

DECISION

Number : 230/G/TF/2019/PTUN-JKT

"FOR JUSTICE BASED ON ALMIGHTY GOD"

The Jakarta State Administrative Court examines, decides, and resolve Government Administration Disputes at First Level with ordinary events, has passed the Judgment with consideration considerations as set forth below, in a dispute between:

1. ALLIANCE OF INDEPENDENT JOURNALISTS (AJI), Legal Entities Association,

domiciled in Central Jakarta, was established on 7 August 1994 as stated in the Deed of Establishment No. 557 dated December 30, 1997 made before a Notary H.M. Afdal Ghazali, SH, as already amended/updated in AD/ART Number 32 dated 23 December 2017 made in front of Notary Ida Noefatmah, SH, MH, on the Statement of Decisions of the Alliance Congress Independent Journalist based in Administrative City Central Jakarta, at Jalan Kembangan Raya No. 6, Kwitang, Senen, Central Jakarta 10420/Jalan Sigura-gura No. 1/6a, Duren Tiga, Pancoran District, South Jakarta 12760 which was then confirmed by the Ministry of Law and Human Rights Number: AHU-00000027.AH.01.08 of 2018 concerning Approval of Change of Legal Entity of Alliance Association Independent Journalist dated January 12, 2018. Based on Article 21 paragraph 1 of AJI's Bylaws entitled to be represented by:

1. ABDUL MANAN, Indonesian citizen, occupation

Journalist/General Chair of the Alliance of Independent Journalists (AJI),

residing at Citra Graha Blok P.7 No. 39, Teak
Sampurna, Bekasi City;

2. REVOLUTION RIZA ZULVERDI, Indonesian citizen,
Private Employee/Secretary General of the Alliance
Independent Journalist (AJI), based in Jalan
Melati Buana III Block CA/73 Taman Melati RT 008 RW
008, Duren Mekar Village, Bojongsari District,
Depok City;

Hereinafter referred to as Plaintiff I;

2. DEFENDERS OF FREEDOM OF EXPRESSION SOUTHEAST ASIA (SAFE net),

Association Legal Entity, domiciled in Denpasar,
was formed on June 20, 2013 as stated in
Deed of Establishment No. 04 dated 11 January 2019, created in
before Notary I Gusti Agung Bagus Mahapradnyana, SH,
M.Kn., about the Defense Association Establishment Act
Southeast Asia's Freedom of Expression domiciled
in Denpasar City Administration, at Jalan Gita Sura III No. 55,
Peguyangan Kaja, Denpasar Bali which was later ratified
by the Ministry of Law and Human Rights Number:

AHU-0000401.AH.01.07 Year 2019 about Validation

Establishment of the Legal Entity of the Freedom Defenders' Association
Expressing Southeast Asia on January 19, 2019.

Based on the provisions of Article 21 of the Articles of Association, in the event that
this is represented by:

1. DAMAR JUNIARTO, Indonesian citizen, occupation
Private Employee/Chairman of the Freedom Defender
Expressing Southeast Asia (SAFE net), where you live
at Jalan Pancoran Barat VIII/5, RT 009, RW 003,
Pancoran District, South Jakarta;

2. ANTON MUJAHIR, Indonesian citizen, occupation

Journalist/Secretary of Defenders of Freedom of Expression

Southeast Asia (SAFE-net), residing at Jalan

Starling Subuk Dalem Gang V No. 18, Banjar/Neighborhood

Tunjung, Peguyungan Kangin Village, District

North Denpasar, Bali;

3. NIKE FEBBYSTA ANDARU, Indonesian Citizen,

Housewife/Defender Treasurer pekerjaan

Southeast Asia Freedom of Expression (SAFE-net),

residing at Jalan Anggrek No. 6 RT 001, RW

001, Kelurahan 20 Ilir D IV, Ilir Timur District I, Kota

Palembang, South Sumatra;

Hereinafter referred to as Plaintiff II;

Plaintiff I and Plaintiff II in this dispute

authorizes:

1. ADE WAHYUDIN, SHI;

2. AHMAD FATHANAH HARIS, SH;

3. ANDI MUTTAQIEN, SH;

4. ANGGARA, SH;

5. ASFINAWATI, SH;

6. ERA PURNAMASARI, SH, MH;

7. ERASMUS AT NAPITUPULU, SH;

8. FERI KUSUMA, SH;

9. GADING YONGGAR DITYA, SH*;

10. MONA ERVITA, S.H., M.H.*;

11. MUHAMAD ISNUR, SHI;

12. MUHAMMAD BUSYROL FUAD, SH;

13. MUSTAFA, SH*;

- 14. PRINCESS KANESIA, SH;
- 15. RADEN ARIF NUR FIKRI, SH;
- 16. SISCA MEGA PRASTICA, SHI;
- 17. TIORIA PRETTY, S.H.;

all Indonesian citizens, para job
Advocates and Advocate Assistants who are members of the Team
Defender of Press Freedom, having his/her address at Jalan Kalibata Timur
IV G No. 10, Kalibata, Pancoran, South Jakarta,
based on a Special Power of Attorney dated October 17, 2019.
Hereinafter referred to as.....Plaintiffs;

M elawan :

- 1. MINISTER OF COMMUNICATION AND INFORMATICS OF THE REPUBLIC OF INDONESIA,
domiciled in Central Jakarta Administrative City at Jalan
Medan Merdeka Barat No. 9 Central Jakarta, 10110, in
This dispute is based on the Special Power of Attorney Number:
1151/M.KOMINFO/HK.10.02/12/2019, 19 December
2019, empowers:
No : ST BURHANUDDIN;
Department : Attorney General of the Republic of Indonesia;
Domiciled : Jalan Sultan Hasanuddin No. 1,
Kebayoran Baru, South Jakarta;
PROSECUTORS GENERAL OF THE REPUBLIC OF INDONESIA
Based on the Power of Attorney for Substitution Number SK
150/A/JA/12/2019, December 31, 2019, giving
power of attorney with Substitution Right to:
1. NOVA FUSPITASARI, SH, MH ;
2. DADI WAHYUDI, SH, MH;
3. YANTI WIDYA, SH, MH;

4. PRAUTANI WIRA SWASUDALA, SH;

5. BONIFACIUS RAYA NAPITUPULU, SH;

**all of whom are State Attorneys, having their addresses at
Jalan Sultan Hasanuddin Number 1, Kebayoran Baru, Jakarta
South;**

Minister of Communication and Information of the Republic of Indonesia

in this dispute based on the Special Power of Attorney Number:

70/M.KOMINFO/HK.10.01/01/2020, January 31, 2020

also authorizes:

1. BERTIANA SARI, Head of Legal Bureau;

**2. SADJAN, Secretary of the Directorate General of Applications
Informatics;**

**3. WAYAN TONI SUPRIYANTO, Secretary of the Directorate
General of Post and Information Technology Operator;**

**4. MASHURI GUSTRIONO, Head of Division. Help and
Legal Documentation, Legal Bureau;**

**5. EKO BAKTI CHANDRA JAYA, Head of Division. Law and
Cooperation, Secretariat of the Directorate General of Applications
Law;**

**6. INDRA MAULANA, Head of Division. Law and Cooperation,
Saturday. PPIs;**

**7. HERI SUNARTO, Head of Sub Division. Legal Advocacy Bureau
Law;**

**8. PRANANTO NINDYO AN, Head of Sub-section. Consideration
Law, Legal Bureau;**

9. LAILAH, Head of Sub Division. Legal Documentation, Legal Bureau;

**10. ISWANDI, Head of Sub Division. Legal Studies and Assistance,
Secretariat General of Informatics Applications;**

- 11. FEBRI IVANA TARIGAN, Head of Sub-section. study and
Legal Aid, Secretariat General. PPI;
 - 12. JUDY SAKSONO, JFU Advocacy Analyst, Legal Bureau;
 - 13. ZENI DAMAYANTI, JFU Legal Aid Analyst, Section
Law and cooperation of the Secretariat General of PPI;
 - 14. NOFI SITI NASIFAH, JFU Analyst Consultation and Assistance
Law, Secretariat of the Directorate General of Applications
Informatics;
 - 15. DWI RENDRAHADI SANYOTO, JFU Advocacy Analyst,
Legal Bureau;
 - 16. PUTRI WAHIDATURAHMA, Staff at the Secretariat
Directorate General of Information Applications;
 - 17. PHILIP KOTLER, Staff at the Legal Bureau;
 - 18. HAYKAL RIFQI, Legal and Cooperation Officer,
PPI weekday;
- all of them are Indonesian citizens, employees
Civil Affairs at the Ministry of Communication and Information;
Hereinafter referred to as..... ACCUSED I ;

2. PRESIDENT OF THE REPUBLIC OF INDONESIA, domiciled in the Administrative City
Central Jakarta, at Jalan Medan Merdeka Utara No. 3, RT 002
RW 003, Gambir District, DKI Jakarta, in dispute
This is based on the Special Power of Attorney dated January 21
2020, empowers:
No : ST BURHANUDDIN,
Department : Attorney General of the Republic of Indonesia,
Domiciled : Jalan Sultan Hasanuddin No. 1,
Kebayoran Baru, South Jakarta;
PROSECUTORS GENERAL OF THE REPUBLIC OF INDONESIA

Based on the Power of Attorney for Substitution Number SK

005/A/JA/01/2020, January 27, 2020, giving

power of attorney with Substitution Right to:

1. RIDWAN DAHNIEL, SH, MH;

2. PRINUKA ARROM, SH, MH;

3. AKADIAN ALIFFIA HUSDANAH, SH, MH;

4. NATHANIEL, S.H.;

5. SHINTA DANISA RISTITA, SH;

all of whom are State Attorneys, having their addresses at

Jalan Sultan Hasanuddin No. 1, Kebayoran Baru, Jakarta

South;

Hereinafter referred to as ACCUSED II;

The Jakarta State Administrative Court has read:

1. Stipulation of the Chairman of the Jakarta State Administrative Court Number: 230/PEN

DIS/TF/2019/PTUN-JKT, December 2, 2019 regarding the Stipulation

Inspection of Matters with Ordinary Events;

2. Stipulation of the Chairman of the Jakarta State Administrative Court Number: 230/PEN

MH/2019/PTUN-JKT, December 2, 2019 regarding Appointment

The composition of the Panel of Judges;

3. Stipulation of the Registrar of the Jakarta State Administrative Court Number:

230/PEN-PPJS/2019/PTUN-JKT, December 2, 2019, regarding

Appointment of Substitute Registrar and Substitute Bailiff;

4. Appointment of the Chief Judge of the Jakarta State Administrative Court Council

Number: 230/PEN-PP/TF/2019/PTUN-JKT, dated December 3, 2019,

concerning the Determination of the Preparatory Examination Day;

5. Appointment of the Chief Judge of the Jakarta State Administrative Court Council

Number: 230/PEN-HS/TF/2019/PTUN-JKT, dated January 8, 2020, regarding

Appointment of Session Day;

6. File the matter concerned and listen to the testimony of the parties
who is in dispute at the conference;

ABOUT SITTING DISPUTE

Considering, that the Plaintiffs have filed their lawsuit
dated November 21, 2019 received and registered at the Registrar
Jakarta State Administrative Court on November 21, 2019 in
under the Matter Register Number: 230/G/TF/2019/PTUN-JKT, and has also
corrected on January 8, 2020, stating the reasons
as follows:

I. OBJECT OF LAWSUIT

That in accordance with Law 5 of 1986 concerning Administrative Courts
The country as the Law has been changed several times recently
No. 51 of 2009 on the Second Amendment to Law No. 5
1986 concerning the State Administrative Court (hereinafter referred to as
with the Administrative Court Law) with the General Elucidation of the 5th paragraph of Law 30
2014 concerning Government Administrationjo Regulation of the Supreme Court
Supreme Court Regulation No. 2 of 2019 About Guidelines
Government Action Dispute Settlement and Judicial Authority
Illegal Acts by Government Bodies and/or Offices
(*Unlawful Act of Government*) (Selanjutnya disebut PERMA 2/2019), objek
The lawsuit *a quo* is:

1. Government action *throttling* or throttling *access/bandwidth* in
some areas of West Papua Province and Papua Province in 19
August 2019 from 13.00 WIT (East Indonesia Time) until
Published 20.30 WIT.
2. Government action, namely blocking of data services and/or
complete severance of internet access in Papua Province (29

City/Regency) and West Papua Province (13 Cities/Regencies)

21 August 2019 until at least 04

September 2019 at 23.00 WIT;

3. Government action, namely extending service blocking

data and/or disconnection of internet access in 4 cities/districts in

Papua Province (i.e. Jayapura City, Jayapura Regency,

Mimika, and Jayawijaya Regency) and 2 Cities/Regencies in the Province

West Papua (i.e. City of Manokwari and City of Sorong) since 04

September 2019 23.00 WIT until 09 September 2019

18.00 WIB / 20.00 WIT.;

henceforth in this lawsuit, the said Government Action

called the Object of the Lawsuit.

II. Plaintiffs' RIGHTS AND INTERESTS

1. Whereas Article 53 Paragraph (1) of the Administrative Court Law expressly states that

"Persons or civil legal entities who feel their interests have been harmed"

by a State Administrative Decree may file a lawsuit

in writing to the competent court containing a demand that

The disputed state administrative decision is declared null and void

or invalid, with or without claims for damages and/or

rehabilitated." jo Article 1 points 5 and 6 & Article 3 PERMA 2/2019;

2. Whereas based on Article 17 of Law Number 39 of 1999

on Human Rights states *"Every person, without*

discrimination, have the right to obtain justice by filing

applications, complaints, and lawsuits, both in criminal cases,

civil, as well as administrative and tried through a judicial process that

independent and impartial, in accordance with the law of events that guarantees

objective examination by an honest and fair judge for

obtain a fair and correct decision";

3. Whereas Plaintiff I is a Legal Entity/Organization that owns direct interest in the object of the lawsuit with reasons as follows:

a. Whereas Plaintiff I is a Professional Organization which consistently and continuously advocate for fight for the interests of press freedom in the form of rights opinion, the right to information, the right to assemble and the right to associate, and fight for the dignity and welfare of the journalist.

b. That as part of his struggle, Plaintiff I as

The organization has used the Litigation process through the Right to Lawsuit Organization in the Constitutional Court by filing the Right to sue Organization, in the Matter of Application for Legal Testing against the Constitution of the Republic of Indonesia Year 1945No. 02/PUU-VII/2009 at the Constitutional Court of the Republic Indonesia.

c. That in carrying out its functions and duties, not only

fight for or advocate for its members but also participate in responding to all problems as long as it concerns press freedom. All activities of Plaintiff I . organization based on Establishment Act No. 557,- Dated 30 December 1997 made in front of Notaries HM Afdal Gazali, SH, as amended/updated in AD/ART Number 32.-

Dated December 23, 2017, made before Notary Ida Noerfatmah About Alliance Congress Decision Statement Independent Journalist based in Administrative City Central Jakarta on Jln. Kembangan Raya No. 6, Kwitang, Monday, Central Jakarta 10420/ Jln. Sigura-gura No. 1/6a Duren Tiga,

Pancoran District, South Jakarta 12760 which later

confirmed by the Ministry of Law and Human Rights No. AHU

00000027.AH.01.08.YEAR 2018 regarding Approval of changes

Legal Entity Association of Journalists Alliance

Independent dated January 12, 2018;

d. Whereas Plaintiff I had 1,846 (one thousand) members

eight hundred and forty six) throughout Indonesia and specifically

in the Papua region, Plaintiff I has 25 (two) members

twenty five) journalists.

e. Whereas Plaintiff I in carrying out advocacy activities

which as stated in the Articles of Association and

The organization's Bylaws carry out the function of

fight for press freedom. This is stated in Article 10

(Articles of Association) regarding AJI's Mission: [a. Fight for

freedom of the press and the right of the public to obtain information, b.

Improving the professionalism of journalists, c. Fight for

welfare of press workers, d. Developing democracy and

diversity, e. Fighting for the issue of women and groups

marginal, f. Fighting for the rights of journalists and press workers

female, g. Involved in fighting corruption,

injustice, and poverty];

f. Whereas Plaintiff I is a non-governmental organization (NGO)

a legal entity that has a branch called AJI Kota-

” (Article 14 paragraph 2 AD), that “AJI Kota is a branch of AJI in

City level which has at least 15 (fifteen)

members and have autonomy in choosing the board,

manage finances and run programs (Article 14 paragraph 3

AD), that “the AJI City management is led by the Chairman, AJI Secretary

City,” (Article 27 paragraph 1 ART). One of the best AJI City impact on the termination of internet access is AJI Kota Jayapura.

g. That as a non-governmental organization (NGO), then

Plaintiff I has an interest and position

law to represent members in fighting for their rights.

The applicant's legal position has been explicitly acknowledged on

Constitutional Court Decision No. 02/PUU-VII/2009 dated 04

May 2009.

h. That the Chairman of the Alliance of Independent Journalists (AJI) and the Secretary

The General represents the Alliance of Independent Journalists in the area consisting of

from the Alliance of Independent Journalists Ambon, Batam, Gorontalo, Jember,

Lampung, Malang, Medan, Palu, Pontianak, Ternate, Balikpapan,

Bireuen, Jakarta, Kediri, Lhokseumawe, Manado, Purwokerto,

Pekanbaru, Semarang, Yogyakarta, Banda Aceh, Bojonegoro,

Jambi, Kendari, Tanjung Pinang, Makassar, Mandar, Padang,

Papua, Bengkulu, Surabaya, Bandung, Denpasar, Kupang,

Mataram, Palembang, Langsa and Surakarta.

i. That Plaintiff I has carried out activities based on

AD/ART since 1994 until this lawsuit was filed. Activities

such as increasing the capacity of journalists,

protection of journalists and policy advocacy. This is done

continuously and show appropriate concern

with the Vision, Mission, and Goals by taking concrete actions in accordance with

with Articles of Association that are real in the community more than 2 (two)

Year.

j. That the object of the lawsuit is clearly contradictory and also detrimental

with Vision Mission, Agenda, Struggle, commitment and all efforts

which is owned and has been carried out by Plaintiff I so far,
where this is fully guaranteed by the laws and regulations
in Indonesia and an integral part of the realization of participation
build the nation and state;

k. That therefore Plaintiff I has the right, has an interest and
legally based to file an administrative lawsuit

State through Organizational Lawsuit / *legal standing*:

4. Whereas Plaintiff II is a Legal Entity/Organization that owns
direct interest in the object of the lawsuit with reasons
as follows:

- a. Whereas Plaintiff II is a Legal Entity of the Association which
was established since 27 June 2013 [*Article 2 of the Deed of Establishment*], a
organizations that are focused and consistent in advocating and
education to fight for digital rights in the form of the right to
expression, the right to access information and the right to a sense of security.
- b. That in carrying out the functions and duties, not only
fighting for or advocating for its members only but also
and respond to all problems as long as it concerns the rights of
digital rights, especially freedom of expression and the right to
information. All activities of Plaintiff II's organization are based on
in the Deed of Establishment Number 04.- dated January 11, 2019, made
before the Notary I Gusti Agung Bagus Mahapradnyana,
SH,.M.Kn Regarding the Deed of Establishment of the Defenders' Association
Southeast Asia Freedom of Expression domiciled in the City
Denpasar Administration on Jln. Gita Sura III no 55, Peguyangan Kaja,
Dnpasar, Bali, which was later ratified by the Ministry of Law
and Human Rights No. AHU-0000401.AH.01.07.YEAR 2019 About

Confirmation of the Standing of the Legal Body of the Defense Association

Southeast Asia Freedom of Expression dated January 19, 2019;

c. Whereas Plaintiff II has 35 (thirty five) members

people throughout Indonesia and especially in the Papua region,

Plaintiff II has 2 (two) members in the representative

Jayapura.

d. Whereas Plaintiff II in carrying out its activities in the form of:

advocacy and education as stated in the

The Articles of Association and Bylaws of the organization that

carry out the function to fight for digital rights in the form of:

Right to expression, Right to information and Right to security

as mentioned below:

Article 4 (AD)

Purpose and objectives

1.) The aims and objectives of this association are:

Promoting and fighting for digital rights in Asia

Southeast especially Indonesia

2.) To achieve the aims and objectives mentioned above, then

The Association carries out the following activities;

a. Organize cooperation with various parties in the Body

Government and Private, individual and

community groups, local, national and

internationally in the fight for digital rights

including: the right to expression, the right to

access to information and the right to security.

b. Conducting education and training in the field of technology

information in particular regarding digital rights in accordance with

community needs to increase resources

people in Southeast Asia, especially in Indonesia.

c. Disseminate or convey related information

digital rights to the community through seminars or meetings to enrich knowledge in

in the field of information technology, especially regarding the rights of digital so that it can raise awareness of the meaning of the importance of protecting digital rights to the community.

d. Other efforts that do not conflict with the rules legislation.

e. Whereas Plaintiff II is an association organization which

have branches/representatives in the regions/other places (as

Article 1 paragraph 3 AD). Branches / representatives in the area / elsewhere

have their own autonomy to run

organizational management. Regional SAFEnet management led by

General Manager / Volunteer. One of them is SAFEnet branch /

Papuan representatives who are affected by the termination of access internet.

f. Whereas as described above, the general chairman of the defense

Southeast Asia Freedom of Expression (SAFEnet) represents

SAFEnet in the area / in other regions comprising SAFEnet

Banyuwangi, SAFEnet Bogor, SAFEnet Sagena, SAFEnet

Bojonegoro, SAFEnet Denpasar, SAFEnet Depok, SAFEnet Jakarta,

SAFEnet Jayapura, SAFEnet Jember, SAFEnet Makassar, SAFEnet

Malang, SAFEnet Mataram, SAFEnet Labuanbajo, SAFEnet

Pelembang, SAFEnet Pekanbaru, SAFEnet Pontianak, SAFEnet

Samarinda, SAFEnet Surakarta, SAFEnet Surabaya, SAFEnet

Temanggung, SAFEnet and SAFEnet Yogyakarta.

g. That Plaintiff II has been operating carrying out activities

based on AD/ART since 2013 until this lawsuit

entered. These activities are like doing advocacy

handling cases related to internet freedom,

promote digital rights and conduct education

on digital rights education.

h. That Plaintiff II has continuously demonstrated

concern for in accordance with the Vision, Mission, and Goals with

take real action in accordance with the real Articles of Association

in the community for more than 2 (two) years;

i. Whereas Plaintiff II has the right, has an interest and

legally based to file an administrative lawsuit

State through Organizational Lawsuit/legal *standing*:

III. THE OBJECT OF THE CLAIMS IS A GOVERNMENT ACTION THAT

CAN BE SUCCESSFUL IN STATE ADMINISTRATIVE COURT

1. Whereas the object of the lawsuit in the *a quo* case is an action

Government exercised by the Defendants as

referred to in Article 53 of the Administrative Court Law and PERMA 2/2019 which has been

clearly states that: Cases of unlawful acts

by Bdan and / or Government Office (*Onrechtmatige*

***Overheidsdaad*) is the authority of the State Administrative Court**

as in Article 2 paragraph 1.

2. Whereas Article 16 paragraph (1) of Law no. 4 of 2004 mentions

: "*The court cannot refuse to examine, judge,*

and decide on a case filed on the pretext that

the law does not exist or is unclear, but it is obligatory to examine and

***judge him*"**

3. Whereas Article 18 paragraph (1) of Law no. 4 of 2004 mentions

: *"Judges are obliged to explore, follow, and understand the legal values and sense of justice that lives in society"* ;

IV. CLAIMS STILL WITHIN TIME

1. Whereas on the object of the lawsuit, on August 23, 2019 Plaintiff I

sent Summons I, and On August 26, 2019, Para

The Plaintiff met with Defendant I to submit Summons II and

public objection to the actions taken by Defendant I

through the online petition #NyalakanLagi (Addressed to Defendant II and

Defendant I through the Online Petition Website change.org) which has been

signed by more than 11,000 people;

2. Whereas Article 75 paragraph 1 of Law no. 30 of 2014 About

Government Administration, states: *"Citizens who*

harmed by the Decision and/or Action may file a

Administrative Efforts to Government Officials or Acting Superiors

that establishes and/or performs Decisions and/or Actions"

3. Whereas on September 4, 2019, the Plaintiffs had

send Administrative Objections to the Defendants, with

Regarding "Objection to Termination of Internet Access in Papua".

