Look of Silence) movie is highly needed because the ban is considered unimportant and exaggerated. The censorship methods, such as picture censorship, sound censorship, film cutting, and

audience's age classification can be the alternatives to prevent the negative effects of the film to society.

- b. Revocation of distribution ban letter of *Senyap* (The Look of Silence) movie by Indonesia Censorship Agency must be done because the ban contradicts with right to freedom of information and right to communicate as Human Rights guaranteed by laws of Human Rights both in national level and international level.
- c. Parties that do direct censorship should be those who understand art values especially in filming. It is to avoid film censorship that can cause the reduction of values, qualities, messages, and information of the film.
- d. Further research on essential information regarding to serious Human Rights violation in 1965/1966 contained in the film is highly recommended for solving Human Rights violation which is not solved fairly till the present days.

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