4. Whereas based on Article 77 Paragraph (1) of Law no. 30 years

2014 concerning Government Administration, mentions *"Agencies and/or*

or the Government Office resolves the objection within 10 days

work".

5. Whereas based on Article 77 Paragraph (1) of Law 30/2014, the PARA

Defendants have 10 working days to respond to efforts

administratively from 04 September 2019 to 19

September 2019.

6. Whereas with respect to the objections and Administrative Efforts submitted, the Para
The Defendant did not respond and/or did not take concrete action;
7. Whereas Article 4 paragraph (1) of PERMA 02/2019 mentions *a lawsuit that submitted no later than 90 days after the government action is taken by the Government Administration Agency and/or Official*". And in Article 4 verse 2 states: *"As long as the community members make efforts, administration, the grace period as referred to in paragraph (1) suspended until the final administrative decision is received."*
8. Whereas based on the description above, the Plaintiffs have
file objections and/or Administrative Efforts on 04 September 2019, if based on Article 77 paragraph 3 of the Administrative Law Government, Defendants should respond to Efforts
Administrative in the form of objections until September 19, 2019;
9. Whereas therefore based on Article 4 paragraphs (1) and (2) of the Regulations
The Supreme Court Number 02 of 2019 the Plaintiffs
have 90 working days to file a lawsuit since September 19 2019;
10. Whereas the *a quo* lawsuit was filed on November 21, 2019 (49 days since the administrative effort is received) and is still within the 90 grace period work day;
11. Whereas therefore the *a quo* lawsuit is still in the grace period
time in accordance with Article 55 of the Administrative Court Law and PERMA 02/2019;

V. IN SUBJECT TREE / POSITA

1. That on August 19, 2019 Defendant I had *throttled* or
slow access / *bandwidth* in some areas of West Papua Province and Papua Province. Defendant I expressly admits that
Access slowdown since Monday (19/8/2019) at 13.00 WIT, and starting normalization on August 19 at 20.30 WIT; Defendant I reasoned

the purpose of *throttling* is to prevent the spread of
hoax that triggers action;

2. That the actions of Defendant I were acknowledged expressly and openly through

Press Release No. 154/HM/KOMINFO/08/2019 On Monday, 19 August

2019 Regarding Slowing Access in Several Regions of West Papua and

Papua on the Official Website of Defendant I;

3. Whereas on August 21, 2019 to September 4, 2019,

Defendant I took action to block data services and/or

complete severance of internet access in Papua Province and

West Papua Province The *a quo* action resulted in the termination of all

Internet access data services in 29 Cities/Regencies in Papua Province

namely (Mimika, Paniai, Deiyai, Dogiyai, Jayawijaya,

Bintang Mountains, Numfor, Jayapura City, Yahukimo, Nabire,

Keerom, Puncak Jaya, Puncak, Asmat, Boven Digoel, Mamberamo

Raya, Mamberamo Tengah, Intan Jaya, Yalimo, Lanny Jaya, Mappi,

Tolikara, Nduga, Supiori, Waropen, Merauke, Biak, Yapen, and

Sarmi district. While the city districts in the Papua Province region

The affected western districts amounted to 13 regencies, namely (Fakfak,

South Sorong, Raja Ampat, Bintuni Bay, Wondama Bay, Kaimana,

Tambrau, Maybrat, South Manokwari, Arfak Mountains, Kota

Sorong, Sorong Regency and Manokwari City);

4. Whereas on August 21, 2019 Plaintiff II through the General Chairperson

Damar Juniarto objected publicly through Petition

online #Turn on change.org again and linked directly to email

Defendant II and Defendant I, at the time of submission of the objection letter and

The subpoena to the Defendants dated August 26, 2019 has been

get support for 11,000 petitions.

5. Whereas Plaintiff II sent a warning letter / summons I to

August 23 and Warning Letter / Summons II on 26

August 2019 to Defendant I, but there was no response as well

changes made by Defendant I.

6. Whereas on October 4, 2019 the Plaintiffs submitted their Objections

Administrative to Defendant I and Defendant II, also did not get

response and concrete changes to the Action of Defendant I.

7. Whereas Defendant I in various press releases argued and/or

explain that the object of the lawsuit is carried out for the following reasons/considerations:
following:

1) The extent of the spread of hoaxes that triggered the action (Press release no.

154/HM/Kominfo/08/2019)

2) To speed up the restoration of the security and order situation in

Papua and its surroundings, (Press release No. 155/HM/Kominfo/08/2019)

3) The high distribution and transmission of hoax information, false news,

provocation, racist hate speech, and incitement (Press release 159

HM/Kominfo/08/2019)

8. Whereas Defendant I took the Object of the Dispute Action, namely

throttling or throttling of access/ *bandwidth* and service blocking

data and/or internet access termination is a defect of authority,

procedural and substance defects.

9. That in fact regarding the problem in posita number 7 above

The Defendants have the authority, procedure and substance

through laws and regulations and have also done so, namely:

through :

a. Defendant I entered into the Trust+positive *blacklist* database.

Complaints can come from Ministries / Institutions such as the Police,

intelligence, BPOM, BNPT, the public via email complaints

aduan@kominfo.go.id.

b. Defendant I coordinated with ISP Sending e-mail

notification to all ISPs for data updates. Ministry

Kominfo and ISP routinely coordinate to adjust

database blacklist;

c. Blocking (ISP) Technical blocking is carried out in each of the

internet access service provider (ISP);

d. Defendant I wrote to a technology *platform* to take down content

or close the account;

e. Defendant I *Debunked a hoax*, the results were published on the website

Kemkominfo;

f. Cooperating and or coordinating with the Republic of Indonesia Police

Indonesia by arresting and processing criminal law perpetrators

law enforcement is carried out against hoax spreaders, which are provocative;

10. That Government Actions that should be taken in

the number 8 above can be seen in the settings:

a. For Hate Speech or Provocation:

1.) Law no. 11 of 2008 concerning Information and

Electronic Transactions in conjunction with Law no. 19 Year 2016

About Changes to Law No. 11 of 2008 About

Information and Electronic Transactions, in Article 28 paragraph 2: *"Everyone*

People intentionally and without rights spread information

which is intended to incite hatred or

hostility towards certain individuals and/or community groups

based on ethnicity, religion, race, and intergroup (SARA).

Where in Article 45 a paragraph (2) it is explained: *"Everyone who*

intentionally and without right to disseminate information that

intended to incite hatred or enmity

certain individuals and/or groups of people based on

on ethnicity, religion, race, and intergroup (SARA) as

referred to in Article 28 paragraph (2) shall be punished with imprisonment

a maximum of 6 (six) years and/or a maximum fine

IDR 1,000,000,000.00 (one billion rupiah).

2.) Minister of Communication and Informatics Regulation No. 19 of 2014 concerning

Handling Internet Sites with Negative Content:

Article 4

1.) Types of negatively charged internet sites handled

as referred to in Article 3 letter a, namely:

a. pornography; and

*b. other illegal activities under the provisions of the regulations
legislation*

2.) Other illegal activities as referred to in paragraph

(1) letter b is an illegal activity whose reporting

comes from the Ministry or Government Institution that

*authorized in accordance with the provisions of the legislation
invitation*

Article 5

1.) The public can submit a report to request

blocking of negative charges as intended

in Article 4 paragraph (1) letter a to the Director General.

2.) Ministries or Government Agencies may request

appropriate blocking of negatively charged internet sites

with the authority as referred to in

Article 4 to the Director General

3.) Law Enforcement Agencies and/ or Judicial Institutions

***can request the blocking of negatively charged sites accordingly
with its authority to the Director General***

4.) The public can report a charged internet site

***negative as referred to in Article 4 paragraph (1) letter
b to the relevant ministry or government agency.***

Article 7

1.) The community can participate in providing services

***blocking by loading the least number of sites in
TRUST+Positive.***

2.) The blocking service as referred to in paragraph (1)

performed by the Blocking Service Provider

3.) The Blocking Service Provider must have criteria

at least

a. registered as Electronic System Operator;

b. an Indonesian legal entity;

c. owning and/ or using a data center in Indonesia;

and

d. have transparent and accountable operating procedures.

b. For Incitement:

1.) Law no. 11 of 2008 concerning Information and

Electronic Transactions in conjunction with Law no. 19 Year 2016

About Changes to Law No. 11 of 2008 About

Information and Electronic Transactions, in Article 29: "Everyone"

intentionally and without right to send Electronic Information

and/ or Electronic Documents containing threats of violence

or a personally aimed scare. Where in

Article 45 b mentions criminal threats for those who violate

Article 29 states: "Everyone who intentionally and without the right to send Electronic Information and/or Documents Electronics that contain threats of violence or intimidation which is intended personally as referred to in Article 29 shall be sentenced to a maximum imprisonment of 4 (four) years and/or a maximum fine of Rp. 750,000,000.00 (seven hundred and fifty million rupiah)."

2.) Government Regulation No. 71 of 2019 concerning

Implementation of Electronic Systems and Transactions. Regulation Government No. 82 of 2012 concerning System Implementation and Electronic Transactions;

The Government's Role in System Operations and Transactions Electronics include:

a. facilitate the use of Information Technology and

Electronic Transactions in accordance with regulatory provisions legislation;

b. protect the public interest from all kinds of interference

as a result of misuse of Electronic Information and Electronic Transactions that disrupt public order, in accordance with the provisions of the legislation;

c. prevent the spread and use

Electronic Information and/or Electronic Documents that has a load that is prohibited in accordance with the provisions legislation; and set agency or institutions that have strategic Electronic Data that must be protected

c. Hoax :

Law No. 1 Year 1964 About Legal Rules

Criminal, in articles 14 and 15

Article 14

1.) Whoever, by broadcasting news or notifications

***lying, deliberately causing trouble among the people
people, are punished with the maximum prison sentence
ten years.***

2.) Whoever broadcasts a news or issues

***notification, which can cause trouble among
the people, while he should be able to think that the news or
that notification is a lie, punishable with imprisonment
a maximum of three years.***

Article 15

***Whoever broadcasts news that is uncertain or news that
redundant or incomplete, while he understands
at least one should be able to surmise that such news will
or easy to publish trouble among the people,
sentenced to a maximum imprisonment of two years***

**11. Whereas on the legal basis that has been described by the Defendants
has the authority to prevent the occurrence of things such as:
the spread of hoaxes, provocations, hate speech and
true and fundamental incitement, not action
disconnection of the internet with the argument of article 40 of Law no. 16
Year 2016 Regarding Changes in Law No. 11 of 2008**

**About Information and Electronic Transactions. Where is the article?
only regulates related negative content not Internet Termination;**

**12. Whereas, Defendant II as the superior of Defendant I is responsible
for the actions of Defendant I as an Assistant to Defendant II,**

as stated in Article 3 of Law 39 of 2008 concerning
Ministry "Ministry is under and responsible
to the President".

13. Whereas Defendant II as the holder of government power in
carry out their duties assisted by Defendant I who is in charge of
communication affairs in the field of government, until action
Defendant II and Defendant I coordinated and synchronized
in carrying out government duties, as stated
in Article 4 paragraphs (1) and (2), "That the President as the holder of the
government power according to the 1945 Constitution in carrying out
His duties are assisted by state ministers in charge of affairs
certain areas of government.
14. Whereas Defendant II is the superior of Defendant I as well as
The highest person in charge The government is fully responsible
for the actions of Defendant I as Assistant to Defendant II;
15. The Plaintiffs have made Administrative Efforts against the Defendants
II to correct the object of the lawsuit made by Defendant I,
but Defendant II in fact did not give a response or answer
anything, nor take any concrete action on Action
Defendant II who has a disability, procedural and procedural defects
substance;
16. That due to the actions of Defendant I and Defendant II, journalists were
in general and in particular in the Papua and West Papua regions cannot
perform daily work to fulfill the right to information
community due to the absence or limitations of internet access.
The difficulty is reflected in the communication between journalists
in the field with the editor-in-chief, difficulty contacting

sources for the news confirmation process, downloading news to the media online and spread the news through the medium of the internet;

17. Whereas the Plaintiffs as organizations that focus on fighting for press freedom sees the threat as an attempt systematic, planned, to silence and hinder the job of journalists to voice information openly to society. Even though the work of journalists is protected by law. As stated in Article 8 of the Press Law no. 40/1999 which stated: *"In carrying out their profession journalists get legal protection"* and Article 4 paragraph 3 which states: *For guarantee the freedom of the press, the national press has the right to seek, obtaining, and disseminating ideas and information.*

As in the Vision and Mission as follows

- 1) Plaintiff I : a. Fighting for press freedom and rights public to obtain information, b. Increase journalist professionalism, c. Fighting for prosperity press workers, d. Developing democracy and diversity, e. Fighting for the issue of women and marginalized groups, f. Fighting for the rights of journalists and women press workers, g. Involved in eradicating corruption, injustice, and poverty];
- 2) Plaintiff II : a. Right of expression, Right of access information and the right to security. b. Conduct education and training in the field of information technology c. Spread or convey information related to digital rights to community through seminars or meetings to enrich knowledge in the field of information technology,

18. Whereas the Plaintiffs see the threat as serious and hindering freedom of the press because society is hindered his desire to get information because the journalist in question can't work due to no internet access. that with Thus the public and readers have difficulty deciding what information is right and what is wrong. Information that distorted make decisions and judgments taken are also distorted.

19. Whereas Plaintiff I is an organization which has as many as 1,846 (one thousand eight hundred and forty six thousand) all over Indonesia and specifically in the Papua region, Plaintiff I has members as many as 25 (twenty five) journalists. Current AJI member carrying out journalistic activities, experiencing obstacles due to the occurrence of blocking are as follows:

1) Real Losses for the Press / Journalists (Direct losses experienced by a member of Plaintiff I who is also the Director of PT. Honestly Speak Papua and the person in charge of the *Jubi Tabloid Press Media*)

a. Whereas Plaintiff I had a member named Victor Mambor, who is also the Director of PT. Honestly Speak Papua and Person in Charge of the *Jubi Tabloid Press Media* .

b. That the *Jubi Tabloid Press Media* has been verified by the Press Council as a press company, its journalistic work is hampered since the internet was cut off on August 21, 2019. Media Pers *Tabloid Jubi* has difficulty verifying and clarifying information that reaches the editorial desk. Likewise for accessing email, the editors find it difficult to coordinate with reporters in the field.

c. That due to the disconnection of internet access, *Tabloid Press Media Jubi* was forced to rent a room at Hotel Horison Kotaraja

from 21 August 2019 to 13 September 2019 only

to use the internet channel provided by the hotel.

d. That the internet is the most important access for a media

on line. Only with the internet, online media can clarify

and verification to disseminate information to

Public.

e. That with the disconnection of internet access, *Tabloid Press Media*

Jubi suffered losses both in terms of material and

immaterial. The loss in question is like being late

publication of print newspapers and the drastic decline in income for

media online.

2) Real Losses for the Press / Journalists (Direct losses experienced

by Plaintiff Member 1 Who is also Editor-in-Chief

Cendrawasih Post)

a. That Plaintiff I has a Member named Lucky Ireuw who

is also the Chief Editor of *Cendrawasih Pos media*.

b. That internet blocking has an impact on print media

Cendrawasih Post. As a result of the blocking, journalistic activities

at *Cendrawasih Pos* was hampered due to difficulties in receiving data

from journalists so that all activities that require

internet access must/forced to be moved to nearby hotels

which still has wifi service. Internet blocking makes

the work system is disrupted due to information, data and or results

Journalist coverage cannot be directly sent via email or email

whatsapp. So the reporters had to come directly to

office to submit the report.

c. That after the riots on August 29, 2019 *Cendrawasih*

Post decided not to be published, this is due to obstacles

Internet access to send news quickly and securely.

This internet blocking has a detrimental impact on

Cendrawasih Pos due to unavailability of news for

published. Not only the loss of newspaper sales but also

loss of advertising revenue.

d. That the public and/or customers of *Cendrawasih Pos*

had time to go to the *Cendrawasih Post* office to ask

the reason for not publishing *Cendrawasih Pos*, is because the community

hope to get the true news about all the happenings

that occurred from internet blocking to riots.

3) Real Losses for the Press / Journalists (Direct losses experienced

By Plaintiff Member 1 Who Is Also Chief Editor Of Media

TEMPO.CO, Owner of TEMPO.CO Fact Check)

a. That Plaintiff I has a member named Wahyu

Dhyatmika who is also the Chief Editor of the media

Tempo.co which owns the Tempo Fact Check Team;

b. That this internet blocking also has an impact on the Fact Check Team

Tempo. On August 19, 2019, Tempo media received

information about Papua after the siege of the dormitory

Papuan students in Surabaya. Contains photos and narration

“The Papua Branch 'Hatei' radical again kills 31 workers

the trans papua road, at the OPM anniversary event, it is suspected that

country 'laipah' morning star. The Tempo Fact Check Team is back

contact Dickry via Whatsapp. He said "I'm looking for yet"

I found the problem, but as far as I remember, time was shared

the shooting incident of a bridge worker in Nduga.” He

said that he was having problems with the internet in Papua

limited to 2 days. "The network is a bit difficult to open, it's difficult"

very. If wi-fi can still work but if you use cellular data, it's dead total." Tempo fact check finally failed to verify this information.

c. That on August 23, 2019, Tempo Fact Check

get a viral video on Twitter shared by the account Suryosodipuro with the narration "The rioters (Papua) in the City Sorong surrounds the mosque preparing to attack the mosque and the people Muslim. But the takbir of the mosque calls for jihad..." The post on Twitter was later deleted on August 24, 2019. However, Tempo's Fact Check also received an upload that was the same goes viral on Youtube with a provocative narrative: "Rioters in Papua, Sorong City will attack the mosque and the Muslims." Tempo's fact check team then checked upload it for three days with several *tools*. From that search, Tempo's fact check found that architecture The mosque is indeed identical to the Great Mosque in Sorong. But, It has not been answered yet what is the voice calling for internal jihad the video is edited or is it true that the local takmir's call because it is hampered by the absence of an internet channel.

d. That on 26 August 2019, Tempo check facts

contacted Tempo correspondent in Manokwari, Hans Arnold to ask for contact numbers for journalists in Sorong. Hans then gave Olha Mulalinda's number. If hit 10.31 WIB, Tempo's Fact Check then contacted Olha Mulalinda via Whatsapp. But the message has only been sent two hours then. At 13:44 WIB, Olha Mulalinda answered the message Tempo fact check. "Yes, it's afternoon, Ms. Ika. How? excuse me the network here is up and down. The Wifi network is taking down.

Yesterday all day. Today was pretty good." Tempo fact check then send a Facebook link about mosque information Push it to Olha. He replied: "The one you sent was edit it seems. The video is correct but the sound is not right." And at 14.01 WIB, Tempo fact check then contacted the number and send WA but at that time I couldn't contacted. Because it's been three days of verifying and not successful, Tempo Fact Check finally postponed the verification of that information.

e. Whereas on September 5, 2015, the Editor of *Tempo.co* admitted that he also had difficulty accessing sources or covering Deiyai as a result of internet restrictions. Until the editor receive the report on the results of the investigation of the Head of the Justice Department and the Peace of the KINGMI Synod in Papua. In the report it mentions the number of civilian casualties who died in Deiyai totaling 8 people. Tempo's fact check team considers that even though there are the results of the KINGMI Synod investigation but can't be used as material yet reinforcement to refute hoax claims from Puspen TNI. Because for cases of hoax claims from the government, depth verification must be more and must be Tempo's original, it can't only use materials from the media or other institutions.

The EDITORS of *Tempo.co* also informed that the journalists of the *Magazine Tempo*, Riky Ferdianto went down to Papua. But according to the editor, si journalists only in Jayapura and Abepura, cannot go to Deiyai because you have to take two flights. Temporary since 31 August 2019, Waghete Airport in Deiyai . District closed due to riots. Fact check Tempo finally can't conduct an examination of hoax claims from Puspen TNI.

4) Real Losses for the Press / Journalists (Direct losses experienced by Plaintiff Member 1 Who is also Media Coverage Coordinator CNN INDONESIA TV)

- a. Whereas Plaintiff I had a member named Joni Aswira who is also the Coordinator of Coverage for *CNN Indonesia TV*;
- b. That internet blocking has an impact on *CNN Media Indonesian TV*. AJI Jakarta member named Joni Aswira (*CNN Indonesia TV Coverage Coordinator*) and the team assigned to Jayapura for 6 days and departs on the 2nd September 2019 from Jakarta, upon arrival at Sentani Jayapura immediately the internet data network can no longer be used. That Joni and the *CNN Indonesia TV* team felt the impact from internet blocking in Jayapura, namely the difficulty communicate with the editorial in Jakarta for coordination needs, sending pictures or video coverage.
- c. That internet access up to that time could only be accessed at hotel only, so that the *CNN Indonesia TV* team doesn't can send news right away, because they have to go back to the hotel first to be able get internet access.
- d. That due to the difficulty of internet access, this causes losses against the *CNN Indonesia TV* team for the latest coverage of the situation in Jayapura arrived late in Jakarta and was late to show. Even for certain issues that required quick verification to be undelivered.

Real and Direct Losses Suffered By Plaintiff II

- 20. Whereas Plaintiff II has members named Syaifullah and Alldo Mooy who is domiciled in Jayapura, Papua;**

21. That internet blocking has an impact on the cessation of the program

The SAFEnet Organization of the Papua and West Papua Sub-Division, namely educating Papuan youth in using the internet effectively positive, because the Head of the Papua and West Papua Sub-Division does not can coordinate and communicate with its members;

22. That one and/or both members of SAFEnet several times

found that internet access via smartphone devices with Telkomsel's cellular internet network cannot be done at all, as experienced by Syaifullah in Jayapura on August 20, 2019, Alldo in Jayapura on August 23, 2019 which can only be access the internet via the Indihome WiFi network.

23. That as reported by Syaifullah on August 26, 2019,

mobile internet network (data service) until 26 August 2019 still blocked in Jayapura.

24. That as reported by Syaifullah since August 25, 2019

internet access via the Indihome WiFi network doesn't work on several points in Jayapura, and this was experienced until August 28, 2019.

25. That as Alldo reported on August 27 2019, he

experience the Indihome WiFi network cannot be accessed for several days until finally he was able to send a message to organization in the evening on 27 August 2019.

26. That as reported by Syaifullah on August 29, 2019, that

at 15.35 WIT the cellular network in Jayapura disappeared, including not being able to send sms and make calls phone.

Other Real Losses Experienced by Local Governments and Communities

Large.

27. Whereas the Governor of Papua Province, Lukas Enembe complained about
Papuan internet network that is not recovering in Papua Province. Thing
This results in an electronic service system for
such as *e-budgeting* and *e-planning*. In addition to the electronic system that
down, there was also damage to a number of *e-government* facilities such as:
employee electronic attendance;
28. That the Provincial Goods and Services Procurement Service Bureau (BLPBJ)
Papua through the Electronic Procurement Service (LPSE)
complained about the limitations of the internet network. Because they
hampered by the procurement of goods and services that
requires internet connection. This internet restriction can
cost time, energy and money. There is a material loss that
experienced, which is around 700 billion rupiah, had to be delayed in the process
and budget absorption both in BLPBJ and in OPD in
Papua Provincial Government environment is included in the quality of work
as well as working time;
29. That Gojek Online Ojek Drivers in Jayapura complained about it
there is internet blocking in Papua so that they lose
livelihood. Apart from Gojek drivers, journalistic work in the daily
Cendrawasih Pos experienced the same thing from the bad consequences
internet network, so that journalistic work is hampered in
access information and communications.
30. That the termination of internet access in Papua and West Papua also
reduce the number of foreign tourists visiting Papua. Data from
Association of the Indonesia Tours and Travel Agencies (ASITA)
Papua, they had lost money due to the blockade in Papua, namely
of Rp. 750 million per day;

31. Some ATM machines in Jayapura cannot make transfers or money withdrawal. What an ATM machine can do is only certain services, such as filling out electronic money;

The object of the lawsuit is against and/or violates the provisions of the regulations Legislation.

32. Whereas the object of the lawsuit clearly violates Article 4 paragraph (1) of the Law – Law number 40 of 1999 concerning the press states that:
"Freedom of the press is guaranteed as a citizen's human right", and Article 4 paragraph (3) which reads To guarantee press freedom, The national press has the right to search, obtain, and disseminate ideas and information", where through Object
The lawsuit obstructs and interferes with the activities of journalists who currently doing media coverage in Papua, West Papua and other areas. Thus, the recipients of information are limited in their rights get the information.

33. Whereas the object of the lawsuit is contrary to Article 28 J of the Law the 1945 Constitution of the Republic of Indonesia in conjunction with the Law Number 39 of 1999 concerning Human Rights, Article 73 which regulates restrictions and prohibitions that can only be limited by and based on law;

34. Whereas Article 19 paragraph 3 of Law Number 12 Year 2005 On the Ratification of the International Covenant on Civil Rights and Politics in particular with regard to the freedom to seek, receiving and providing information may be subject to restrictions as long as it can be done in accordance with the law. This can means that related to restrictions that are must be carried out in accordance with laws and regulations

invitation, in order to obtain legal certainty related to such restrictions;

35. Whereas the object of the lawsuit was not carried out in accordance with the principle

limitation of human rights in the event of an emergency. That based on Article 2 paragraph (2) of the Law Substitute Regulation Number 23 of 1959 concerning the Revocation of Law no. 74 1957 (State Gazette No. 160 of 1957) and

Establish the state of danger, arrange that the announcement statement or elimination of a State of Danger (State of Emergency Civil, Military and War) was carried out by Defendant II;

The object of the lawsuit is that the procedure is flawed to date Defendant II never made a statement regarding the situation West Papua and Papua are in danger, it's a statement related to the security and order situation in the Papua region West and Papua was carried out by Defendant I;

Whereas the error of Defendant II limited the existence of an "emergency situation" must be done by fulfilling several conditions as stated above described in *General Comment* No. 29 on Article 4 of ICCPR (International Covenant on Civil and Political Rights), there are two conditions regarding basic conditions that must be met in order to be able to limit rights human rights; where the situation must be an emergency threatens the life of the nation, and the state (president) party must officially declare the country in a state of emergency;

36. Whereas the object of the lawsuit has violated Article 1 point 1 of the Law

Law Number 9 of 1998 concerning Independence to State Public Opinion states "Everyone has the right to freedom of association, assembly and expression". Object The lawsuit is an act of silence and concealment

facts in the Papua region, and the public is forced to accept the truth certain. The truth that must be accepted is only the truth of perpetrator of silence. With freedom of information, then the 'other' truth can be expressed without fear. This right important to ensure *seeking* and discovery (*discovery*) the truth. Therefore freedom of information challenge the attitude of absolutism

37. That the object of the lawsuit has violated the restrictions in access the internet. The object of the lawsuit has limited the range of motion to express opinions and democracy. Cause, need citizens to know and understand the problems
The public is very important for the running of a democracy. Existence Accurate information can protect the public from malicious analysis wrong. People in Papua really need information enough to express their voices and interests and control public officials. About the terms the restrictions are regulated in the provisions of Article 40 paragraph (2), paragraph (2a), and paragraph (2b) of the Law. Number 11 of 2008 concerning Information and Electronic Transactions, where the legal provisions are not relevant with the situation in Papua and West Papua;

38. Whereas Article 19 paragraph 2 of Law Number 12 Year 2005 On the Ratification of the International Covenant on Civil Rights and Politics, everyone has the right to freedom of expression opinion; These rights include freedom to seek, receive and provide information that is ultimately violated because of the consequences from Objects of Lawsuit with Service Restrictions and Blocking Data in West Papua and Papua Regions.

39. The impact of the violation of Article 19 paragraph 2 is not only impact on the members of the Plaintiffs Party but impact on people's rights to seek, receive and provide information related to the situation and conditions in the region West Papua and Papua. The only information can only be obtained both by members of the Plaintiffs and the public from The government, which clearly has an interest and tends to unbalanced;
40. Whereas the object of the lawsuit also violates Law Number 25 of 2009 concerning Public Services, where the consequences of actions The defendant had a negative impact on public service activities, because of some services for services or administrative services using data services, so that the consequences of the Defendant's Actions related to Data Service Slowdown and Blocking in West Papua and Papua cannot be done, this is clearly very detrimental the interests of the people of West Papua and Papua as recipients benefits of public services, either directly or indirectly direct.
41. Whereas Defendant II did not at all reprimand Defendant I because actions that impede press freedom. As stated in in Article 4 paragraph (1) of Law number 40 of 1999 regarding the press states that *"press freedom is guaranteed as a the fundamental rights of citizens"*, and article 4 paragraph (3) which reads *For guarantee the freedom of the press, the national press has the right to seek, obtain, and disseminate ideas and information;*
42. Whereas the object of the lawsuit must be based on applicable international human rights law standards, as in Article 4 of the ICCPR which was ratified through Law 12

2005 on the Ratification of the International Convention on Civil Rights and Politics that regulates that restrictions on human rights

Humans are only allowed if three things have been fulfilled, namely [a]

The existence of an emergency situation that threatens the life of the nation, [b]

There is an official declaration of an emergency situation by the state; and [c] Existence notification regarding the official declaration of the emergency situation to Secretary-General of the United Nations who will then confirm to other states parties;

43. Whereas the object of the lawsuit is also contrary to the authority, procedures and substance in which are regulated in:

1) Article 28 and 29 of Law No. 11 of 2008 About

Information and Electronic Transactions in conjunction with Law no. 16 Year 2016 Regarding Changes to Law No. 11 years 2008 concerning Information and Electronic Transactions;

2) Article 14 and 15 of Law No. 1 of 1946 about

Criminal Law Regulation in conjunction with Law no. 7 of 1958 concerning Stating the Effect of Law No. 1 Year 1946

Republic of Indonesia concerning Criminal Law Regulations for Entire Territory of the Republic of Indonesia and Changing the Book Criminal Law Act and Law Number 8 1981 concerning the Procedural Law

Criminal Code (KUHP)

3) Government Regulation No. 71 of 2019 regarding

Operation of Electronic Systems and Transactions jo. Regulation Government No. 82 of 2012 concerning System Implementation and Electronic Transactions

4) Regulation of the Minister of Communication and Informatics No. 19 of 2014 concerning Handling Internet Sites with Negative Content

**The object of the lawsuit is against and / or violates the general principles
Good Governance (AUPB)**

44. The object of the lawsuit violates the principle of legal certainty. In accordance with the

Article 10 letter a of Law No. 30 of 2014 What is meant

with "the basis of legal certainty" is the basis of the rule of law

which prioritizes the basis of the provisions of the legislation

invitation, propriety, constancy, and justice in every policy

governance.

The object of the lawsuit clearly makes laws and regulations that

protect the work of journalists and have been advocated by Para

Plaintiffs have no legal certainty. Constitution

Number 40 of 1999 concerning the Press Article 6 is related to the role of

Press to fulfill people's right to know information

so it can't be executed at the time the object of the lawsuit is done.

Arrangements on how to limit and deal with hoaxes,

The hatred and provocations that still occur are not clear,

The Defendants should have used the mechanism already

exist, not create a mechanism without a legal basis.

45. The object of the lawsuit violates the Organizer's Rules of Conduct

Country. What is meant by the Orderly Principles of State Organizers

is the foundation that is the foundation of regularity, compatibility, and

balance in controlling state administration;

The object of a lawsuit that is carried out without a clear legal basis,

without an adequate decree, breaking a lot of regulations

applicable laws and regulations as described above,

clearly violates the rules of state administration. Object of lawsuit

violate the guarantee of respect and protection of rights

constitutional citizens guaranteed by laws and regulations

Invitation.

46. The object of the lawsuit violates the principle of public interest. Explanation of the article

10 paragraph 1 letter a of Law Number 30 of 2014 concerning

Government Administration states: *"What is meant by*

The basis of Public Interest is the primary basis

welfare and public benefit in an aspirational way,

accommodating, selective and non-discriminatory"

The object of the lawsuit has an impact on all aspects of interest

the general population in the provinces of Papua and West Papua as long as it is enforced.

All public services, access to information, government systems and

all private companies that are connected to the internet cannot be accessed.

journalists and media companies who are very

need access to communication and work using

internet so it can't do its job. journalistic work

be hampered due to difficulties in verifying

and clarification of information between the editors and their reporters in

field. The object of the lawsuit also has a broad impact on all

the general public as described in numbers 27 - 31 above;

47. The object of the lawsuit violates the principle of transparency. Explanation of Article 10

paragraph 1 letter a of Law Number 30 of 2014 concerning

Government Administration states: *"What is meant by*

The basis of openness is the basis that serves society for

gain access to and obtain correct, honest and

non-discriminatory in government administration

paying attention to the protection of personal, group and social rights

state secret"

48. That in accordance with 10 letter e of Law No. 30 of 2014

What is meant by "principle of not abusing authority"

is the basis that obligates every Body and/or Office

The government does not use its authority for the benefit of personal or other interests and not in accordance with the purpose the granting of such authority, does not exceed, does not abusing, and/or not confounding authority;

The object of the lawsuit is carried out unreasonably and not based on the procedures and criteria for restricting rights as referred to in the provisions of the legislation.

The object of the lawsuit is also carried out by simply doing a press release and without a clear reason for authority and procedure, showing

The Defendants abused the authority that was clearly regulated in the Laws and Regulations if you face a problem described by Defendant I in its press releases;

The object of the lawsuit as an action by the government must be fulfill the prerequisites so as not to exceed the authority and contrary to legislation.

49. The object of the lawsuit violates the principle of proportionality. In accordance with the

Article 3 Number 5 of Law Number 28 of 1999 concerning

Implementation of a Clean and Corruption-Free State,

Collusion and Nepotism The principle of proportionality is a principle that

Prioritizing the balance between rights and obligations

state administrators. The reasons used for Defendant I

clearly shows that the actions of community members who

spreading hoaxes, hatred, and provocations is very possible

identified and it is clear how to break the chain in accordance with

authorities, procedures, and substances that have been regulated and

implemented until now. But instead, the Defendants went through

The object of the lawsuit is punishing all residents in
Papua and West Papua Provinces. Journalists at work
tasks mandated by law are hampered.

The Plaintiffs who carry out the vision, mission, agenda also become
disturbed. It is very likely that the Judge, the Police Prosecutor who
is working and fulfilling state duties in law enforcement
and require data services or internet access to be no
can. Teachers, Students, Students who are doing a series
educational and academic activities and require services
the internet is also disrupted.

50. Article 3 paragraph 1 of the Law. No. 40 of 1999 concerning the Press, states

The national press has a function as a medium of information, education,
entertainment and social control. So that the form of service
should be the responsibility of the government in the form of providing
access to information for the public is not even implemented
as in the legislation.

As a result of the object of the lawsuit, the role of the national press does not work as it should
should be as in Article 8 letter a "fulfill the rights"
the community to find out "this is not fulfilled"
in journalistic work caused by the termination of access
information in the form of severing internet network access in Papua and
West Papua.

VI. Conclusion

That based on the legal facts and the above posita, it is clear that the object of the lawsuit is
namely Government Actions carried out by Defendant I and Defendant II

in the form of:

(1) Government Actions Throttling or throttling of access/bandwidth

in some areas of West Papua Province and Papua Province in
August 19, 2019 from 13.00 WIT (East Indonesia Time) until
Puckle 20.30 WIT;

(2) Government Actions Blocking data and/or services

complete severance of internet access in Papua Province (29
City/Regency) and West Papua Province (13 Cities/Regencies)
August 21, 2019 until at least
04 September 2019 at 23.00 WIT;

(3) Government Actions Extend data service blocking

and/or disconnection of internet access in 4 cities/districts in
Papua Province (i.e. Jayapura City, Jayapura Regency,
Mimika Regency, and Jayawijaya Regency) and 2
Cities/Regencies in West Papua Province (i.e. City of Manokwari and
Sorong City) since September 4, 2019 at 23.00 WIT until
by September 09, 2019 at 18.00 WIB / 20.00 WIT;

Contrary to applicable laws and violate

general principles of good governance. The object of the *a quo* Lawsuit is
Illegal Acts By Government Bodies and/or Offices,

The actions of the Defendants *a quo* are flawed in terms of authority, procedure and
substance;

VII. Application/Request

Based on the descriptions we have mentioned above, Para

The Plaintiffs respectfully request that the Panel of Judges examine
as well as adjudicating the matter *a-quo* to agree to issue a decision that
the order is as follows:

1. Granted the Plaintiffs' claim in its entirety;

2. Stating the Government Actions Performed by Defendant I and

Defendant II in the form of:

**(1) Action Government *Throttling* or slowdown
access/*bandwidth* in several areas of West Papua Province and
Papua Province on August 19, 2019 since 13.00 WIT
(East Indonesia Time) until 20.30 WIT;**

**(2) Government Actions Blocking data and/or services
complete severance of internet access in Papua Province (29
City/Regency) and West Papua Province (13 Cities/Regencies)
August 21, 2019 until at least
04 September 2019 at 23.00 WIT;**

**(3) Government Actions Extend data service blocking
and/or disconnection of internet access in 4 cities/districts in
Papua Province (i.e. Jayapura City, Jayapura Regency,
Mimika Regency, and Jayawijaya Regency) and 2
Cities/Regencies in West Papua Province (i.e. City of Manokwari and
Sorong City) since September 4, 2019 at 23.00 WIT until
by September 09, 2019 at 18.00 WIB / 20.00 WIT;**

**is an Act that Violates the Law by Bodies and/or Offices
Government, the actions of the Defendants *a quo* are legally flawed,
procedures and substance;**

3. Punish the Defendant to pay the costs arising in the matter

this;

If the Jury thinks otherwise, please make the decision as fair as possible.

From water and good;

**Considering, that based on the Plaintiffs' lawsuit as stated above,
above, Defendant I has submitted a Written Answer at the trial
January 22, 2020, as follows:**

A. IN EXCEPTION

**The Plaintiffs Have No Interest To Sue (No
Having a *Person Standing in Judgment*);**

**1. Whereas the Plaintiffs in the lawsuit page 20 to
page 25, postulates essentially:**

a. Plaintiff I member named Lucky Ireuw media editor in chief

**Cendrawasih Pos suffered losses due to the object of the lawsuit, namely:
journalistic activities at Cendrawasih Pos were hampered due to difficulties
receiving data from journalists, disrupting the work system because
information, data and or the results of journalists' coverage cannot be directly
sent via email, causing newspaper and advertising losses.**

b. Plaintiff I member named Wahyu Dhyatmika, editor-in-chief

**Tempo.co media suffered losses due to the object of the lawsuit, namely failure
to verify information about post-siege Papua
Papuan student dormitory in Surabaya, viral video uploads
on Twitter and youtube about the rioters in Sorong Papua who
will attack mosques and Muslims and find it difficult to access
resource persons or covering in Deiyai.**

c. Plaintiff I member named Joni Aswira CNN coverage coordinator

**Indonesia TV suffered losses due to the object of the lawsuit, namely difficulties
communicate with editorial in Jakarta for needs
coordination, sending pictures or video coverage that results in
the latest coverage of the Papua situation was late in arriving in Jakarta and
late to air even for certain issues that
required quick verification to be undelivered.**

d. Members of Plaintiff II named Syaifullah and AlldoMooy experienced

**the loss due to the object of the lawsuit is that they can only access the internet
via the Indihome wifi network.**

e. Local governments and the wider community suffer losses as a result of

The object of the lawsuit is all public services, access to information, systems government and private sectors that are not connected to the internet accessible. Journalists and media companies who need access to communication and work using the internet become unable to do their job. Journalistic work becomes hampered, downed electronic systems , damage to e-facilities government such as employee electronic attendance, at the Service Bureau Procurement of Goods and Services (BLPBJ) of Papua Province through Services Electronic Procurement (LPSE) is hampered by services procurement of goods and services that require an internet connection, Online motorcycle taxi drivers in Jayapura lose their jobs, jobs journalism is hampered in accessing information and communication, reducing the number of foreign tourists visiting Papua and some of the machines ATMs in Jayapura cannot make money transfers or withdrawals.

2. Whereas the Plaintiff's arguments are not based on law, with reasons as follows:

a. A person or civil legal entity is granted the right to

file a State Administrative lawsuit, but it must be seen that there are

whether or not the element of interest of a person or legal entity

the civil. Definition of interest in relation to

TUN procedural law as stated by Indroharto, SH in

his book *"Efforts to Understand the Law on Administrative Courts"*

State Enterprises," Book II Proceedings at the State Administrative Court,

Sinar Harapan Library, 7th printing, Jakarta, 2000, p. 37 – 40,

has two main meanings:

1) Refers to the value that must be protected by law;

The existence of such interests is a minimum requirement for
can be used as a reason for filing a lawsuit in court

TUN. What is meant by interest here is a value,

both beneficial and detrimental

caused or which according to reason can be expected to arise

by the release of a TUN decision or a decision

rejection of TUN. An interest or value that should be protected

by law on the one hand is determined by:

a) Factors of interest in relation to entitled persons

sue:

An interest that must be protected by the new law exists

when:

(1) It has something to do with the Plaintiff himself, meaning to

can be considered as an interested person then

Plaintiffs must have their own interest in

file a lawsuit.

(2) The interest must be personal, meaning that the Plaintiff

must have a clear interest to sue

and distinguishable from the interests of others.

(3) The interest must be direct, meaning those affected

directly it is in the Plaintiff's interest

alone. This interest is not obtained from people

another.

(4) The interest can be objectively determined, either

in terms of extent and intensity.

b) Factors of interest in relation to TUN decisions

concerned.

That the Plaintiff must be able to show the loss
suffered directly as a result of the issuance of the TUN decision
so that only TUN's decision causes consequences
the law required by the TUN Agency or Department
Only issuing it has the meaning to be sued.

2) The importance of the process, in the sense of the goals to be achieved by
file the relevant lawsuit.

The purpose to be achieved by processing is independent of
interests that must be protected by law. So whoever
those who exercise their right to do so are deemed to have meaning.
The adage says: *Point d' interet - Point d' Action* (if any
interests then only there can process), this is
unwritten procedural law provisions, so for each process
Jurisdiction must have an interest in proceeding.

3. Based on the provisions of Article 53 paragraph (1) of Law Number 9 Year
2004 and its explanations, only private persons or legal entities who
domiciled as legal subjects who can apply
a lawsuit to the State Administrative Court to challenge the Decision
State Administration. Apart from that, only private persons or legal entities
whose interests are affected by the legal consequences of Administrative Decisions
The country that was issued and therefore the person concerned feels
harmful are allowed to sue the State Administrative Decision.

4. Based on the decision of the State Administrative Court that has been followed
by the Administrative Court of Another State as follows:

a. Surabaya Administrative Court Decision Number: 97/G.TUN/PTUN.SBY dated 1
March 2007 which was confirmed by the Supreme Court Decision Number:
207K/TUN/2009 dated 04 August 2011;

b. Jakarta TUN Decision Number: 12/G/2009/PTUN-JKT dated 30 April 2009; and

c. Decision Number 51/G/2010/PTUN-JKT dated September 6, 2010

which was strengthened by the Supreme Court Decision Number: 201K/TUN/2011 dated 04 August 2011.

In essence, the Judge is of the opinion that the quality of the Plaintiffs file a lawsuit there must be an interest that is harmed by the issuance of the TUN Decision, thus elements interest is an essential condition of its nature in submitting TUN dispute as meant by the adage "no interest, no interest". lawsuit".

5. Provisions of Article 1 point 5 and point 6 of the Regulation of the Republic of Indonesia Number 2 Year 2019

about the Guidelines for Dispute Resolution of Government Actions and the authority to adjudicate unlawful acts by the Agency and/or or Government officials (*Onrechmatige Overheidsdaad*), regulates:

"5. Community citizen is a person or civil legal entity related to government action.

6. The plaintiff is a citizen whose interests have been harmed as a result of the government's actions."

6. Whereas based on the above description, the Plaintiffs do not have

interest to file *a quo* lawsuit , because the Plaintiffs

the lawsuit does not explain the relationship at all

directly with the object of the lawsuit. The Plaintiffs only explained

losses experienced by media editors led by members

Plaintiff I and the losses of members of Plaintiffs II and the losses incurred by Plaintiffs

experienced by the local government and the community without being accompanied by

the authority of the Plaintiffs to represent the losses as stated in the

argued by the Plaintiffs.

7. In addition, Defendant I on Saturday 28 September 2019, at 09.00 WIT has reopened internet data services in the Regency Wamena and carried out in 15 percent of the points/sites of Jayapura City that are still restricted when most other areas have been opened on September 13, 2019 so that all telecommunications services and internet in 29 districts/cities in Papua Province and 13 districts/cities in West Papua Province has functioned normally as before (Press release No. 190/HM/KOMINFO/09/2019 dated 28 September 2019).
8. Because Defendant I has reopened data services in Papua and West Papua, then there are no more administrative disputes state between the Plaintiffs and Defendant I so that the The plaintiff no longer has a legal interest in a state administrative disputes (*point d' interest point d' action*). So that The Plaintiffs' lawsuit is no longer relevant to be filed.
9. It is thus clear that the Plaintiffs have absolutely no quality (Interest) to file a lawsuit, so it's enough reasoned for the Jakarta Administrative Court Panel of Judges who examined, decided and resolve the TUN *a quo* dispute to declare a lawsuit that filed by the Plaintiffs is unacceptable.

B. IN THE TREE OF SUBJECTS

Whereas in their lawsuit, the Plaintiffs argue that in essence the object the lawsuit is contrary to the Laws and Principles

The General Principles of Good Governance (AAUPB) are as follows:

1. The object of the lawsuit is contrary to the laws and regulations, that is:
 - a. Article 4 paragraph (1) of Law Number 40 of 1999 concerning the press which stipulates that "independence is guaranteed as a citizen's human right" country", and Article 4 paragraph (3) which reads "to guarantee

freedom of the press, the national press has the right to seek, obtain, and disseminate ideas and information", because hinder and interfere with the activities of journalists who are carry out media coverage in Papua, West Papua and the region other. So that the recipients of information are limited to getting the information.

b. Article 28 J of the Constitution of the Republic of Indonesia year

1945 in conjunction with Article 73 of Law Number 39 of 1999 concerning Rights Human Rights which regulates restrictions and prohibitions which can only be limited by and based on law.

c. Article 19 paragraph (3) of Law Number 12 of 2005 concerning

ratification of the International Covenant on Civil and Political Rights (Law No. 12/2005) in particular regarding the freedom to seek, receiving and providing information may be subject to restrictions as long as it can be done in accordance with the law. This can means that related to the restrictions that must be carried out in accordance with laws and regulations invitation, in order to obtain legal certainty related to these restrictions.

d. Article 1 point 1 of Law Number 9 of 1998 concerning

Freedom of Expressing Opinion in Public

"Everyone has the right to freedom of association, assembly and issuing opinions". The object of the lawsuit is an action silencing and concealing facts in the Papua region, and the public is forced to accept certain truths. The truth that must accepted is only the truth of the silencer. With the existence of freedom of information, then the "other" truth can be expressed without fear. This right is important to guarantee

seeking (*seeking*) and discovery (*discovery*) of truth. By therefore freedom of information challenges attitudes that absolutism.

e. Article 40 paragraph (2), paragraph (2a) and paragraph (2b) of Law Number 11 2008 concerning Information and Electronic Transactions because the object the lawsuit has violated restrictions in accessing the internet, limiting the space for expressing opinions and democracy. Citizens need to know and understanding public issues is very important for running of a democracy. Accurate information can protect the public from erroneous analysis. Existing society in Papua urgently need sufficient information to express their voice and interests and control public officials.

f. Article 19 paragraph (2) of Law Number 12 of 2005 concerning ratification of the International Covenant on Civil and Political Rights (Law No. 12/2005), everyone has the right to freedom to express an opinion. These rights include freedom to seek, receive and provide information that is ultimately violated because of the result of the object of the lawsuit with restrictions and blocking data services in Papua and West Papua.

g. The impact of the violation of Article 19 paragraph (2) is not only impact on the members of the Plaintiffs but impact on people's rights to seek, receive and provide information related to the situation and conditions in the region West Papua and Papua. The only information can only be obtained both by members of the Plaintiffs and the public from

government, which clearly has an interest and tends not to balanced.

h. Law Number 25 of 2009 concerning Public Services

because the consequences of the actions of Defendant I had a negative impact on the public service activities, because some services for services or administratively using data, until the consequences of actions Defendant I related to the cancellation and blocking of data services in Papua West and Papua cannot be done, this is clearly very detrimental the interests of the people of West Papua and Papua as recipients benefits of public services, either directly or indirectly direct.

i. Article 4 of the ICCPR which was ratified through Law no. 12/2005 who

stipulates that restrictions on human rights only allowed if the conditions have been met, namely there is an emergency situation that threatens the life of the nation, there is an official declaration of the situation state emergency, and notification regarding official declaration emergency situation to the Secretary-General of the United Nations who will then confirm to the other party countries.

j. Article 28 and Article 29 of Law Number 11 of 2008 concerning

Information and Electronic Transactions in conjunction with Law Number 16 2016 concerning Amendments to Law Number 11 Year 2008 concerning Information and Electronic Transactions.

k. Article 14 and Article 15 of Law Number 1 of 1946 concerning

Criminal Law regulations in conjunction with Law Number 7 of 1958 concerning Declaring the Enforcement of Law Number 1 Year 1946 on the regulation of criminal law for the entire territory of the Republic Indonesia and Amend the Criminal Code and

Law Number 8 of 1981 concerning the Book of Laws

Criminal Procedure Code (KUHP).

I. Government Regulation Number 71 of 2019 concerning

implementation of Electronic Systems and Transactions in conjunction with Regulations

Government Number 82 of 2012 concerning System Implementation

and Electronic Transactions.

m. Regulation of the Minister of Communication and Information Technology Number 19 of 2014

regarding the Handling of Internet Sites with Negative Content.

2. The object of the lawsuit contradicts and/or violates the principles

general good governance, namely:

a. The principle of legal certainty because the object of the lawsuit has made the role of the press

to fulfill the community's right to know information

as regulated in Article 6 of Law Number 40 Years

1999 concerning the Press, so it cannot be done when the object of the lawsuit is

conducted. In addition Settings on how to limit and

deal with hoaxes, hate speech and provocations that are still valid

is not clear, the Defendants should have used the mechanism

existing ones, not to create a mechanism without a legal basis.

b. The principle of orderly state administration because the object is carried out in the absence of

clarity of legal basis, without an adequate decision letter,

violated many applicable laws and regulations,

violate the guarantee of respect and protection of rights

constitutional rights of citizens guaranteed by legislation.

c. The principle of public interest because the object of the lawsuit has an impact on

all aspects of the public interest of citizens in the provinces of Papua and Papua

West as long as it is enforced. All public services, access to information,

government and private systems connected to the internet

all inaccessible. Journalists and companies

media that need access to communication and work using the internet becomes unable to do their job. Work journalistic work is hampered due to difficulties in verify and clarify information between the editors and reporters in the field. The object of the lawsuit is also very impactful broad for the entire general public such as electronic systems that *down*, there is damage to e-government facilities such as absenteeism employee electronics, at the Goods and Services Procurement Service Bureau (BLPBJ) Papua Province through Electronic Procurement Services (LPSE) is hampered by the procurement of goods and services that requires internet connection, online motorcycle taxi drivers in Jayapura loss of livelihood, journalistic work is hampered access information and communication, reduce the number of foreign tourists who visited Papua and some ATM machines in Jayapura can't make money transfers or withdrawals.

- d. The principle of openness (the Plaintiffs did not provide reasons why Defendant I violated the principle of openness).
- e. The principle of not abusing authority because of the object of the lawsuit carried out unreasonably and not based on procedures and criteria for limiting rights as referred to in the provisions legislation. The object of the lawsuit is also carried out only by issuing press releases and without reason of authority and clear procedure.
- f. The principle of proportionality because the object of the lawsuit is punishing to all citizens in the provinces of Papua and West Papua. Journalist who are carrying out tasks mandated by law the law is blocked. The Plaintiffs who carry out the vision, mission, the agenda is also disrupted. Very likely

Judges, Prosecutors, Police at work and fulfilling state duties
in law enforcement and require data or access services
internet becomes impossible. Teachers, students, students who do
a series of educational and academic activities and requires
internet service is also being disrupted.

Whereas the arguments of the Plaintiffs' claims above are not at all
reasoned and not based on law, therefore Defendant I
declares to reject all the arguments of the Plaintiffs' claim.

Whereas Defendant I submitted an answer to the subject matter of the case as follows:
following:

1. The decision of the object of the lawsuit is not against the regulations
Current regulation.

Whereas Defendant I in issuing the object of dispute was based on
on 3 (three) main legal aspects of the formation of a TUN Decision
namely aspects of authority, aspects of procedures, and aspects of substance
as stipulated in Article 52 paragraph (1) of Law Number 30 Years
2014 concerning Government Administration (hereinafter referred to as "UU"
Government administration").

a. Aspects of authority

That the object of the lawsuit has been issued by Defendant I is appropriate
with its authority, with the following explanation:

- 1) Provisions in Article 40 paragraph (2), paragraph (2a), and paragraph (2b)
Law Number 11 of 2008 concerning Information and
Electronic Transactions as amended by Law
Law Number 19 of 2016 concerning Amendments to Law
Law Number 11 of 2008 concerning Information and Transactions
Electronics (hereinafter referred to as "UU ITE"), regulates as
following:

Article 40 of the ITE Law:

“(2) The government protects the public interest of all kinds

disturbance as a result of misuse of Information

Disruptive Electronics and Electronic Transactions

public order, in accordance with the provisions of the Regulations

Legislation.

(2a) The government is obliged to prevent the spread of

and use of Electronic Information and/or Documents

Electronics that have a prohibited charge in accordance with

the provisions of the legislation

(2b) In carrying out the prevention as referred to in

paragraph (2a), the Government has the authority to make decisions

access and/or order the Operator

Electronic System to terminate access

on Electronic Information and/or Electronic Documents

which has an unlawful charge.”

2) Furthermore, based on the general explanation of number I paragraph 9 of the Law

ITE describes the criteria for illegal content as follows:

Third, the virtuality characteristics of cyberspace allow content

illegal information such as Information and/or Electronic Documents that have

Content that violates morals, gambling, insults or

defamation, extortion and/or threats,

the spread of false and misleading news

result in consumer losses in Electronic Transactions,

as well as the act of spreading hatred or enmity

based on ethnicity, religion, race, and class, and delivery

threats of violence or intimidation directed at

can be accessed, distributed, transmitted, copied,

*stored for re-dissemination from anywhere and anytime
just. In order to protect the public interest of all kinds
disturbance as a result of misuse of Electronic Information and
Electronic Transactions, it is necessary to affirm the role of the Government
in preventing the dissemination of illegal content by doing
the act of terminating access to Electronic Information and/or
Electronic Documents that have unlawful content
so that it cannot be accessed from Indonesian jurisdictions and is required
the authority for investigators to request information contained in
in the Electronic System Operator for the benefit of
law enforcement of criminal acts in the field of Information Technology and
Electronic Transactions.*

3) Furthermore, based on the provisions in Article 1 number 23 of the Law

ITE in conjunction with Article 1 number 35 Government Regulation Number 82 Year
2012 concerning the Implementation of Electronic Systems and Transactions
(hereinafter referred to as "PP No. 82/2012") which is a derivative
of the ITE Law, regulates as follows:

Article 1 number 23 of the ITE Law:

*"Government is the Minister or other official appointed by the
President"*

Article 1 number 35 PP No.82/2012:

*"The minister is the minister who organizes the affairs of the
government in the field of communication and informatics."*

4) Observing the provisions of Article 1 number 23 jo. Article 40 paragraph (2), paragraph
(2a), dan ayat (2b) UU ITE jo Pasal 1 angka 35 PP No. 82/2012,
then legally Defendant I as the appointed official
president to carry out government affairs in the field of
communication and informatics has attributive authority to

prevent the dissemination of illegal content by
take action to cut off access to Information
Electronic and/or Electronic Documents that have a payload
unlawful in order to be inaccessible from the jurisdiction
Indonesia to protect public order;

5) Whereas the actions of Defendant I are in the form of:

a) Perform *throttling* or throttling of access/bandwidth in
some areas of West Papua Province and Papua Province
on August 19, 2019 since 13.00 WIT (Indonesian Time
East) until 20.30 WIT.

(1) Blocking data services and/or disconnecting
comprehensive internet access in Papua Province (29
city/district) and West Papua Province (13
city/district) dated August 21, 2019 until
by at least September 4, 2019 at
23.00 WIT.

(2) To extend the data service blocking
and/or disconnection of internet access in 4 cities/districts in
Papua Province (Jayapura City, Jayapura Regency,
Mimika Regency, and Jayawijaya Regency) and 2
city/regency in West Papua Province (Manokwari City
and Sorong City) since September 4, 2019 at
23.00 WIT until September 9, 2019 at 18.00
WIB / 20.00 WIT.

It is the authority of Defendant I as regulated in

Pasal 1 angka 23 jo Pasal 40 ayat (2), ayat (2a), dan ayat (2b) UU

ITE in conjunction with Article 1 number 35 PP No. 82/2012 and Explanation of the number I

paragraph 9 of the ITE Law to prevent dissemination

spreading false and misleading news and preventing
the act of spreading hatred or enmity based on
ethnicity, religion, race, and class in several regions of the Province
West Papua and Papua Province that can be carried out by the Parties
irresponsible;

Based on the description above, the object of the lawsuit has fulfilled the
aspects of the authority to form an Administrative Decision
State as regulated in Article 1 number 23 in conjunction with Article 40 paragraph
(2), ayat (2a), dan ayat (2b) UU ITE jo Pasal 1 angka 35 PP No.

82/2012 as well as the explanation of number 1 paragraph 9 of the ITE Law.

b. Procedure Aspect

That the object of the lawsuit is in accordance with the applicable procedures,
with the following explanation:

1) Whereas Defendant I attributively has the authority to
take action as the object of the lawsuit, where
Defendant I had previously coordinated with
Relevant Ministries/Agencies, and Law Enforcement Apparatus
(APH). The arrangements related to the coordination have just been regulated
in Article 97 paragraph (2), and paragraph (3) of the Government Regulation
Number 71 of 2019 concerning the Implementation of the System and
Electronic Transactions, which are promulgated and valid on
October 2019, namely after the object of the lawsuit by
Defendant I.

2) Whereas the background of Defendant I taking action
as stated in the object of the lawsuit because on the day of
Thursday, August 15, 2019 there has been a riot between
students who are members of the Papuan Student Alliance
(AMP) which demanded an independent Papua with residents and

security forces in Malang. Then on Friday the date 16 August 2019 and Saturday 17 August 2019 happened sieges carried out by several CSOs against Papuan Student Dormitory in Surabaya accompanied by racist words as a result of the issue of flag vandalism Red and white.

3) Following the events in Malang and Surabaya, there are many news that is spread in *online* media that is not necessarily the truth, thus triggering a mass action in Manokwari, Jayapura, and several other places in Papua and West Papua on Monday 19 August 2019. Further related dissemination of the news, Defendant I verified to the Police and TNI who later identified 1 news categorized as disinformation (news that is it contains facts but is led to information that is not true) namely the Surabaya Police kidnapped two escorts Food for Papuan Students and 1 hoax news, namely Foto Papuan Student Beaten by Police in Surabaya announced on the Kominfo website and stophoax.id on the 19th August 2019.

4) To prevent the spread of hoaxes that trigger action the masses, the Ministry of Communication and Informatics did *throttling* or *throttling of access/bandwidth* starting at 13.00 WIT in several areas of Papua and West Papua carried out gradually. This has also been conveyed by Defendant I as Press Release No. 154/HM/KOMINFO/08/2019 August 19, 2019.

https://kominfo.go.id/content/detail/20787/siaran-pers-no-154hmkominfo082019-about-access-throwing-in-some-region-west-papua-and-papua/0/press_broadcast

5) To speed up the process of recovering the security situation and order in Papua and its surroundings, after coordinating with law enforcement officers and related agencies, Defendant I

To do blocking temporary service Data

Telecommunications, starting Wednesday (21/8) until the atmosphere of the Land Papua is back to being conducive and normal, as stated in Press Release No. 155/HM/KOMINFO/08/2019 dated 21 August 2019.

https://www.kominfo.go.id/content/detail/20821/siaran-pers-no-155hmkominfo082019-about-blocking-data-service-in-papua-and-west-papua/0/press_releases

6) Based on the evaluation conducted by Defendant I with Police and related agencies on Friday 23 August 2019 at 16.00 WIB, Defendant I as the representative of the Government concluded that although the situation and conditions in some Cities and regencies in Papua and West Papua are starting to gradually gradually recovered, but the distribution and transmission of hoax information, fake news, provocative and racist are still counted tall. Defendant I on August 23, 2019 has identify, validate and verify with results at least 33 (thirty three) content in the form of hoax information and provocations related to the Papua issue spread across a total of 849 links information disseminated to hundreds of thousands of media account owners Facebook, Instagram, *Twitter*, and *YouTube social networks*.

7) Furthermore, based on the results of coordination with the Police and

The relevant agency, Defendant I has decided to

blocking internet access in Papua and Papua

West continues, but society can still

communicate using a telephone call service

and short message/SMS services. It is as delivered

through Press Release No. 159/HM/KOMINFO/08/2019 23

August 2019.

<https://kominfo.go.id/content/detail/20860/siaran-pers-no>

159hmkominfo082019-about-blocking-data-service-in

papua-and-west-papua-still-continues/0/press_release

8) During the period of blocking telecommunications access in Papua

and West Papua there are still mass actions, including:

a) Mass action (demo) in Deiyai Papua, which resulted in 1

TNI members died and 5 policemen were injured, on 28

August 2019.

<https://www.liputan6.com/news/read/4049216/demo-ricuh>

in-deiyai-papua-1-army-member-died-and-5-police

wounded

b) The action of cutting the main cable of Telkom's optical network which

resulted in the death of all types of cellular services in

many locations in Jayapura, 29 August 2019.

<https://kominfo.go.id/content/detail/20982/siaran-pers-no>

163hmkominfo082019-about-press-statement

Minister of Communication and Informatics / 0/ broadcast_pers

9) Based on the results of coordination with enforcement officers

law/security Ministry of Communication and Informatics reopens the block

on data services in stages in Papua and West Papua

taking into account the security situation that has started recovery and the distribution of hoax information, false news, speech decreased hatred, incitement and provocation, that is has also been submitted in:

a) Press Release No. 170/HM/KOMINFO/09/2019, 4
September 2019

b) Press Release No. 173/HM/KOMINFO/09/2019, dated 6
September 2019

c) Press Release No.175/HM/KOMINFO/09/2019, 9
September 2019

d) Press Release No.177/HM/KOMINFO/09/2019, 10
September 2019

e) Press Release No.179/HM/KOMINFO/09/2019, 11
September 2019

f) Press Release No. 181/HM/KOMINFO/09/2019, 13
September 2019

10) On September 23, 2019, riots broke out again in

Wamena, so as to speed up the process of recovering the situation security and order in the Wamena Regency area after

There were demonstrations and mass riots in the area triggered by the distribution of hoax information, fake news and

hate speech, the government again decided to

to temporarily limit telecommunication data services

in the Wamena Regency area, starting Monday (23/9/2019) at

12:30 WIT until the atmosphere is conducive and normal again.

People can still communicate using the service

voice / voice and short messages / SMS.

11) The government also urges the public not to spreading hoax information, fake news, hate speech SARA-based, incitement and provocation through any media including social media, so that the process of recovering the situation and security conditions in the Wamena Regency area quickly take place. This is as conveyed through Broadcast Press No. 187/HM/KOMINFO/09/2019 on 23 September 2019.

https://kominfo.go.id/content/detail/21719/siaran-pers-no-187hmkominfo092019-about-restrictions-data-service-in-wamena/0/air_press

12) On Saturday, September 28 2019, at 09.00 WIT, the Government has reopened internet data services in the Regency Wamena, also carried out at 15 percent of points/sites in Jayapura City which are still subject to restrictions when most areas others have been opened on September 13, 2019. Thus all telecommunications and internet services at 29 districts/cities in Papua Province and 13 districts/cities in West Papua Province has functioned normally as before. Thing this as conveyed through Press Release No.

190/HM/KOMINFO/09/2019 dated 28 September 2019.
https://kominfo.go.id/content/detail/21806/siaran-pers-no-190hmkominfo092019-about-service-data-wamena-back-re-opened-telecommunication-services-all-over-papua-again-normal/0/press_broadcast

13) Whereas the actions of Defendant I are in the form of:

a) Perform *throttling* or throttling of access/bandwidth in some areas of West Papua Province and Papua Province

on August 19, 2019 since 13.00 WIT (Time Eastern Indonesia) until 20.30 WIT.

b) Blocking data services and/or disconnecting comprehensive internet access in Papua Province (29 city/district) and West Papua Province (13 city/district) dated August 21, 2019 until at least on September 4, 2019 at 23.00 WIT.

c) Prolonging data service blocking and/or disconnection of internet access in 4 cities/districts in Papua Province (Jayapura City, Jayapura Regency, Mimika Regency, and Jayawijaya Regency) and 2 city/regency in West Papua Province (Manokwari City and Sorong City) since September 4, 2019 at 23.00 WIT until September 9, 2019 at 18.00 WIB / 20.00 WIT.

need to be seen from the benefit to protect the public interest and national security.

The benefits of doing the object of the lawsuit by Defendant I are:

a) Has prevented the spread of false and misleading news as well as the reduction of acts of spreading hatred between ethnicity, religion, race and intergroup in some areas Papua and West Papua Provinces;

b) Has prevented the spread of riots and/or damage to public facilities and state facilities so that no cause harm to the community/state;

14) That the legal principle of benefit (*doelmatigheid*) or purpose that the object of the lawsuit is trying to achieve in accordance with opinion:

a) Prof. Kuntjoro Purbopranoto, SH. in his book *Some*

Records of Governance and Judiciary Law

State Administration, Alumni, fourth edition, Bandung

1985, pages 48-50, states:

Conditions that must be met in order for that decision

as a valid decision is as follows:

(1) Material conditions

(a) The instrument of government that makes decisions must authorized (entitled)

(b) In the will of the government apparatus that makes there can be no juridical deficiency in the decision (geen legal defects in the formation of the will).

(c) Decisions must be given the form (vorm) specified in the rules that are the basis and the manufacture must also pay attention to the procedure make a decision, when the procedure is established strictly in that regulation (rechmatig).

(d) The content and purpose of the decision must be in accordance with the content and goal to be achieved (doelmatig)

Explanation:

(d). Must be "doelmatig" = towards the right target.

Its nature is "doelmatig bestuur" = direct actions directed to the target to be achieved, must be efficient, frugal, careful but successful. If the authority is exercised not in accordance with the objectives that should be achieved it is called "detournement de pouvoir" (deviating from aim, deviate)

(2) Formal requirements

**(a) Conditions determined in relation to
preparation for making decisions and relating to**

the way in which the decision is made must be complied with.

(b) Must be given the prescribed form.

**(c) Conditions, in relation to implementation
the decision is fulfilled.**

**(d) The period of time must be determined between the occurrence of things
which led to its creation and announcement
that decision and should not be forgotten.**

**b) Furthermore, Indroharto, SH in his book *Efforts to Understand
Law on State Administrative Court Book II
Proceeding at the State Administrative Court*, Sinar Pustaka
Hope, Eighth Printing, Jakarta 2003, pages 165-166,
that state:**

***“As is known, the testing of a decision that
in question it can be distinguished between tests:***

**(1) Complete, meaning that the decision in question is tested
both in terms of the policies pursued and
regarding the applicable law;**

**(2) This is done in the objection procedure by the agency
who issued the original decision or by the agency
administrative appeals (tests by agencies in
the government itself or the applicable agency
as an administrative supervisory agency). That's where it's tested
especially is the decision of wisdom that is taken
is it quite effective and efficient or not on the side too
whether the application of the law is correct or not (true)
according to law or not).**

15) Whereas the substance of the *doelmatigheid* principle is benefit, effectiveness, and efficiency of the issuance of a State Administration Decree. Expediency is basically one of the basic forms which needs to be observed in the publication of the TUN Decision. So that in evaluating a publication of TUN Decision not only evaluated from the basic side of *rechmatigheid* alone but also should be assessed from the *doelmatigheid* side.

The panel of judges should be in making legal considerations also use *the doelmatigheid* principle, you still have to considering material and formal reasons. That matter in line with the opinion of Prof. Kuntjoro Purbopranoto in his book *Some Notes on Governance Law and State Administrative Court*.

It is the authority of the Panel of Judges to assess a TUN's decision is considered valid in terms of *rechmatigheid* nor *doelmatigheid* or use both.

16) Based on the description above, although the provisions in PP no. 71/2019 took effect in October 2019, but with pay attention to the principle of expediency (*doelmatigheid*) in an effort to protect the public interest for society and the state, and factually Defendant I has coordinated by involving the Ministry/Agency before implementation the object of the lawsuit, then Defendant I's action was appropriate procedural.

c. Aspect Substance

That the issuance of the disputed object has complied with the aspects substance, with the following explanation:

1) The actions of Defendant I did not violate the provisions in Article 4 paragraph (1) of Law Number 40 of 1999 concerning the Press, for the following reasons:

a) The provisions in Article 28 paragraphs (1) and (2) J of the 1945 Constitution, regulates as follows:

(1) Everyone is obliged to respect the human rights of people others in the order of social life, nation, and patriotic.

(2) In exercising his rights and freedoms, every person must submit to the restrictions set by laws with the sole purpose of guarantee recognition and respect for rights and the freedom of others and to meet the demands fair in accordance with moral considerations, religious values, security, and public order in a society democratic.

b) Furthermore, the provisions in Article 28 of the ITE Law, regulates: basically prohibits everyone intentionally and without rights disseminate information that is intended to create a sense of individual and/or group hatred or hostility certain communities based on ethnicity, religion, race, and between groups (SARA).

c) The provisions of laws and regulations provide rights to everyone (press) to get and inform the public, but the right owned by everyone (the press) is limited by a regulation legislation that is attributively attached to

Government in an effort to maintain public order and state security;

d) The Government in this case Defendant I has an obligation as stipulated in Article 40 paragraph (2), paragraph (2a), and paragraph (2b) UU ITE to prevent it from happening massively the spread of *hoax information*, fake news, provocative and racist which has the potential for riots that can be divisive unity and threaten the security of the country that is attributive authority of the Government to protect interests especially in Papua and West Papua.

e) That it would be wrong if the Plaintiffs stated that Defendant I's actions have violated the rights of journalists (press) to get electronic information for the next reported to the public, because in fact Defendant I's actions only took restrictive actions internet access only to cellular data services. In terms of The Plaintiffs are still able to communicate and get information through *voice* and **SMS** services by cell phone, facsimile, *Internet Service* access *Provider* (ISP) or *Wireless Fidelity (wifi)*. In addition, on September 5, 2019 Defendant I has provided media centers in Jayapura and Manokwari for the press to send news to their respective offices that are outside the region Papua and West Papua.

2) The arguments of the Plaintiffs stating that the actions of Defendant I have violates the provisions in Article 28 J of the Constitution Republic of Indonesia in 1945 (UUD 45) in *conjunction with* Article 73

Law Number 39 of 1999 concerning Human Rights

(UU 39/1999), is mistaken for the following reasons:

a) Provisions in Article 28 J of the 1945 Constitution and Article 73 of Law 39/1999,

set as follows:

Article 28 J:

“(1) Everyone is obliged to respect the human rights of others

others in the order of social life, nation, and

patriotic.

(2) In exercising his rights and freedoms, every person

must submit to the restrictions set by

laws with the sole purpose of

guarantee recognition and respect for rights and

the freedom of others and to meet the demands

fair in accordance with moral considerations, religious values,

security, and public order in a society

democratic.”

Article 73:

"Rights and freedoms regulated in this Law

can only be limited by and based on law,

just to guarantee recognition and respect

to the human rights and fundamental freedoms of others,

morality, public order and the interests of the nation.”

b) Furthermore, based on the provisions in Article 28 paragraph (2) of the Law,

ITE, regulates as follows:

Article 28 paragraph (2):

"Every Person intentionally and without the right to spread

information intended to incite hatred

or hostility to individuals and/or community groups

certain based on ethnicity, religion, race, and intergroup (SARA)."

- c) Observing the provisions in Article 28 J and Article 73 which limit a person's rights and freedoms to guarantee public order and the interests of the nation, as well as implementation of the above provisions, limitation of rights and that freedom is further regulated in Article 28 paragraph (2) UU ITE, thus Defendant I as representative Government in an effort to maintain public order and prevent the emergence of hatred based on ethnicity, religion, race, and inter-group (SARA) restrict access internet in some areas of Papua and West Papua. This matter also in line with Article 20 paragraph (2) of the *International Covenant On Civil and Political Rights* (ICCPR) which has been ratified with Law Number 12 of 2005 concerning *Pengesahan International Covenant On Civil and Political Rights* (International Covenant on Civil and Political Rights) (Law No. 12/2005), which regulates as follows:
- "All actions that promote hatred on the basis of nationality, race or religion which constitutes incitement to discriminatory, hostile or violent, must prohibited by law."*

- d) Based on the description above, the actions of Defendant I to perform acts of throttling and cutting off access internet in some areas of Papua and West Papua instead has complied with the provisions of Article 28 J of the 1945 Constitution, Article 73 UU no. 39 of 1999, and Article 20 paragraph (2) of Law no. 12/2005;

3) The actions of Defendant I did not violate the provisions in Article 19 paragraph (3) of Law no. 12/2005 due to Restrictions imposed by Government, in the case of Defendant I, has been carried out in accordance with applicable law, namely the provisions in Article 40 paragraph (2), paragraph (2a), and sentence (2b) of the ITE Law, so that the Plaintiffs' argument is wrong and not based on the law.

4) The arguments of the Plaintiffs stating that the actions of Defendant I have violates the provisions of Article 1 point 1 of Law Number 9 1998 on Freedom of Expression in Public Advances (UU No. 9/1998) is a wrong argument, because the following reasons:

a) The provisions in Article 1 point 1 of Law no. 9/1998, regulate as follows:

Article 1 number 1

*"Freedom to express opinions is everyone's right
citizens to convey thoughts orally,
writing, and so on freely and responsibly
in accordance with the provisions of the laws and regulations which
happened"*

b) Furthermore, based on the provisions in Chapter VII

PROHIBITED ACT, Article 28 paragraph (2) Jo. Article 40 ayat (2), ayat (2a), dan ayat (2b) UU ITE, mengatur sebagai following:

Article 28 paragraph (2)

*"Every Person intentionally and without the right to spread
information intended to incite hatred
or hostility to individuals and/or community groups*

certain based on ethnicity, religion, race, and intergroup (SARA).”

Article 40 of the ITE Law:

“(2) The government protects the public interest from any types of disorders as a result of abuse Electronic Information and Electronic Transactions that disturbing public order, in accordance with the provisions Legislation.

(2a) Pemerintah Required To do prevention dissemination and use of Electronic Information and/or Electronic Documents containing prohibited in accordance with the provisions of the regulations legislation

(2b) In carrying out the prevention as intended in paragraph (2a), the Government is authorized to carry out termination of access and/or ordering Electronic System Operators to perform termination of access to Electronic Information and/or Electronic Documents that have a payload breaking the law."

- c) Taking into account the above provisions, everyone given the freedom to express their opinions orally and in writing with the requirements for the delivery of information does not cause or disturb public order and state security as regulated in the ITE Law;
- d) Defendant I in carrying out the act as the object the *a quo* lawsuit is an implementation of the provisions of the ITE Law to prevent the spread of

information that cannot be verified in
order to maintain public order and the interests of the nation,
until the arguments of the Plaintiffs who stated the Act
Defendant I in carrying out the object of the lawsuit caused
violate the provisions of Article 1 point 1 of Law no. 9/1998
is a misinterpretation and does not pay attention
other relevant laws and regulations, in this case

Article 28 J of the 1945 Constitution in *conjunction with* Article 73 of Law 39/1999, Article 20 paragraph (2)

UU No. 12/2005, dan Pasal 40 ayat (2), ayat (2a), dan ayat (2b)

FIND OUT.

5) Whereas the arguments of the Plaintiffs stating the object of the lawsuit have been
violate restrictions in accessing the internet, restrict
space for expression and democracy
as stipulated in Article 40 paragraph (2), paragraph (2a), and paragraph (2b)
The ITE Law is wrong because Defendant I has acted accordingly
with the attributive authority of Defendant I as
contained in the ITE Law to do to prevent the occurrence of
the dissemination of the spread of false and misleading news as well as
prevent acts of spreading hatred or enmity
based on ethnicity, religion, race, and class in several
Papua Province and West Papua Province which can be
carried out by an irresponsible party.

6) Whereas the arguments of the Plaintiffs stating the actions of the Defendants
I have harmed the community directly or indirectly
because they do not get public services as
the provisions of Law Number 25 of 2009 concerning
Public Service (Law No. 25/2009), is wrong, with the reasons
as follows:

a) The provisions in Article 11 of Law no. 25/2009 mentions
as follows:

Pasal 11 ayat (1) UU No. 25/2009:

*“The organizer is obliged to conduct selection and
promotion of implementers in a transparent, non-discriminatory manner, and
fair in accordance with the laws and regulations”*

b) Defendant I's actions in restricting access

the internet as the object of the lawsuit is an implementation
from the provisions of Article 11 paragraph (1) of Law no. 25/2009 in order
perform the selection, in this case the information that can be
forwarded to the public, with restrictions as regulated
dalam ketentuan Pasal 40 ayat (2), ayat (2a), dan ayat (2b) UU
ITE.

In addition, this internet access restriction is also a form of
protection of the interests and security of the state
as stipulated in Article 7 paragraph 2 letter a of the Law
Law Number 36 of 1999 concerning Telecommunications (Law No.
36/1999), which states as follows:

Article 7 paragraph (2) letter a:

*"In the operation of telecommunications, attention must be paid to the following:
as follows:*

a. protect the interests and security of the state”,

so that Defendant I should have implemented
provisions as a regulator in the telecommunications sector
have an obligation to protect the interests and
state security.

7) The Plaintiffs' arguments stating the actions of Defendant I
contrary to Government Regulation Number 71 of 2019

concerning the Operation of Electronic Systems and Transactions (PP No. 71/2019) is unfounded, because of the actions of Defendant I conducted in August 2019, while PP No. 71/2019 valid and promulgated in October 2019, so that Juridically the actions of Defendant I in August 2019 were not contrary to the provisions in PP No. 71/2019.

Based on the description above, the object of the lawsuit has fulfilled the following aspects: authority, procedure, and substance so that the Plaintiffs' argument which states that the object of the lawsuit is contrary to the provisions of Article 52 Law Number 30 of 2014 concerning Administration Governance (Law No. 30/2014) is groundless according to law. Thus, the panel of judges who examined, tried, and decided the case *a quo* to reject the arguments of the Plaintiffs.

2. The object of the lawsuit is not against the general principles

Good Governance.

- a. The object of the lawsuit does not violate the principle of legal certainty as argued by the Plaintiffs because the actions of Defendant I committed The object of the lawsuit is precisely to create legal certainty, namely: prevent the spread of false news and mislead and prevent acts of spreading hatred or hostility based on ethnicity, religion, race, and class in some the territory of the Papua Province and West Papua Province carried out by Irresponsible parties (see Article 1 number 23 in *conjunction* with Article 40 ayat (2), ayat (2a), dan ayat (2b) UU ITE, Pasal 1 Penjelasan angka I paragraph 9 UU ITE, Article 1 number 35 PP no. 82/2012, Article 20 paragraph (2) UU no. 12/2005) and protect the interests and security of the state (*vide* Article 7 paragraph (2) letter a of Law No. 36/1999).

- b. The object of the lawsuit does not violate the orderly principles of state administrators as argued by the Plaintiffs because, Defendant I have the authority to take preventive action the massive spread of *hoax information*, false news, provocative racists who can threaten national security based on attributive authority described in number 2 letter a.
- c. The object of the lawsuit does not violate the principle of public interest as argued by the Plaintiffs because the actions of Defendant I committed the object of the lawsuit is precisely to protect the public interest, especially in areas of Papua and West Papua so that there is no massive spread *hoax*, *hoax*, provocative, and potentially racist information lead to widespread riots that can divide unity and threaten national security.
- d. The object of the lawsuit does not violate the principle of openness because of actions Defendant I made the object of the lawsuit broadcast through:
- 1) Press Release No. 154/HM/KOMINFO/08/2019, 19 August 2019 (*throttling*);
 - 2) Press Release No. 155/HM/KOMINFO/08/2019, 21 August 2019 (blocking); and
 - 3) Press Release No.159/HM/KOMINFO/08/2019, 23 August 2019 (extended blocking time).
- For the normalization of the object of the lawsuit has been gradually broadcast through:
- 1) Press Release No. 170/HM/KOMINFO/09/2019, 4 September 2019;
 - 2) Press Release No. 173/HM/KOMINFO/09/2019, September 6 2019;

3) Press Release No.175/HM/KOMINFO/09/2019, 9 September

2019;

4) Press Release No.177/HM/KOMINFO/09/2019, September 10

2019;

5) Press Release No.179/HM/KOMINFO/09/2019, September 11

2019; and

6) Press Release No. 181/HM/KOMINFO/09/2019, September 13

2019.

In addition, in the lawsuit the Plaintiffs cannot provide

the reason for the argument of the lawsuit stating that the object of the lawsuit violates the basis of openness.

e. The object of the lawsuit does not violate the principle of abuse of authority

because as Defendant I stated in the main answer

the case that the action of Defendant I in carrying out the object of the lawsuit has in accordance with the authority, procedure, and substance as regulated in the provisions of laws and regulations.

f. The object of the lawsuit does not violate the principle of proportionality as

argued by the Plaintiffs because the actions of Defendant I committed

the object of the lawsuit is in accordance with the objectives to be achieved from the

The action is to protect the public interest, especially in

areas of Papua and West Papua so that there is no massive spread

hoax information , false news, provocations, and hate speech

resulting in riots that can tear the association apart and

threatens national security, so Defendant I's action is not

is a punishment against, among others, all citizens in

Papua and West Papua Provinces and journalists on duty

as the assumption of the Plaintiffs argued in the Lawsuit

page 31 number 49.

3. Plaintiffs' Loss Argument Is Misguided.

Whereas the Plaintiffs in the Lawsuit page 19 to page 25

postulated loss events as a result of the Object

lawsuit. According to Defendant I, this is a false argument because:

mixed up some unforeseen loss events

caused by the Defendant's Government Action I (in the case of Object

The lawsuit in the *a quo* case) but seems to be the result of

Objects of the Lawsuit, among others:

a. Damage to *e-government* facilities such as employee electronic attendance;

b. Interruption of internet connection for Procurement Services

Electronics (LPSE) at the Bureau of Procurement of Goods and Services

(BLPBJ) Papua Province;

c. Some ATM machines in Jayapura cannot make transfers or

money withdrawal,

The arguments of the Plaintiffs are erroneous and unfounded

law with the following explanation:

1). That in fact these three things are in operation

do not use packet data services from mobile networks

cellular which is the Object of the Lawsuit, but internet service

using other telecommunication networks, among others

local fixed network with cable media (including *fiber optic*)

and ATM services using a closed fixed network

with satellite media (VSAT) which is not included in the object of the lawsuit.

(*vide* Article 9 of Government Regulation Number 52 of 2000 concerning

Telecommunications Operations).

b) That the loss argued by the Plaintiffs is not

losses directly suffered by the Plaintiffs but

losses suffered by third parties, until the arguments

The Plaintiffs' losses are not in accordance with the provisions in
Article 1 number 5 and number 6 of Perma 2/2019.

Thus, the Plaintiffs' lawsuit, which in their argument
mix up the loss events as mentioned above which
in fact has nothing to do with the Object of the Lawsuit, if
can be taken into consideration by the Panel of Judges to reject the lawsuit
a quo.

Based on the things that Defendant I has stated in the Exception and
Answers to the main points of the Plaintiffs' claims,
then Defendant I requests that the Panel of Judges of the Administrative Court
The State of Jakarta, which examines and adjudicates the matter *a quo* can
give a verdict:

IN EXCEPTION:

Accepting Defendant I . Exception

IN BRIEF:

1. Rejecting the Plaintiffs' claim in its entirety;
2. Stated that the Government Actions taken by Defendant I were in the form of:
 - a. Government action *throttling* or throttling *access/bandwidth*
in some areas of West Papua Province and Papua Province in
August 19, 2019 from 13.00 WIT (East Indonesia Time) until
public 20.30 WIT.
 - b. Government action blocking data services and/or
complete severance of internet access in Papua Province (29
city/regency) and West Papua Province (13 cities/regencies)
dated August 21, 2019 until at least 4
September 2019 at 23.00 WIT.
 - c. Government action extends data service block
and/or disconnection of internet access in 4 cities/districts in Indonesia

Papua Province (i.e. Jayapura City, Jayapura Regency, Mimika Regency, and Jayawijaya Regency) and 2 cities/districts in West Papua Province (i.e. City of Manokwari and Sorong City) since September 4, 2019 at 23.00 WIT until September 9, 2019 at 18.00 WIB / 20.00 WIT,

is not an unlawful act because the Defendant's Action I has complied with the laws and regulations and AAUPB.

3. Charge the costs of the case to the Plaintiffs.

Considering, that based on the Plaintiffs' lawsuit as stated above, above, Defendant II has submitted a Written Answer at the trial January 29, 2020, as follows:

A. IN EXCEPTION

A. Eksepsi *Error In Person*

1. Based on the provisions of Article 1 point 6 of Law no. 5 years

1986 concerning State Administrative Court as amended

with Law No. 9 of 2004 on the above changes

Law No. 5 of 1986 concerning Administrative Courts

State and changed back with Law No. 51 Years

2009 on the Second Amendment to Law No. 5 Years

1986 concerning the State Administrative Court (hereinafter referred to as Law No

PTUN), what is meant by the Defendant is a body or official

state administration that issues decisions based on

authority that issues decisions based on authority

which he has or which is transferred to him who is being sued

by persons or civil law bodies. In the matter *a quo* which

being the object of a lawsuit is a government action that

is an extension of state administrative decisions based on

Law No. 30 of 2014 concerning Administration

Government (hereinafter referred to as the Government Administration Act) and Regulation of the Supreme Court of the Republic of Indonesia No. 2 years 2019 on Action Dispute Resolution Guidelines

Government and Authority to Judge Violent Acts

Law by Government Bodies and/or Offices (*Onrechtmatige Overheidsdaad*) (hereinafter referred to as Perma No. 2 of 2019).

Meanwhile, based on Article 1, lift 7 of Perma No. 2 of 2019, the defendant is a government official or state administrator others who carry out government actions based on authority that is in him or which has been delegated to him being sued by members of the public;

2. Referring to the opinion of Indroharto, SH in his book Usaha

Understanding the State Administrative Court Law, Book II, Proceeding at the State Administrative Court, published by Pustaka Sinar Hope, on page 31, the provisions of Article 1 point 6 of the Administrative Court Law designate who can be a defendant, namely always a body or the TUN department that issues a decision based on authority that is in him or delegated to him.

What is meant by "based on the authority that is in it"

or assigned to him" refers to the provisions

the law that is used as a basis until the position of TUN is considered authorized to issue TUN decisions (in the *a quo* case)

in the form of action) that is disputed. The legal provisions that become the basis of the authority is attributive. There are times when conditions in the basic regulations that give government authority

Attributively it is delegated to the agency or position

other TUNs. When on the basis of delegation of authority

the government body or TUN department that obtains

delegation issues TUN decision, then body or department

This is the last TUN that according to the law should be considered responsible responsible for the issuance of the TUN decision and therefore is which must be sued;

3. Whereas in the *a quo* case, the person who makes the object of the lawsuit legally directly is Defendant I;

4. Whereas in the *a quo* case, the Plaintiffs in the lawsuit

12 to page 17, basically postulates that the object

the dispute was carried out by Defendant I and Defendant II because:

a. Defendant II as the superior of Defendant I is responsible

for the actions of Defendant I as an assistant to Defendant II

as stated in Article 3 of Law no. 39

2008 concerning the Ministry of State which stipulates that

The Ministry is under and responsible to

President;

b. Defendant II as the holder of government power in

carry out their duties assisted by Defendant I who is in charge of

communication affairs in the field of government, until action

Defendant II and Defendant I coordinated and synchronized

in carrying out government duties, as stated

in Article 4 paragraphs (1) and (2) of the 1945 Constitution;

c. Whereas Defendant II is the superior of Defendant I at the same time

as the highest responsible government

fully responsible for Defendant I's actions as an assistant from

Defendant II;

5. Whereas Defendant I has the duty to carry out affairs

government in the field of communication and informatics to help

Defendant II in administering the government of a country which

authority is delegated from Defendant II through Regulation President No. 54 of 2015. Thus, the actions of Defendant I which is the object of the lawsuit is carried out on the basis of delegation that authority. The delegation itself is based on the provisions Article 1 number 23 of the Government Administration Law is a delegation authority from higher government agencies and/or officials high to lower government bodies and/or offices with full responsibility and accountability to the recipient of the delegation;

6. Whereas as stated in letter b above, the agency or the TUN office that obtained the delegation (in the matter *a quo* Defendant I) issued a TUN decision (in the matter *a quo* in the form of actions), then according to the law what must be considered responsible for the release of the decision of the TUN and Therefore, it is Defendant I who must be sued also regulated in the provisions of Article 1 number 23 of the Administration Law Government. Thus, the Plaintiffs mistakenly withdraw Defendant II as defendant (*Gemis Aanhoeda Nigheid*) until very legal grounds for the Panel of Judges who examine and adjudicating this case stated that the Plaintiffs' claim did not dapat diterima (*declared inadmissible*).

B. Exception Plaintiffs are not entitled to file a lawsuit (*Exceptio Legitimate Person to Stand in Judgment*);

1. Based on the provisions of Article 53 paragraph (1) of the Administrative Court Law and its explanation, which can file a lawsuit to the Administrative Court State Enterprises (hereinafter referred to as PTUN) are only persons or entities civil law whose interests are affected (damaged) by the consequences the Law of the State Administrative Decision issued. In matter

the *a quo* that is the object of the lawsuit is the government's
is an extension of state administrative decisions based on the Act
Government Administration and Regulation No. 2 of 2019. As for
based on Article 1 point 6 of Perma No. 2 of 2019, the plaintiff
are citizens of the community whose interests are harmed as a result of
taking government action;

2. That because in the Administrative Court Law and the explanation there is no
there is further explanation of what is meant by
interest, then refer to the opinion of Indroharto, SH in
his book Efforts to Understand Administrative Court Law
State, Book II, Proceedings at the State Administrative Court, published
Sinar Harapan Library, on page 37 to page 40, understanding
that interest in relation to the law of TUN pregnancy
two meanings, namely referring to values that must be protected by law and
process importance (what is to be achieved by doing something
the lawsuit concerned). Related to the meaning of interest
which refers to the value that must be protected by law, subdivided
into two factors, namely the interest in relation to the
entitled to sue and interests in relation to
the TUN decision concerned. About the interest in
The relation with the right to sue can be seen from:
 - a. Plaintiffs must have their own interests to file
the lawsuit, he cannot act on his behalf if
indeed it is about the interests of others, because
if he wants to process it for the benefit of others
require a power;

- b. The interest must be personal, where the Plaintiff has interests to sue which can clearly be distinguished from other people's interests;
- c. The interest must be direct;
- d. That interest can be objectively determined both regarding the area as well as intensity.

Regarding the importance in relation to the decision of TUN concerned, the Plaintiff must be able to show that

The decision of the TUN that he sued directly harmed him.

While related to the interests of the process (what is to be achieved?) by carrying out a lawsuit process in question), the purpose of what is to be achieved by processing is independent of importance which must be protected by law. It is intended that the Government do not let its performance be disturbed to serve processes that do not there is a purpose, meaning that if there is no interest, the lawsuit will be declared unfounded based on Article 62 of the Administrative Court;

3. Whereas in the *a quo* case, the Plaintiffs in the lawsuit page 5 up to page 10, basically postulates:

- a. Plaintiff I has a direct interest in the object of the lawsuit because as a professional organization that is a legal entity, carry out advocacy activities as stated in the The organization's Articles of Association and Bylaws for carry out the function to fight for press freedom. Besides Therefore, as a non-governmental organization, Plaintiff I has interests and legal position to represent members in fight for their rights. Plaintiff I also argued that the object lawsuits contradict and harm the vision, mission, agenda, struggle, commitment, and all the efforts owned and carried out by

Plaintiff I so that it has an interest and is legally based
to file a TUN lawsuit through the Organizational/Legal Lawsuit

Standing;

- b. Plaintiff II has a direct interest in the object of the lawsuit
because as an association legal entity, focus consistently
conduct advocacy and education to fight for rights
digital form of the right to expression, the right to access information, and
right to security. In addition, because Plaintiff II has
continuously showing concern in accordance with the vision, mission,
and goals by taking concrete actions in accordance with the Budget
A real basis in the community for more than 2 (two) years so that
have the right, interest and legal basis for
file a lawsuit for TUN through the Organizational/Legal Lawsuit

Standing;

4. Whereas in the *a quo* case, the Plaintiffs in the lawsuit

20 to page 25, basically postulates:

- a. Plaintiff I member named Lucky Ireuw media editor in chief
Cendrawasih Pos suffered losses due to the object of the lawsuit, namely:
journalistic activities at Cendrawasih Pos were hampered due to difficulties
receiving data from journalists, disrupting the work system
because the information, data and or results of journalists' coverage cannot be
directly sent via email, causing newspaper and advertising losses;
- b. Plaintiff I member named Wahyu Dhyatmika, editor-in-chief
Tempo.co media suffered losses due to the object of the lawsuit, namely failure
to verify information about post-siege Papua
Papuan student dormitory in Surabaya, video uploads
viral on Twitter and youtube about the rioters in Sorong Papua

who will attack the mosque and the Muslims and trouble

access resource persons or cover on Deiyai

c. Plaintiff I member named Joni Aswira CNN coverage coordinator

Indonesia TV suffered losses due to the object of the lawsuit, namely difficulties

communicate with editorial in Jakarta for needs

coordination, sending pictures or video coverage that results in

the latest coverage of the Papua situation was late in arriving in Jakarta and

late to air even for certain issues that

fast verification is required to be undelivered;

d. Members of Plaintiff II named Syaifullah and Alldo Mooy experienced

the loss due to the object of the lawsuit is that they can only access the internet

via Indihome wifi network;

e. Local governments and the wider community suffer losses as a result of

The object of the lawsuit is all public services, access to information, systems

government and private are all connected to the internet

can not be accessed. Journalists and media companies

who need access to communication and work using

the internet becomes unable to do its job. Journalistic work

becomes blocked, electronic systems are *down*, damage occurs

e-government facilities such as employee electronic attendance, at the Bureau of

Papua Province Goods and Services Procurement Service (BLPBJ)

through the Electronic Procurement Service (LPSE) is hampered by

services for the procurement of goods and services that require connections

internet, online motorcycle taxi drivers in Jayapura lose their livelihood,

journalistic work is hampered in accessing information and communication,

reduce the number of foreign tourists visiting Papua and

some ATM machines in Jayapura cannot make transfers or

money withdrawal;

5. Whereas in the *a quo* case, the Plaintiffs in their lawsuit only postulated the losses experienced by the media editor led by a member of Plaintiff I and the loss of a member Plaintiff II and the losses suffered by the local government and society without at all explaining the direct losses due to the object of the lawsuit experienced by the Defendants. The plaintiff also cannot explain direct personal interests as the basis rights and interests to file a lawsuit. The Plaintiffs do not can file a lawsuit on behalf of others who feel harmed by the object of the lawsuit;
6. Whereas Organizational Lawsuit/Legal *Standing* is a practice that known in environmental matters and consumer protection. In the *a quo* case, the Plaintiffs argue that the basis of the right to file a lawsuit for TUN through Organizational Lawsuit/Legal *Standing* which is not known in PTUN matters.
7. Whereas as per press release no. 190/HM/KOMINFO/09/2019 28 September 2019 Defendant I on Saturday 28 September 2019, at 09.00 WIT has reopened data services internet in Wamena Regency and carried out at 15 percent of the points/sites of the City Jayapura, where most of the typing restrictions still apply other regions have opened on September 13, 2019 so that all telecommunications and internet services in 29 districts/cities in the Province Papua and 13 districts/cities in West Papua Province are functioning normal as before. Because Defendant I has reopened data services in Papua and West Papua, it is no longer available state administrative dispute between the Plaintiffs and Defendant I so that the Plaintiffs no longer have legal interests

in a state administrative dispute (*point d' interet - point d' action*)

and the claim of the Plaintiffs is no longer relevant to be filed;

8. Whereas based on the description above, the Plaintiffs do not have

interests that are harmed as a result of the object of the lawsuit.

In view of the TUN lawsuit through Organizational Lawsuit/Legal *Standing*

unknown in the PTUN case, and all telecommunications services

and internet in 29 districts/cities in Papua Province and 13

regencies/cities in West Papua Province have functioned normally as

originally, then the Plaintiffs do not meet the requirements for

file a lawsuit as regulated in Article 53 paragraph (1) of the Law on

PTUN. By not fulfilling the requirements to apply

lawsuit, then the Plaintiffs do not have legal standing or

legal position to file a lawsuit so that it is very

legal grounds for the Panel of Judges who examine and adjudicate

This case states that the Plaintiffs' claim cannot be accepted

(*declared inadmissible*).

C.Eksepsi Tentang Gugatan Kabur (*Exceptio Obscure Dragonfly*)

1. Article 56 of Law no. 5 of 1986 regulates:

(1) *The lawsuit must contain:*

a. *Name, nationality, place of residence and occupation*

the plaintiff or his proxies;

b. *The name of the department, and the position of the defendant;*

c. *The basis of the lawsuit and the matters requested to be decided by court.*

(2) *When the lawsuit is filed and signed by an authorized person*

Plaintiff, the lawsuit must be accompanied by a valid power of attorney.

(3) *The lawsuit as far as possible is also accompanied by an Administrative Decision*

The country disputed by the Plaintiff.

2. According to M. Yahya Harahap, SH, the basis and reasons for the lawsuit (*Posita / Fundamentum Petendi*) which does not explain the legal basis (*Rechts Grond*) and the events or events that underlie the lawsuit, or grounds the law is clear but does not explain the facts (*fetelijke grond*), the argument of the lawsuit such does not meet the formal requirements of the lawsuit. The lawsuit is considered not jelas dan tidak tertentu (*a clear and definite conclusion*).

3. Whereas the Plaintiff was unable to describe the events which a clear basis for filing a lawsuit. Plaintiff cannot describe the actions of Defendant II which are contrary to the provisions of legislation. The Plaintiff's argument against Defendant II is the same does not describe the actions of Defendant II which constitute arbitrary act, therefore the legal basis proposed Plaintiff against Defendant II as argued in the lawsuit be inaccurate and cause a discrepancy between the facts and legal basis, it can be said that the plaintiff's claim is vague (*obsuur libel*) thus sufficient reason for the Panel of Judges to stated that the Plaintiff's claim was unacceptable (*Niet onvankelijk declared*).

II. IN THE TREE OF SUBJECTS

First Defendant II states everything presented in in the Exception is retained and is a part that is not inseparable in the subject matter,

Whereas in their lawsuit, the Plaintiffs argued that basically as follows:

A. The arguments of the Plaintiffs specifically addressed to Defendant II are as follows:

1. That the Defendants have the authority to prevent the occurrence of things in the form of spreading hoaxes, provocations, hate speech and incitement

which correctly and fundamentally, does not take action

internet with the argument of Article 40 of Law no. 16 of 2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions, where article it only regulates negative content, not internet disconnection;

2. Whereas Defendant II as the superior of Defendant I is fully responsible

for the actions of Defendant I as an Assistant to Defendant II as

contained in Article 3 of Law no. 39 of 2008 concerning State Ministries:

“The Ministry is under and responsible to the President.”;

3. Whereas Defendant II as the holder of government power in

carry out their duties assisted by Defendant I who is in charge of

communication in the government sector, so that the actions of Defendant II and

Defendant I coordinated and synchronized in carrying out his duties

government as stipulated in Article 4 paragraphs (1) and (2) of the Constitution

1945: "The President as the holder of government power according to the Constitution"

1945 in carrying out his duties assisted by the ministers of the country who

in charge of certain affairs in the field of government;

4. Whereas Defendant II is the supervisor of Defendant I as well as the guarantor

the highest government responsibility is responsible for the actions of Defendant I

as assistant to Defendant II;

5. The Plaintiffs have made administrative efforts to Defendant II to

corrected the object of the lawsuit made by Defendant I, but Defendant II

in fact it doesn't give any response or answer, nor does it

take any concrete action on the actions of Defendant II who are flawed

authority, procedural defects and substance defects;

6. Whereas as a result of the actions of Defendant I and Defendant II, journalists in general

especially in the areas of Papua and West Papua cannot do work

day-to-day to fulfill the people's right to information because of the absence

or internet limitations. The difficulty is reflected by

communication between Journalists in the field and the Chief Editor, difficulties contact sources for news confirmation process, download news to online media and spread the news through the medium of the internet.

B. The object of the lawsuit is contrary to the laws and regulations and General Principles of Good Governance (AAUPB) with the following descriptions following:

1. The object of the lawsuit is contrary to the laws and regulations,

that is:

a. Article 4 paragraph (1) Law No. 40 of 1999 about

Press (hereinafter referred to as the Press Law) which stipulates that

"independence is guaranteed as a citizen's human right", and

Article 4 paragraph (3) which reads "to guarantee independence

press, the national press has the right to seek,

obtaining, and disseminating ideas and information",

for obstructing and interfering with the activities of journalists

who is doing media coverage in Papua, Papua

West and other regions. So that the recipients of information

limited access to information;

b. Article 28 J of the 1945 Constitution jo. Article 73 of Law no. 39

1999 concerning Human Rights (hereinafter referred to as

Human Rights Law) which regulates the restrictions and

restrictions that can only be limited by and based on

law;

c. Article 19 paragraph (3) Law No. 12 of 2005 about

ratification of the International Covenant on Civil Rights

and Politics (hereinafter referred to as Law No. 12 of 2005)

especially with regard to the freedom to seek, receive

and providing information may be subject to restrictions

as long as it can be done in accordance with the law. This matter can be interpreted that related to restrictions restrictions must be based on law and laws and regulations, in order to obtain legal certainty related to restrictions the;

d. Article 1 point 1 of Law no. 9 of 1998 concerning Freedom of Expression of Opinion in Public (hereinafter referred to as (Law No. 9 of 1998) states "Everyone has the right to freedom of association, assembly, and express opinions". The object of the lawsuit is acts of silence and concealment of facts in Papua region, and the public is forced to accept the truth certain. The truth that must be accepted is only the truth from the perpetrators of silence. With the freedom of information, then the "other" truth can be disclosed without scare. This right is important to guarantee search (*seeking*) and the discovery (*discovery*) of the truth. Therefore that freedom of information challenges attitudes that are absolutism;

e. Article 40 paragraph (2), paragraph (2a) and paragraph (2b) of Law No. 11 of 2008 concerning Information and Electronic Transactions (hereinafter referred to as UU ITE) because the object of the lawsuit has been violate restrictions in accessing the internet, limiting the space for expressing opinions and democracy. Citizens need to know and understanding public issues is very important for the functioning of a democracy. There is information that

Accuracy can protect the public from erroneous analysis.

**The people in Papua really need it
sufficient information to reveal the sound and
their interests and control public officials;**

f. Article 19 paragraph (2) Law No. 12 of 2005

**stipulates that everyone has the right to freedom to
express an opinion. This right includes the freedom to
seek, receive and provide relevant information
finally violated due to the consequences of the object of the lawsuit with
restrictions and blocking of data services in the Papua region
and West Papua;**

g. The impact of the violation of article 19 paragraph (2)

**not only affect the members of the parties
Plaintiffs but rather have an impact on the rights of the community
to seek, receive and provide related information
with the situation and conditions in West Papua and Papua.
The only information is only good by members
members of the Plaintiffs and the public from the government,
who clearly have an interest and tend not
balanced;**

h. Law No. 25 of 2009 concerning Service

**Public (hereinafter referred to as the Public Service Act) because:
as a result of the actions of Defendant I had a negative impact on the
public service activities, because some services for services
or administrative use of data, so that the consequences of
Defendant I's actions related to cancellation and blocking
data services in West Papua and Papua cannot be performed,
this is clearly very detrimental to the interests of the Papuan people**

**West and Papua as beneficiaries of public services,
either directly or indirectly;**

**i. Article 4 of the ICCPR which was ratified through Law no. 12 years old
2005 which stipulates that restrictions on human rights
Humans are only allowed if the things have been fulfilled, namely:
the existence of an emergency situation that threatens the life of the nation,
there is an official declaration of an emergency situation by the state, and
there is a notification regarding the official declaration of an emergency situation
to the Secretary-General of the United Nations who then
will confirm with other states parties;**

**j. Article 28 and Article 29 of Law No. 11 of 2008
regarding Information and Electronic Transactions jo. Invite
Law No. 16 of 2016 on Changes to the Law
Law No. 11 of 2008 concerning Information and Transactions
Electronic;**

**k. Article 14 and Article 15 of Law No. 1 Year 1946
regarding the provisions of the Criminal Law (hereinafter referred to as the Criminal Code)
yeah Law No. 7 of 1958 on Declaring
Enactment of Law No. 1 of 1946 about
Criminal law regulations for the entire territory of the Republic
Indonesia and Changing the Code of Law
Criminal Law and Law no. 8 of 1981 concerning the Book
The Criminal Procedure Code (hereinafter referred to as)
KUHAP);**

**l. Government Regulation No. 71 of 2019 regarding
Operation of Electronic Systems and Transactions
(hereinafter referred to as PP No. 71 of 2019) jo. Regulation
Government No. 82 of 2012 concerning the Implementation of**

Electronic Systems and Transactions (hereinafter referred to as PP No. 82 of 2012;

m. Regulation of the Minister of Communication and Information Technology No. 19 years old

2014 concerning Handling Internet Sites with Negative Content.

**2. The object of the lawsuit contradicts and/or violates the principles
general good governance, namely:**

- a. The principle of legal certainty because the object of the lawsuit has been make the role of the press to fulfill people's rights in order to be able to know the information as regulated in Article 6 of the Press Law, so it cannot be done on when the object of the lawsuit is made. Besides Settings on how to limit and deal with hoaxes, Hate speech and provocations that still happen is not clear, the Defendants should have using an existing mechanism, right? create a mechanism without a legal basis.
- b. The principle of orderly state administration because the object carried out without a clear legal basis, without adequate decree, hit a lot applicable laws and regulations, breaking the guarantee of respect and protection constitutional rights of citizens guaranteed by legislation.
- c. The principle of public interest because the object of the lawsuit impact on all aspects of the public interest residents in the provinces of Papua and West Papua during enforced. All public services, access information, government and private systems that

connected to the internet all can not be accessed.

Journalists and media companies who

need access to communication and work

using the internet becomes unable to do

his job. Journalistic work is hampered

due to difficulties in verifying and

clarification of information between the editors and the editors

reporter in the field. The object of the lawsuit is also very

broad impact on the general public

such as an electronic system that goes *down*, damage occurs

e-government facilities such as electronic attendance

employees, at the Bureau of Procurement Services and

Services (BLPBJ) Papua Province through Services

Electronic Procurement (LPSE) is hampered by

services for the procurement of goods and services

requires internet connection, online motorcycle taxi drivers at

Jayapura loses livelihood, jobs

journalism is hampered in accessing information and

communication, reduce the number of foreign tourists who

visited Papua and some ATM machines in

Jayapura cannot make transfers or

money withdrawal.

- d. The basics of openness (Plaintiffs do not convey the reasons why Defendant II violates the principle of openness).

- and. The principle of not abusing authority because the object of the lawsuit is carried out unreasonably and not based on procedures and criteria of limitation

rights as referred to in the provisions of the regulations
legislation. The object of the lawsuit is also carried out
just by doing press releases and without
reasons for authority and clear procedures.

- f. The principle of proportionality because the object of the lawsuit
do punishment to all citizens in
Papua and West Papua Provinces. Journalist on
perform tasks mandated by law
the law is blocked. The Plaintiffs who
carry out the vision, mission, agenda also become
disturbed. It is very likely that Judges, Prosecutors,
Police at work and fulfilling duties
state in law enforcement and need
data services or internet access becomes impossible.
Teachers, students, students doing the circuit
educational and academic activities and require
internet service also becomes disrupted.

Whereas the arguments of the Plaintiffs' claims above are not at all
reasoned and not based on law, therefore Defendant II
declares to reject all the arguments of the Plaintiffs' claim.

Whereas Defendant II submitted an answer to the subject matter of the case as follows:
following:

1. Regarding the position of Defendant I as Minister of State in charge of
communication and informatics affairs and tasked with assisting Defendant II
as President of the Republic of Indonesia, Defendant II conveyed the following matters:
 - a. The state is formed by being given the duties, functions and obligations to
provide services to the community. Hence, for
carry out these duties and functions, the Government as the personification

the state is given the right to take actions

(*bestuurhandelingen*). The government is a legal subject, as

dragger van de rechten en plichten or proponent of the rights of dan

obligations. As a legal subject, the Government as

other legal subjects take actions. Action

Government (*bestuurhandelingen*) is every action or deed

carried out by government equipment (*bestuurorgan*)

in carrying out government functions;

b. In the concept of government law, the government's actions

divided into two, namely material/factual actions (*fietelijke*

handling) and legal action (*rechthandeling*). Against both types

government action, Philipus M. Hadjon stated that

In general, the distinction given to the two acts

government is based on the presence or absence of legal consequences

(*rechtsgevolg*) from the actions of the government concerned. *Fietelijke*

actions tidak give birth legal consequences, while

rechtshandelingen is actually intended to produce legal consequences;

c. One form of government legal action is the determination of

beschikking or in Indonesian legal literature is called a Decision

State Administration (KTUN). Based on Article 1 point 9 of the Administrative Court Law,

it is regulated that the decision of the State Administration is a stipulation

a written document issued by a state administrative agency or official

which contains state administrative legal actions based on

applicable laws and regulations, which are concrete,

individual and final which results in legal consequences for a person

or a civil legal entity;

d. According to Kuntjoro Purbopranoto, so that the decisions made

For a valid decision, there are material requirements for the validity of the decision, namely:

government that makes decisions must be authorized (right),
in the will of the government apparatus that makes the decision cannot
there is a juridical deficiency (*geen juridische gebreken in de welsvoming*),
decisions must be given the form (*vorm*) specified in the regulations
on which it is based, and its formation must also
pay attention to the decision-making procedure when the procedure
is clearly stipulated in the regulation (*rechtmatig*). Contents
and the purpose of the decision must also be in accordance with the content and objectives
hendak dicapai (*effective*);

e. The term authority has an equivalent with the term "*authority, power, or competence*" in English, "*bevoegd*" in Dutch,
and "*gezag*" in German. The term *authority* can be interpreted
sebagai "*The power delegated by a principal to his agent; The lawful delegation of power by one person to another.*" From that understanding
can be interpreted that authority is the power to
Act. However, authority must be distinguished from
power and rights. Not all power is authority.
but all authority is power. Authority is
powers formalized in laws and regulations,
while power is not only given by law, but can be
also because of politics, economy, social position and so on.
Likewise, authority and rights must be distinguished, where authority
is the power to act in the realm of public law,
as for the right is the power to act in the realm of law
private. Regarding the authority, Philipus M. Hadjon has the opinion
that in the Constitutional Law the authority (*bevoegdheid*)
described as legal power (*rechtsmacht*). So in
the concept of public law, authority is related to power.

Furthermore, Philipus M Hadjon stated "As a legal concept" public, authority consists of at least three components, namely: influence, legal basis and legal conformity. Influence component is that the use of authority is intended to control behavior of legal subjects. The basic component of the law, that authority always must be able to designate the legal basis and components of conformity law, implies the existence of a standard of authority, namely the standard of general (all types of authority) and specific standards (for types of certain authority).

f. Authority is a condition that must be fulfilled in action

government, meaning that government action must be based on norms of authority he receives, whether obtained by attribution, delegation and mandate. Philipus M Hadjon argues that every government action must be based on legitimate authority and obtained through three sources, namely attribution, delegation, and mandate. The definition of attribution authority is the authority attached to positions that have been determined in the Constitution or law, while the authority of delegation and mandate sourced from the transfer. In principle, in carrying out authority, the authorized body/official is not allowed act beyond their authority (*ultra vires*). Because every the use of authority is always limited by material (*material*), space , (*locus*), and time (*tempus*). Outside these limits, you can is said to be an act of government that transcends boundaries authority (*onbevoegdheid*), therefore government action must be based on legal authority;

g. Chapter V on State Ministries, Article 17 of the 1945 Constitution regulates about:

- 1) The President is assisted by state ministers;
- 2) The ministers are appointed and dismissed by the President;
- 3) Each Minister is in charge of certain affairs in the Government;
- 4) Formation, change and dissolution of national ministries
regulated by law.

When observing the provisions of Article 17 of the 1945 Constitution, in particular paragraph (3) then it can be seen that each minister is in charge of certain government in accordance with the field of work;

h. Duties and responsibilities of the minister of communication and information related telecommunications sector, is regulated in the provisions of Article 1 number 17 of the Law on No. 36 of 1999 concerning Telecommunications (hereinafter referred to as Law No Telecommunications) which stipulates that the Minister is the Minister who scope of duties and responsibilities in the telecommunications sector.

Next is Chapter III on Guidance, Article 4 of the Telecommunications Law set about:

- 1) Telecommunication is controlled by the state and its construction is done
by the Government;
- 2) Telecommunication construction is directed to increase
telecommunications operations which include the determination of policies,
regulation, supervision and control;
- 3) In the determination of policies, regulations, supervision and
control in the telecommunications sector as referred to in paragraph
(2) carried out in a comprehensive and integrated manner with
pay attention to the thoughts and views that develop in
society and global development.

This means that telecommunications is controlled by the state and in determining policies related to regulation, supervision, and control in the field of telecommunications is carried out in a comprehensive and integrated manner with

pay attention to the thoughts and views that develop in society and global development. Minister of Communications and Informatics as Minister in charge and responsible for the field of communication and informatics has the authority as referred to in Article 4 of the Telecommunications Law;

- i. The position of the Ministry of Communication and Information Technology in the governance the Indonesian government is regulated in Article 1 of the Presidential Regulation Republic of Indonesia No. 54 of 2015 concerning the Ministry of Communications and Informatics (hereinafter referred to as Perpres No. 54 of 2015) which set about:
- 1) The Ministry of Communication and Information Technology is under and responsible to the President;
 - 2) The Ministry of Communication and Information is led by the Minister;
- j. The duties and functions of the Ministry of Communication and Information Technology contained in the provisions of Article 2 and Article 3 of Presidential Regulation 54 of 2015 which govern:

Section 2:

The Ministry of Communication and Information Technology has the task of carry out government affairs in the field of communication and informatics to assist the President in organizing State Government.

Article 3:

- a. Formulation and determination of policies in the field of management postal and information technology resources and equipment, organizing post and informatics, informatics application management, management of public information and communication;*

- b. implementation of policies in the field of resource management and postal and information technology equipment, postal administration and informatics, informatics application management, management public information and communications;*
- c. implementation of technical guidance and supervision of implementation management of post and information technology resources and equipment, post and information technology administration, application management informatics, information management and public communication;*
- d. implementation of research and human resource development in the field of communication and informatics;*
- e. implementation of substantive support to all organizational elements within the Ministry of Communications and Informatics;*
- f. coaching and providing administrative support in the environment Ministry of Communication and Informatics;*
- g. management of state property/ wealth that is the responsibility of responsible for the Ministry of Communications and Information Technology;*
- h. supervision of the implementation of tasks within the Ministry Communication and Informatics.*

k. Taking into account the description of the explanation above, it can be obtained the conclusion that the position of the Minister of Communication and Informatics does not solely as a subordinate of the President of the Republic of Indonesia but the Minister of Communications and informatics is an instrument of state and government which given the authority of law or the so-called authority attributive nature which is then delegated to the Minister RI Communication and Information Technology to carry out its duties and functions in the field of telecommunications and informatics, so that accountability for the implementation of the duties and authorities of the Minister

Communication and Information Technology of the Republic of Indonesia is under the Minister of Communications and Information Technology

RI Informatics is not with the President of the Republic of Indonesia *in casu* Defendant II.

2. The object of the lawsuit is not contrary to and/or infringing

Applicable Laws and Regulations, with the following reasons:

following:

That the object of dispute has been based on 3 (three) main legal aspects the formation of a TUN Decision, namely aspects of authority, aspects of procedures, and aspects of substance as regulated in Article 52 paragraph (1) of the Law Government administration.

a. Aspects of Authority

That the object of dispute has been issued by Defendant I is in accordance with with its authority, with the following explanation:

(1) Provisions in Article 40 paragraph (2), paragraph (2a), and paragraph (2b) of the Law Law No. 11 of 2008 concerning Information and Transactions Electronics as amended by Law No. 19 of 2016 on Amendments to Law No. 11 2008 concerning Information and Electronic Transactions (hereinafter referred to as the “UU ITE”), regulates as follows:

Article 40 of the ITE Law:

- (2) *The government protects the public interest of all kinds disturbance as a result of misuse of Electronic Information and Electronic Transactions that disturb public order, in accordance with the provisions of the Laws and Regulations;***
- (2a) *The government is obliged to prevent the spread and use of Electronic Information and/or Electronic Documents which has a prohibited load in accordance with the provisions legislation;***

(2b) In carrying out the prevention as referred to in

paragraph (2a), the Government has the authority to terminate access and/or instruct the System Operator

Electronic to terminate access to

Electronic Information and/or Electronic Documents that have an unlawful charge.

(2) Furthermore, based on the general explanation number 1 paragraph 9 of the ITE Law describes the criteria for illegal content are as follows:

Third, the virtuality characteristics of cyberspace allow content

illegal information such as Information and/or Electronic Documents that have

Content that violates morals, gambling, insults or

defamation, extortion and/or threats,

the spread of false and misleading news

result in consumer losses in Electronic Transactions,

as well as the act of spreading hatred or enmity

based on ethnicity, religion, race, and class, and delivery

threats of violence or intimidation directed at

can be accessed, distributed, transmitted, copied,

stored for re-distribution from anywhere and anytime.

In order to protect the public interest of all kinds

disturbance as a result of misuse of Electronic Information and

Electronic Transactions, it is necessary to affirm the role of the Government in

prevent the spread of illegal content by taking action

termination of access to Electronic Information and/or Documents

Electronics that have a charge that violates the law so as not to

accessible from Indonesian jurisdiction and required authority

for investigators to request information contained in the

Electronic System Operator for enforcement purposes

***criminal law in the field of Information Technology and Transactions
Electronic.***

3) Furthermore, based on the provisions in Article 1 number 23 UU ITE

**jo. Article 1 number 35 PP No. 82 of 2012, regulates as
following:**

Article 1 number 23 of the ITE Law:

***"Government is the Minister or other official appointed by the
President"***

Article 1 number 35 PP No. 82 of 2012:

***"The minister is the minister who organizes the affairs of the
government in the field of communication and informatics."***

4) Observing the provisions of Article 1 number 23 jo. Article 40 paragraph (2), paragraph

(2a), and paragraph (2b) of the ITE Law jo. Article 1 number 35 PP No. 82 years old

2012, then, legally, Defendant I as the official who

appointed by the president to carry out government affairs in

the field of communication and informatics has the authority to

prevent the dissemination of illegal content by

take action to cut off access to Electronic Information

and/or Electronic Documents that have contents that violate

law so that it cannot be accessed from Indonesian jurisdictions for

protect public order;

5) Whereas the actions of Defendant I which became the object of the lawsuit are in the form of:

a) Perform *throttling* or throttling of access/bandwidth in

some areas of West Papua Province and Papua Province in

19 August 2019 from 13.00 WIT (East Indonesia Time)

sd puck 20.30 WIT;

b) Blocking data services and/or disconnecting access

comprehensive internet in Papua Province (29 cities/districts)

and West Papua Province (13 cities/districts) dated 21

August 2019 until at least September 4th

2019 public 23.00 WIT;

c) Prolonging data service and/or data service blocking

disconnection of internet access in 4 cities/districts in Papua Province

(Jayapura City, Jayapura Regency, Mimika Regency, and

Jayawijaya Regency) and 2 cities/districts in Papua Province

West (Manokwari City and Sorong City) since 4

September 2019 at 23.00 WIT until September 9

2019 at 18.00 WIB / 20.00 WIT;

It is the authority of Defendant I as regulated in Article

1 angka 23 jo. Pasal 40 ayat (2), ayat (2a), dan ayat (2b) UU ITE jo.

Article 1 number 35 PP No. 82 of 2012 and Explanation of number I

paragraph 9 of the ITE Law to prevent dissemination

spreading false and misleading news and preventing

the act of spreading hatred or enmity based on

ethnicity, religion, race, and class in several areas of Papua Province

West and Papua Provinces that can be carried out by Parties who

not responsible.

Based on the description above, the object of the lawsuit has fulfilled the following aspects:

authority to form a State Administrative Decree

as regulated in Article 1 number 23 jo. Article 40 paragraph (2), paragraph

(2a), and paragraph (2b) of the ITE Law jo. Article 1 number 35 PP No. 82 Year 2012

and Explanation of number I paragraph 9 of the ITE Law.

b. Procedure Aspect

That the object of the lawsuit is in accordance with the applicable procedures,

with the following explanation:

1) Whereas Defendant I has the authority to take action

as the object of the lawsuit, where Defendant I had previously coordinate with related Ministries/Agencies, and Enforcement Apparatus Law (APH). The arrangements related to the coordination have just been regulated in Article 97 paragraph (2), and paragraph (3) of PP No. 71 of 2019, which promulgated and entered into force in October 2019 i.e. after the the object of the lawsuit by Defendant I;

2) Whereas the background of Defendant I taking action

as stated in the object of the lawsuit because on Thursday On August 15, 2019, there was a riot between students who joined the Papuan Student Alliance (AMP) which demands Papua Freedom with residents and security forces in Malang. Then on Friday the 16th of August 2019 and Saturday the 17th of August 2019 there was a siege by several CSOs against Papuan Student Dormitory in Surabaya accompanied by the words racist as a result of the issue of destroying the Red and White flag;

3) Following the events in Malang and Surabaya, there is a lot of news that

spread in *online* media that is not necessarily true, so that sparked mass actions in Manokwari, Jayapura, and several other places in Indonesia Papua and West Papua on Monday 19 August 2019.

Furthermore, regarding the dissemination of the news, Defendant I carried out the following: verification to the Police and TNI who then identify the existence of news categorized as disinformation (news in which there are facts but are led to incorrect information) namely Polres Surabaya Kidnaps Two Food Deliverers for Students Papua and hoax news namely Photo of Papuan Student Beaten Killed Officials in Surabaya announced on the Kominfo website and stophoax.id 19 August 2019;

4) To prevent the spread of hoaxes that trigger mass action,

The Ministry of Communications and Information Technology conducts *throttling or access/bandwidth* slowdown starting at 13.00 WIT in some areas

Papua and West Papua which are carried out in stages. It has also been submitted by Defendant I as stated in Press Release No.

154/HM/KOMINFO/08/2019 regarding Access Slowdown in Some West Papua and Papua Region on 19 August 2019;

5) To speed up the process of restoring the security and order situation in

Papua and its surroundings, after coordinating with law enforcement officials law and related agencies, Defendant I temporarily blocked

telecommunication data services, starting Wednesday 21 August 2019 until

the atmosphere of the land of Papua is back to being conducive and normal, as stated in Press Release No. 155/HM/KOMINFO/08/2019 regarding Blocking

Data Services in Papua and West Papua on August 21, 2019;

6) Based on the evaluation conducted by Defendant I with the Police

and related agencies on Friday, August 23, 2019 at 16.00 WIB,

Defendant I as the representative of the Government concluded that

although the situation and conditions in several cities and districts in Papua

and West Papua began to recover gradually, but distribution and

the transmission of hoax, fake, provocative, and racist information is still

fairly high. Defendant I on August 23, 2019 has

identify, validate and verify with the least results

33 (thirty three) content in the form of hoax and related provocation information

Papua issues are spread across a total of 849 information links distributed to

hundreds of thousands of *Facebook, Instagram, Twitter*, and Facebook social media account owners

youtube;

7) Furthermore, based on the results of coordination with the Police and agencies

related, Defendant I has decided to block

Internet access in Papua and West Papua still continues, however people can still communicate by using the service telephone calls and short message services (SMS). It is as delivered through Press Release No. 159/HM/KOMINFO/08/2019 regarding Data Service Blocking in Papua and West Papua Still Continues 23 August 2019;

- 8) During the period of blocking telecommunications access in Papua and West Papua there are still mass actions, including:
- a) Mass action (demo) in Deiyai Papua, which resulted in 1 member TNI died and 5 Police were injured, 28 August 2019;
 - b) The action of cutting the main cable of Telkom's optical network which resulted in the death of all types of cellular services in many locations in Jayapura, August 29, 2019;
- 9) Based on the results of coordination with law enforcement/security officers Defendant I has reopened the block on data services gradually in Papua and West Papua taking into account the situation security has begun to recover and the spread of hoax information, news lying, hate speech, incitement, and provocation are declining, p has also been submitted in:
- a) Press Release No. 170/HM/KOMINFO/09/2019, September 4 2019;
 - b) Press Release No. 173/HM/KOMINFO/09/2019, September 6 2019;
 - c) Press Release No.175/HM/KOMINFO/09/2019, September 9, 2019;
 - d) Press Release No.177/HM/KOMINFO/09/2019, September 10 2019;
 - e) Press Release No.179/HM/KOMINFO/09/2019, September 11 2019;

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**190/HM/KOMINFO/09/2019 regarding Wamena Data Service Back
Telecommunication Service Opens Throughout Papua Back to Normal
September 28, 2019;**

13) Whereas the actions of Defendant I which became the object of the lawsuit are in the form of:

- a) Perform *throttling* or throttling of access/bandwidth in some
West Papua Province and Papua Province on August 19
2019 from 13.00 WIT (Eastern Indonesia Time) to 20.30
WIT;**
- b) Blocking data services and/or disconnecting access
comprehensive internet in Papua Province (29 cities/districts)
and West Papua Province (13 cities/regencies) dated 21 August
2019 until at least September 4, 2019 at
23.00 WIT;**
- c) Prolonging data service and/or data service blocking
disconnection of internet access in 4 cities/districts in Papua Province
(Jayapura City, Jayapura Regency, Mimika Regency, and
Jayawijaya Regency) and 2 cities/districts in Papua Province
West (Manokwari City and Sorong City) since September 4th
2019 at 23.00 WIT until September 9, 2019 at
18.00 WIB / 20.00 WIT;
Need to be seen from the benefits to protect the public interest
and national security. As for the benefits of doing the object of the lawsuit:
by Defendant I, namely:
a) Has prevented the spread of false and misleading news
as well as the reduction of acts of spreading hatred between
ethnicity, religion, race and intergroup in some areas
Papua and West Papua Provinces;**

b) Has prevented the spread of riots and/or damage
public facilities and state facilities so as not to cause
loss to society/state;

14) That the legal principle of expediency (*doelmatigheid*) or
to achieve the object of the lawsuit in accordance with the opinion:

a) Prof. Kuntjoro Purbopranoto, SH in his book *Some Notes
Governance Law and State Administrative Courts,
Alumni publications, on page 48 to page 50, states:
Conditions that must be met in order for that decision
as a valid decision is as follows:*

(1) Material conditions

*(a) The instrument of government that makes decisions must
authorized (entitled);*

*(b) In the will of the government apparatus that makes
there can be no juridical deficiency in the decision (geen
legal defects in the formation of will);*

*(c) Decisions must be given the form (vorm) specified
in the rules that are the basis and
the manufacture must also pay attention to the procedure
make a decision, when the procedure is established
strictly in that regulation (rechmatig);*

*(d) The content and purpose of the decision must be in accordance with the content and
goals to be achieved (doelmatig). Explanation:*

*Must be "doelmatig" = towards the right target. nature
"doelmatig bestuur" means direct actions
directed to the target to be achieved, must be efficient,
frugal, careful, but successful. If the authority
done not in accordance with the intended purpose*

to achieve it is called "detournement de pouvoir"

(deviated from the goal, deviated);

(2) Formal requirements

(a) Conditions determined in relation to

preparation for making decisions and relating to

the manner in which decisions are made must be complied with;

(b) Must be given the prescribed form;

(c) Conditions, in relation to the implementation of the decision

that is fulfilled;

(d) The period of time must be determined between the occurrence of things

which caused it to be made and announced

that decision and must not be forgotten;

b) Furthermore, Indroharto, SH in his book Efforts to Understand

State Administrative Court Law, Book II, Proceedings

in the State Administrative Court, published by Pustaka Sinar Harapan,

on pages 165 to page 166, states:

"As is known, the testing of a decision that

in question it can be distinguished between tests:

(1) Complete, meaning that the decision in question is

well tested in terms of wisdom

as well as regarding the applicable law;

(2) This is done in the objection procedure by the agency that

issued a similar decision or by the agency

administrative appeals (tests by agencies in

the government itself or the applicable agency

as an administrative supervisory agency). That's where it's tested

is the decision of the policy taken whether

quite effective and efficient or not in addition to whether

the application of the law is appropriate or not (true according to legal or not).

15) Whereas the substance of the *doelmatigheid* principle is benefit, effectiveness, and efficiency of issuing a TUN Decree. Benefits on the basis is one of the basic forms that need to be observed in publication of the TUN Decision. So in evaluating a publication TUN decisions are not only judged in terms of the *rechtmaticheid* principle alone but also to be judged from the *doelmatigheid* side;

16) The panel of judges should also make legal considerations using *the doelmatigheid* principle , you still have to consider material and formal reasons. This is in line with the opinion of Prof. Kuntjoro Purbopranoto in his book Some Notes on Administrative Law Government and State Administrative Courts, namely to become the authority of the Panel of Judges to assess a TUN decision considered valid both in terms of *rechtmaticheid* and *doelmatigheid* or use both;

Based on the description above, although the provisions in PP no. 71 Years 2019 took effect in October 2019, but with pay attention to the principle of expediency (*doelmatigheid*) in an effort to protect the public interest for society and the state, and factually Defendant I has coordinated by involving Ministry/Agency prior to the implementation of the object of the lawsuit, then Defendant I's actions were procedurally appropriate.

c. Aspect Substance

That the issuance of the object of dispute is in accordance with the substance aspect, with the following explanation:

1) Defendant I's actions do not violate the provisions in Article 4 paragraph

(1) Law no. 40 of 1999 concerning the Press, with the reasons

as follows:

a) The provisions in Article 28 paragraphs (1) and (2) J of the 1945 Constitution, regulates

as follows:

(1) Everyone is obliged to respect the human rights of people

others in the order of social life, nation, and

patriotic;

(2) In exercising his rights and freedoms, every person

must submit to the restrictions set by

laws with the sole purpose of

guarantee recognition and respect for rights and

the freedom of others and to meet the demands

fair in accordance with moral considerations, religious values,

security, and public order in a society

democratic;

b) Furthermore, the provisions in Article 28 of the ITE Law, basically

prohibits anyone intentionally and without rights

disseminate information that is intended to create a sense of

individual and/or group hatred or hostility

certain communities based on ethnicity, religion, race, and

intergroup (SARA);

c) The provisions of laws and regulations provide rights

to everyone (press) to get and

inform the public, but the right

owned by everyone (the press) is limited by a regulation

legislation that is attributively attached to

Government in an effort to maintain public order and state security;

d) The Government in this case Defendant I has an obligation as stipulated in Article 40 paragraph (2), paragraph (2a), and paragraph (2b) UU ITE to prevent it from happening massively the spread of *hoax information*, fake news, provocative and racist which has the potential for riots that can be divisive unity and threaten the security of the country that is attributive authority of the Government to protect interests general, especially in Papua and West Papua;

e) That it would be wrong if the Plaintiffs stated that:

Defendant I's actions have violated the right of journalists (press) to get electronic information for further reporting to the public, because in fact the actions of Defendant I only take action to limit internet access only to mobile data services. In this case the Plaintiffs can still communicate and get information through *voice* and SMS services via cell phones, fax, *Internet Service Provider (ISP)* or *Wireless* access *Fidelity (wifi)*. In addition, on September 5, 2019 Defendant I has provided a media center in Jayapura and Manokwari for the press to send news to their respective offices each of which is outside the territory of Papua and West Papua.

2) The arguments of the Plaintiffs stating that the actions of Defendant I have

violate the provisions of Article 28 J of the 1945 Constitution jo. Article 73 of the Human Rights Law is mistaken for the following reasons:

a) The provisions in Article 28 J of the 1945 Constitution and Article 73 of the Human Rights Law, regulates as follows:

Article 28 J:

(1) Everyone is obliged to respect the human rights of others in the order of social life, nation, and patriotic;

(2) In exercising his rights and freedoms, every person must submit to the restrictions set by laws with the sole purpose of guarantee recognition and respect for rights and freedom of others and to meet just demands according to moral considerations, religious values, security, and public order in a society democratic;

Article 73:

The rights and freedoms regulated in this Law only can be limited by and based on the law, only points to guarantee recognition and respect for rights human rights and basic freedom of others, morality, public order and national interest.

b) Furthermore, based on the provisions in Article 28 paragraph (2) of the ITE Law, set as follows:

c) Article 28 paragraph (2):

Everyone intentionally and without rights spreads information which is intended to cause hatred or enmity certain individuals and/or community groups based on ethnicity, religion, race, and intergroup (SARA).

d) Observing the provisions in Article 28 J and Article 73 which limit the rights and freedoms of a person to guarantee public order and the interests of the nation, as well as as the implementation of the provisions

mentioned above, further restrictions on these rights and freedoms regulated in Article 28 paragraph (2) of the ITE Law, thus Defendant I as a representative of the Government in an effort to maintain public order and prevent the emergence of hatred based on ethnicity, religion, race, and inter-group (SARA) restrict internet access in some areas of Papua and West Papua. This is also in line with Article 20 paragraph (2) of the *International Covenant On Civil and Political Rights* (ICCPR) which has been ratified by Law no. 12 Year 2005 about which regulates as follows:

All actions that promote hatred on national grounds, race or religion that is incitement to commit discrimination, hostility or violence, shall be prohibited by law.

e) Based on the description above, the actions of Defendant I to perform acts of slowing down and terminating internet access in some areas of Papua and West Papua have actually been in accordance with the provisions of Article 28 J of the 1945 Constitution, Article 73 of Law No. Human Rights, and Article 20 paragraph (2) of Law No. 12 of 2005;

3) Defendant I's actions do not violate the provisions of Article 19 paragraph (3)

UU no. 12 of 2005 due to restrictions imposed by the Defendant

I have been carried out in accordance with applicable law, namely the provisions of dalam Pasal 40 ayat (2), ayat (2a), dan ayat (2b) UU ITE, sehingga dalil

The Plaintiffs are wrong and unlawful;

4) The arguments of the Plaintiffs stating that the actions of Defendant I have

violate the provisions of Article 1 point 1 of Law no. 9 of 1998

on the Freedom of Expressing Opinions in Public (Law no.

9/1998) is a false argument, for the following reasons:

following:

a) The provisions in Article 1 point 1 of Law no. 9/1998, set as following:

Article 1 number 1

Freedom of expression is the right of every citizen state to convey thoughts orally, in writing, and so on freely and responsibly in accordance with provisions of applicable laws and regulations;

b) Furthermore, based on the provisions in Chapter VII concerning Acts of Prohibited, Article 28 paragraph (2) Jo. Article 40 paragraph (2), paragraph (2a), and paragraph (2b) of UU ITE, regulates as follows;

Article 28 paragraph (2)

Every Person knowingly and without right distributes information intended to incite hatred or hostility towards certain individuals and/or community groups based on ethnicity, religion, race, and intergroup (SARA);

Article 40 of the ITE Law:

(2) The government protects the public interest from all kinds disturbance as a result of misuse of Information Disruptive Electronics and Electronic Transactions public order, in accordance with the provisions of the Regulations Legislation;

(2a) The government is obliged to prevent the spread of and use of Electronic Information and/or Documents Electronics that have a charge that is prohibited according to with the provisions of laws and regulations;

(2b) In carrying out the prevention as referred to in paragraph (2a), the Government has the authority to make decisions access and/or order the Operator

***Electronic System to terminate access
on Electronic Information and/or Electronic Documents
which has a charge that violates the law;***

- c) Taking into account the provisions above, everyone is given
freedom to express opinions orally and in writing
with the requirements for the submission of such information is not
cause or disturb public order and security
the state as regulated in the ITE Law;**
- d) Defendant I in carrying out the act as the object of the lawsuit
a quo is the implementation of the provisions of the ITE Law in order to
take precautions against the dissemination of information that
cannot be ascertained the truth in order to maintain
public order and the interests of the nation, so that Para's argument
The Plaintiff who stated the actions of Defendant I in
doing the object of the lawsuit causes violating the provisions
in Article 1 point 1 of Law no. 9 of 1998 is
wrong interpretation and not paying attention to the rules
other relevant legislation, in this case Article 28 J
1945 Constitution jo. Article 73 of the Human Rights Law, Article 20 paragraph (2) of Law no. 12
Tahun 2005, dan Pasal 40 ayat (2), ayat (2a), dan ayat (2b) UU ITE;**
- e) Whereas the arguments of the Plaintiffs stating the object of the lawsuit have been
violate restrictions in accessing the internet and restrict
space for expression and democracy
as stipulated in Article 40 paragraph (2), paragraph (2a), and paragraph (2b)
The ITE Law is wrong because Defendant I has acted accordingly
with the authority of Defendant I as contained in
in the ITE Law to do to prevent the occurrence of
the dissemination of the spread of false and misleading news as well as**

prevent acts of spreading hatred or enmity
based on ethnicity, religion, race, and class in several
Papua Province and West Papua Province which can be
carried out by an irresponsible Party;

5) Whereas the arguments of the Plaintiffs stating the actions of Defendant I have
harm the community directly or indirectly because it does not
get public services as stipulated in the Service Act
The public is wrong, for the following reasons:

a) The provisions in Article 11 of the Public Service Law states as
following:

Article 11 paragraph (1):

*The Operator is obligated to select and
promotion of implementers in a transparent, non-discriminatory, and fair manner
in accordance with the laws and regulations;*

b) Defendant I's actions in restricting internet access

as the object of the lawsuit is the implementation of the provisions
Article 11 paragraph (1) of Law No. 25/2009 in order to do
selection, in this case information that can be forwarded to
public, with limitations as stipulated in the provisions of Article 40
ayat (2), ayat (2a), dan ayat (2b) UU ITE;

c) In addition, this internet access restriction is also a form of
protection of the interests and security of the state
as regulated in Article 7 paragraph 2 letter a of the Telecommunications Law,
which states the following:

Article 7 paragraph (2) letter a:

*In the operation of telecommunications, attention must be paid to the following:
as follows:*

a. protect the interests and security of the state;

So that Defendant I should have implemented provisions as a regulator in the field of telecommunications have obligation to protect the interests and security of the state.

6) The arguments of the Plaintiffs stating the actions of Defendant I contrary to PP No. 71 Year 2019 is baseless, because the actions of Defendant I were carried out in August 2019, while PP No. 71 of 2019 is valid and promulgated in the month of October 2019, so that legally the Defendant I's actions in the month of August 2019 does not conflict with the provisions in PP No. 71 Year 2019;

Based on the description above, the object of the lawsuit has fulfilled the following aspects: authority, procedure, and substance so that the Plaintiffs' argument which states that the object of the lawsuit is contrary to the provisions of Article 52 Law No. 30 of 2014 concerning Government Administration (Law No. 30/2014) is without legal basis. With Thus, the panel of judges who examined, tried, and decided the matter *a quo* to reject the arguments of the Plaintiffs.

3. The object of the lawsuit is not against and/or violates the principles General Good Governance for the following reasons:

a. The object of the lawsuit does not violate the principle of legal certainty as argued by the Plaintiffs because the actions of Defendant I committed The object of the lawsuit is precisely to create legal certainty, namely: prevent the spread of false news and mislead and prevent acts of spreading hatred or enmity based on ethnicity, religion, race, and between groups (SARA) in several areas of Papua Province and West Papua Province committed by an irresponsible Party (see Article 1 angka 23 jo. Pasal 40 ayat (2), ayat (2a), dan ayat (2b) UU ITE, Pasal 1

Explanation of number I paragraph 9 of the ITE Law, Article 1 number 35 of PP No. 82 Year 2012, Article 20 paragraph (2) of Law No. 12/2005) as well as protect the interests and security of the state (see Article 7 paragraph (2) letter a of the Law on No. 36/1999);

- b. The object of the lawsuit does not violate the orderly principles of state administrators as argued by the Plaintiffs because, Defendant I have the authority to take preventive action the massive spread of *hoax information*, false news, provocative racists who can threaten national security based on attributive authority described in number 2 letter a;
 - c. The object of the lawsuit does not violate the principle of public interest as argued by the Plaintiffs because the actions of Defendant I committed the object of the lawsuit is precisely to protect the public interest, especially in areas of Papua and West Papua so that there is no massive spread *hoax*, hoax, provocative, and potentially racist information lead to widespread riots that can divide unity and threaten national security;
 - d. The object of the lawsuit does not violate the principle of openness because of actions Defendant I made the object of the lawsuit broadcast through:
 - 1) Press Release No. 154/HM/KOMINFO/08/2019, 19 August 2019 (*throttling*);
 - 2) Press Release No. 155/HM/KOMINFO/08/2019, 21 August 2019 (*blocking*); and
 - 3) Press Release No.159/HM/KOMINFO/08/2019, 23 August 2019 (*extension of blocking time*);
- For the normalization of the object of the lawsuit has been gradually broadcast through:
- 1) Press Release No. 170/HM/KOMINFO/09/2019, 4 September 2019;

2) Press Release No. 173/HM/KOMINFO/09/2019, September 6

2019;

3) Press Release No.175/HM/KOMINFO/09/2019, 9 September

2019;

4) Press Release No.177/HM/KOMINFO/09/2019, September 10

2019;

5) Press Release No.179/HM/KOMINFO/09/2019, September 11

2019; and

6) Press Release No. 181/HM/KOMINFO/09/2019, September 13

2019;

In addition, in the lawsuit the Plaintiffs cannot provide

the reason for the argument of the lawsuit stating that the object of the lawsuit violates the basis of openness.

e. The object of the lawsuit does not violate the principle of abuse of authority

because as Defendant I stated in the main answer

the case that the action of Defendant I in carrying out the object of the lawsuit has

in accordance with the authority, procedure, and substance as

regulated in the provisions of laws and regulations;

f. The object of the lawsuit does not violate the principle of proportionality as stated

argued that the Plaintiffs because the actions of Defendant I committed the object

the lawsuit is in accordance with the objectives to be achieved from the action

that is to protect the public interest, especially in the

Papua and West Papua so that there is no massive dissemination of information

hoaxes, lies, provocations, and hate speech

resulting in riots that can tear the association apart and

threatens national security, so Defendant I's action is not

is a punishment against, among others, all citizens in the Province of

Papua and West Papua and journalists on duty as

the assumptions of the Plaintiffs argued in the Lawsuit page 31
number 49;

4. **Plaintiffs' Loss Argument is Misguided**

Whereas the Plaintiffs in the lawsuit page 19 to page 25

postulated events of loss as a result of the object of the lawsuit.

According to Defendant I, this is a false argument because:

mixed up some unforeseen loss events

caused by the Governmental Action of Defendant I (*in casu* the object of the lawsuit)

in the matter *a quo*) but seems to be a consequence of the Object

Lawsuits, including:

a. Damage to *e-government* facilities such as employee electronic attendance;

b. Interruption of internet connection for Procurement Services

Electronics (LPSE) at the Bureau of Procurement of Goods and Services
(BLPBJ) Papua Province;

c. Some ATM machines in Jayapura cannot make transfers or
money withdrawal;

The arguments of the Plaintiffs are erroneous and unfounded

law with the following explanation:

a. That in fact the three things in operation do not

using a data plan service from a mobile cellular network that

is the object of a lawsuit, but an internet service that

using other telecommunications networks, including fixed networks,

local network with cable media (including *fiber optic*) and ATM services

which uses a closed fixed network with satellite media (VSAT)

which is not the object of the lawsuit. (*vide* Article 9 Government Regulation
No. 52 of 2000 concerning Telecommunications Operations);

b. That the loss argued by the Plaintiffs is not a loss

directly suffered by the Plaintiffs, but the losses incurred by the Plaintiffs

experienced by a third party, so that the arguments for the loss of the Plaintiffs not in accordance with the provisions in Article 1 point 5 and point 6 Perma 2/2019.

Thus, the Plaintiffs' lawsuit, which in their argument mix up loss events as mentioned above which in fact has nothing to do with the Object of the Lawsuit, if it can be considered by the Judicial Council for rejecting the *a quo* Lawsuit;

Based on the things that Defendant II has stated in the Exception and The answer to the subject matter of the Plaintiffs' claims, then Defendant II requests that the Panel of Judges of the State Administrative Court Jakarta, which examines and adjudicates the matter *a quo* can give decision:

IN EXCEPTION:

1. Accepting Defendant II's Exception in its entirety;
2. To declare that the Plaintiffs' claim cannot be accepted (*niet declared admissible*);

IN BRIEF:

1. Rejecting the Plaintiffs' Claim in its entirety;
2. State the Defendant II's action that agrees with the action

Defendant I who became the object of the lawsuit are:

- a. Government action *throttling* or throttling *access/bandwidth* in some areas of West Papua Province and Papua Province in 19 August 2019 from 13.00 WIT (Eastern Indonesia Time) to 20.30 WIT;
- b. Government action blocking data services and/or termination comprehensive internet access in Papua Province (29 cities/districts) and West Papua Province (13 cities/districts) dated 21 August

2019 until at least September 4, 2019 at

23.00 WIT;

c. Government action extends data service block

and/or disconnection of internet access in 4 cities/districts in Indonesia

Papua Province (i.e. Jayapura City, Jayapura Regency,

Mimika, and Jayawijaya Regency) and 2 cities/districts in the Province

West Papua (i.e. City of Manokwari and City of Sorong) since 4

September 2019 at 23.00 WIT until September 9, 2019

at 18.00 WIB / 20.00 WIT,

is not an illegal act;

3. Charge the costs of the case to the Plaintiffs;

Considering, that in response to the responses of Defendant I and Defendant II, The Plaintiffs filed their Reply dated February 5, 2020, and upon Reply of the Plaintiffs, Defendant I and Defendant II respectively submit a duplicate dated February 12, 2020 which is to make it shorter description of the Decision, the Replic and Duplicate are not included in the The decision, however, is contained in the Minutes of the Trial which is a one unit with this decision;

Considering, whereas in order to strengthen the arguments for his claim, Plaintiff I have submitted written evidence in the form of photocopies of the letters that have been given sufficient stamp, legalized and has been matched with the original or photocopy so that it can be used as a valid evidence and has been marked

P.1.1 to P.1.46, as follows:

1. Evidence P.1.1 : Deed of Statement of Decisions of the Alliance of Journalists Congress Independent Number 32, December 23, 2017 made in front of Ida Noerfatmah, SH, MH Notary in South Tangerang. (copy according to original) copy);

2. Evidence P.1. 2 : Decision of the Minister of Law and Human Rights
Number: AHU-00000027.AH.01.08. 2018
About Approval of Change of Legal Entity
Association of Journalists Alliance
Independent, dated January 12, 2018. (photocopy
suitable for *print out*);
3. Evidence P.1.3 : Decision of the State Administrative Court Number:
34/G/2010/PTUN-JKT dated August 5, 2010 between
Alliance of Independent Journalists (AJI) against Institutions
Film Sensor (LSF). (copy according to *print out*);
4. Evidence P.1.4 : Decision of the Supreme Court of the Republic of Indonesia Number : 370
K/Pdt/2017 dated May 23, 2017 between the Alliance
Independent Journalists (AJI) against the Republican State
Indonesia cq. President of the Republic of Indonesia cq. Ministry
Communication and Informatics, (copy according to *print
out*);
5. Evidence P.1.5 : Journal of the Study of Court Decisions " Said" 2nd edition
In 2004, Mas Achmad Santosa, SH, LL.M.
wrote an article entitled AJI Lawsuit: Expansion of Rights
Lawsuit Organization (*Legal Standing*). (photocopy of
photocopy);
6. Evidence P.1.6 : Book entitled " Revealing the Facts: Coverage Blend
Print Media Investigation, Radio and Television"
by Dandhy Dwi Laksono. (print);
7. Evidence P.1.7 : Book entitled "How the Applicant Can
Utilizing the Right to Information" essay
Sunudyantoro and Tobby Mendel published
by AJI. (print);

8. Evidence P.1.8 : Book entitled “Knocking on Doors, Breaking Insulations
Information: Journalist Experience Requesting Information
Public” by Adib Muttaqin, et al. published
by AJI. (print);
9. Evidence P.1.9 : Identity Card in the name of Abdul Manan and
Revolution Riza Zulverdi as Chairman and Secretary
Alliance of Independent Journalists (AJI). (copy according to
with original);
10. Evidence P.1.10 : Book entitled “Weighing Between Independence and
Food Justice” Compilation of Nominated Works and
Best Media Coverage Award Winner
On the Issue of Food Justice, published by
AJI Indonesia, supported by Oxfam Australian AID.
(print);
11. Exhibit P.1.11 : Book entitled “The Forgotten Future
Compilation Nominees and Winners
Award for Best Media Coverage of an Issue
Children 2013, published by AJI Indonesia,
supported by UNICEF. (print);
12. Evidence P.1.12 : Book titled "Group of Participant Coverage Results".
Banking Journalist Academy 2013 which is published
by AJI Indonesia. (print);
13. Exhibit P.1.13 : Book entitled “Early Marriage in Indonesia
Reality and Social Impact “Compilation of Works”
Award Nominations and Award Winners
Best Journalist About Children 2015, published
by AJI Indonesia, supported by UNICEF. (print);

- 14. Exhibit P.1.14 : Book entitled “Keeping Food, Caring for Time”**
Home“ Compilation of Nominees and Winners
Award for Best Media Coverage of an Issue
Food Justice- Grow Award 2017, published
by AJI Indonesia, supported by Oxfam Australian
AIDS. (print);
- 15. Evidence P.1.15 : A book entitled “The twists and turns of the Social Security System”**
Collection of Journalist Reports About the Guarantee System
Social Affairs in Indonesia for the 2015-2016 period, which
published by AJI Indonesia, in collaboration with
Friedrich Ebert Stiftung representative of Indonesia and
National Social Security Council (DJSN). (print);
- 16. Exhibit P.1.16 : A book entitled "The Footsteps of Female Journalists", published**
by AJI Indonesia, supported by FNV. (print);
- 17. Exhibit P.1.17 : Book entitled Investigating Public Budget Corruption:**
Budget Issue Coverage Group“, published
by AJI Indonesia, supported by USAID Prorep
Indonesia. (print);
- 18. Evidence P.1.18 : Press Release No. 154/HM/KOMINFO/08/2019, Monday**
August 19, 2019 About Access Restrictions
in some areas of West Papua and Papua.
(copy according to *print out*);
- 19. Evidence P.1.19 : Press Release No. 155/HM/KOMINFO/08/2019, Wednesday**
August 21, 2019 About Blocking
Data Services in Papua and West Papua. (photocopy
suitable for *print out*);
- 20. Evidence P.1.20 : Press Release No. 159/HM/KOMINFO/08/2019, Friday**
August 23, 2019 About Blocking

Data Services in Papua and West Papua Still

Continuing. (copy according to *print out*);

21. Evidence P.1.21 : Press Release No. 163/HM/KOMINFO/08/2019, Thursday
August 29, 2019 at 23:00 About

Press Statement of the Minister of Communication and Information of the Republic of Indonesia (copy according to
***print out*);**

22. Evidence P.1.22 : Press Release No. 170/HM/KOMINFO/09/2019, Wednesday
September 4, 2019 About Government
Gradually Unblock Data Services in Papua
and West Papua. (copy according to *print out*);

23. Evidence P.1. 23 : Press Release No. 173/HM/KOMINFO/09/2019, Friday
September 6, 2019 at 20:30 About
Nabire and Dogiyai Regencies Conducive, Block
Data Service Opened. (copy according to *print out*);

24. Evidence P.1.24 : Press Release No. 175/HM/KOMINFO/09/2019, Monday
September 9, 2019 at 18:00 WIB About
Data Services in Papua Continue to be Opened
Gradually. (copy according to *print out*);

25. Evidence P.1.25 : Press Release No. 177/HM/KOMINFO/09/2019, Wednesday
September 10, 2019 at 19:00 WIB About
Mimika and Jayawijaya Conducive, Block Services
Data Opened. (copy according to *print out*);

26. Evidence P.1.26 : Press Release No. 179/HM/KOMINFO/09/2019, Wednesday
September 11, 2019 About Data Services
Internet throughout West Papua Opened. (photocopy
suitable for *print out*);

27. Evidence P.1.27 : Press Release No. 181/HM/KOMINFO/09/2019, Friday
September 13, 2019 About Data Services

Internet in Jayapura Opens Gradually.

(copy according to *print out*);

28. Evidence P.1.28 : Press Release No. 187/HM/KOMINFO/09/2019, Monday
September 23, 2019 at 19:00 WIB About
Data Service Restrictions in Wamena. (photocopy
suitable for *print out*);

29. Evidence P.1.29 : Press Release No. 190/HM/KOMINFO/09/2019, Saturday
September 28, 2019 About Data Services
Wamena Opens Again, Telecommunication Services in
All Papua Back to Normal. (copy according to *print
out*);

30. Evidence P.1.30 : Administrative Objection of the Plaintiffs
to Defendant I, regarding: Objection to the Termination
Internet Access in Papua " September 4, 2019.
(photocopy of photocopy, photocopy of receipt according to
with original);

31. Evidence P.1.31 : Administrative Objection of the Plaintiffs
to Defendant II, regarding: Objection to the Termination
Internet Access in Papua " September 4, 2019.
(photocopy of photocopy, photocopy of receipt according to
with original);

32. Evidence P.1.32 : VOA Indonesia News article entitled : Governor
Papua Asks Government to Unblock Internet",
28 August 2019. (copy according to *print
out*);

33. Evidence P.1.33 : 6.com Coverage News Article entitled " Jokowi:
Internet blocking in Papua for good

- together” dated August 22, 2019. (photocopy
suitable for *print out*);
34. Evidence P.1.34 : CNN Indonesia news article entitled Kominfo
Internet Block Impact Evaluation Promise, dated 28
August 2019. (copy according to *print out*);
35. Evidence P.1.35 : BBC Indonesia news article entitled Papua :
Internet access blocked, Press Council calls the move
more dangerous than a hoax, dated August 31
2019. (copy according to *print out*);
36. Evidence P.1.36 : Press Release of Defendant I regarding Positive Trust or
filtering negative content and positive Trust that
block allegedly infringing content
law. (photocopy suitable for *print out*);
37. Evidence P.1.37 : Press Release with the title “Community Complaints” which
issued by Defendant I. (photocopy according to *print
out*);
38. Evidence P.1.38 : Regulation of the Minister of Communications and Information Technology
Republic of Indonesia Number 19 of 2014 Regarding
Handling Internet Sites with Negative Content.
(photocopy of photocopy);
39. Evidence P.1.39 : Law of the Republic of Indonesia Number 40 Year
1999 About PERS. (photocopy of photocopy);
40. Evidence P.1.40 : Law of the Republic of Indonesia Number 12 Year
2005 concerning Ratification of the *International Covenant on
Civil and Political Rights* (International Covenant
on Civil and Political Rights). (photocopy of
photocopy);

41. Evidence P.1.41 : Government Regulation in Lieu of Law
Number 23 of 1959 concerning Revocation of Laws
Law No. 74 of 1957 (National Gazette No.
160 of 1957) and Determination of State of Danger.
(photocopy of photocopy);
42. Evidence P.1.42 : Law No. 25 of 2009 concerning
Public service. (photocopy of photocopy);
43. Evidence P.1.43 : Tempo.Com Media News, released on
August 20, 2019 with the title “(Fact or
Hoax) Is it true that Veronika Koman said there was
Kidnapping of Students in Papuan Dormitory in Surabaya
Like the Kominfo Narrative?”. *(print out)*;
44. Evidence P.1.44 : Law of the Republic of Indonesia Number 19 Year
2016 on Changes to the Law
Number 11 of 2008 concerning Information on Dan
Electronic Transactions. (photocopy of photocopy);
45. Evidence P.1.45 : Letter from Acces Now with its attachment to
Chairman of the Jakarta Administrative Court, dated May 7, 2020, Subject:
se in matter Number: 230/G/TF/2019/PTUN-JKT.
(photocopy of photocopy);
46. Evidence P.1.46 : Expert Information in the Field of Administrative Law
Country In the Name of Oce Madril, SH, MA (photocopy of
from photocopy);

Considering, whereas in order to strengthen the arguments for his claim, Plaintiff II have submitted written evidence in the form of photocopies of the letters that have been given sufficient stamp, legalized and has been matched with the original or photocopy so that it can be used as a valid evidence and has been marked P. 2.1 to P. 2.42, as follows:

1. Evidence P.2.1 : Freedom Defender Association Establishment Act
Southeast Asia Expression, Number 04, 11th
January 2019 was made in front of I Gusti Agung Bagus
Mahapradnyana, SH, M.Kn. Notary in Denpasar -
Bali. (copy according to the copy);
2. Evidence P.2.2 : Decision of the Minister of Law and Human Rights
Number : AHU-0000401.AH.01.07. 2019
About Confirmation of Establishment of Legal Body
Asian Association of Defenders of Freedom of Expression
Southeast, dated January 19, 2019 . (photocopy
suitable for *print out*);
3. Evidence P.2.3 : Invitation from Development Planning Agency
National Ministry of Development Planning
National, Number : ... /SA.04/03/2019, March
2019, Subject: Discussion on Aid Progress Achievements
TPB/SDG Law Objective 16. (photocopy of photocopy);
4. Evidence P.2.4 : Invitation to *Focus Group Discussion* (FGD) related
Social Media Mapping in the events of May 21 - 23
2019 organized by the National Human Rights Commission
RI Human Rights with its letter Number:
19/TPF19-0.3.3/VII/2019 dated 15 July 2019.
(copy according to *print out*);
5. Evidence P.2.5 : Invitation to *Focus Group Discussion* (FGD) related
mapping and governance of personal data protection
(PDP *Roadmap*) organized by
Ministry of Communication and Information of the Republic of Indonesia with
the letter Number: 1337/DJAI.2/AI.02.02/08/2019,
August 13, 2019 (photocopy of photocopy);

6. Evidence P.2.6

: Invitation to *Focus Group Discussion* (FGD) which

organized by Komnas Perempuan with

the letter Number: 074/KNAKTP/Leadership/

DJAI.2/AI.02.02/08/2019, IV/2019 April 29

2019 (photocopy of photocopy);
7. Evidence P.2.7

: Defender's Management Identity Card

Southeast Asia Freedom of Expression (SAFEnet)

Chairman, Secretary and Treasurer on behalf of Damar

Juniarto, Anton Muhajir, STP and Nike Febbysta

Andaru. (copy according to the original);
8. Evidence P.2.8

: Book entitled "Social Media for Public Advocacy,

Civil Society Organization Workbook and

Community" compiled by ICT Watch and Stikom

LSPR Jakarta. (print);
9. Evidence P.2.9

: Book entitled "Freedom of Expression Toolkit for

Information Activist" Published by *The United Nation*

Educational, Scientific dan Cultural Organization,

(UNESCO). (print);
10. Evidence P.2.10

: Book entitled "The Steep Path to Fight for Rights

Digital" Research work in the form of reports made

by SAFEnet. (print);
11. Exhibit P.2.11

: Book entitled "Understanding and Dealing with Violence

Gender Based Online" Research work created by

SAFEnet. (print);
12. Evidence P.2.12

: SAFEnet Report on Press Freedom in

Indonesia. (according to the mold);

13. Evidence P.2.13

: SAFEnet research entitled " Ruling Hoaxes As
The Pretext of Restraints on Freedom of Expression in Asia
Southeast. (according to the mold);
14. Evidence P.2.14

: SAFEnet Investigation Report entitled " Scan
MCA Activities in Socio-Political Contest in
Indonesia. (photocopy of photocopy);
15. Evidence P.2.15

: Press Release No. 154/HM/KOMINFO/08/2019, Monday
August 19, 2019 About Access Restrictions
in some areas of West Papua and Papua.
(copy according to *print out*);
16. Evidence P.2.16

: Press Release No. 155/HM/KOMINFO/08/2019, Wednesday
August 21, 2019 About Blocking
Data Services in Papua and West Papua. (photocopy
suitable for *print out*);
17. Evidence P.2.17

: Press Release No. 159/HM/KOMINFO/08/2019, Friday
August 23, 2019 About Blocking
Data Services in Papua and West Papua Still
Continuing. (copy according to *print out*);
18. Evidence P.2.18

: Press Release No. 163/HM/KOMINFO/08/2019, Thursday
August 29, 2019 at 23:00 About

Press Statement of the Minister of Communication and Information of the Republic of Indonesia (copy according to
suitable for *print out*);
19. Evidence P.2.19

: Press Release No. 170/HM/KOMINFO/09/2019, Wednesday
September 4, 2019 About Government
Gradually Unblock Data Services in Papua
and West Papua. (copy according to *print out*);
20. Evidence P.2.20

: Press Release No. 173/HM/KOMINFO/09/2019, Friday
September 6, 2019 at 20:30 About

- Nabire and Dogiyai Regencies Conducive, Block
Data Service Opened. (copy according to *print out*);
21. Evidence P.2.21 : Press Release No. 175/HM/KOMINFO/09/2019, Monday
September 9, 2019 at 18:00 WIB About
Data Services in Papua Continue to be Opened
Gradually. (copy according to *print out*);
22. Evidence P.2.22 : Press Release No. 177/HM/KOMINFO/09/2019, Wednesday
September 10, 2019 at 19:00 WIB About
Mimika and Jayawijaya Conducive, Block Data Services
opened. (copy according to *print out*);
23. Evidence P.2.23 : Press Release No. 179/HM/KOMINFO/09/2019, Wednesday
September 11, 2019 About Data Services
Internet throughout West Papua Opened. (photocopy
suitable for *print out*);
24. Evidence P.2.24 : Press Release No. 181/HM/KOMINFO/09/2019, Friday
September 13, 2019 About Data Services
Internet in Jayapura Opens Gradually.
(copy according to *print out*);
25. Evidence P.2.25 : Press Release No. 187/HM/KOMINFO/09/2019, Monday
September 23, 2019 at 19:00 WIB About
Data Service Restrictions in Wamena. (photocopy
suitable for *print out*);
26. Evidence P.2.26 : Press Release No. 190/HM/KOMINFO/09/2019, Saturday
September 28, 2019 About Data Services
Wamena Opens Again, Telecommunication Services in
All Papua Back to Normal. (copy according to *print
out*);

27. Evidence P.2.27 : Petition #Turn It On Again Continue! from Change.Org.
(copy according to *print out*);
28. Evidence P.2.28 : Administrative Objection of the Plaintiffs
to Defendant I, regarding: Objection to the Termination
Internet Access in Papua " September 4, 2019.
(photocopy with wet stamp);
29. Evidence P.2.29 : Administrative Objection of the Plaintiffs
to Defendant II, regarding: Objection to the Termination
Internet Access in Papua " September 5, 2019.
(photocopy with wet stamp);
30. Evidence P.2.30 : BBC Indonesia News article entitled Papua :
Internet Access Blocked, Press Council calls the move
more dangerous than hoax (copy according to *print out*);
31. Evidence P.2.31 : VOA Indonesia news article entitled Governor
Papua asks the government to unblock the internet,
28 August 2019. (copy according to *print out*);
32. Evidence P.2.32 : 6.com Coverage News Article entitled " Jokowi:
Internet Blocking in Papua for Good
Together" dated August 22, 2019. (photocopy
suitable for *print out*);
33. Evidence P.2.33 : CNN Indonesia News article entitled Kominfo
Internet Block Impact Evaluation Promise, dated 28
August 2019. (copy according to *print out*);
- 34 Exhibit P.2.34 : Tempo.co news article entitled Blocking
Internet in Papua, SAFEnet: Public Service
Hampered. (copy according to *print out*);

35. Evidence P.2.35 : Press Release of Defendant I regarding Positive Trust or filtering negative content and positive Trust that block allegedly infringing content Law. (photocopy suitable for *print out*);
36. Evidence P.2.36 : Press Release with the title "Community Complaints" which issued by Defendant I. (photocopy according to *print out*);
37. Evidence P.2.37 : Regulation of the Minister of Communication and Information of the Republic of Indonesia Number 19 of 2014 concerning Site Handling Negatively Charged Internet. (copy of photocopy)
38. Evidence P.2.38 : Law of the Republic of Indonesia Number 12 Year 2005 On Ratification of the *International Covenant On Civil and Political Rights* (International Covenant on Civil and Political Rights). (photocopy of photocopy);
39. Evidence P.2.39 : Government Regulation in Lieu of Law Number 23 of 1959 concerning Revocation of Laws Law No. 74 of 1957 (National Gazette No. 160 of 1957) and Determination of State of Danger. (photocopy of photocopy);
40. Evidence P.2.40 : Law of the Republic of Indonesia Number 25 Year 2009 Public Service. (photocopy of photocopy);
41. Evidence P.2.41 : Tempo.Com Media News, released on August 20, 2019 with the title "(Fact or Hoax) Is it true that Veronika Koman said there was Kidnapping of Students in Papuan Dormitory in Surabaya Like the Kominfo Narrative?". (*print out*);

**42. Evidence P.2.42 : Law of the Republic of Indonesia Number 19 Year
2016 About Changes to the Law
Number 11 of 2008 concerning Information on Dan
Electronic Transactions. (photocopy of photocopy);**

**Considering, whereas in order to strengthen the arguments in his rebuttal, Defendant I
have submitted written evidence in the form of photocopies of the letters that have been given
the stamp is sufficient and has been matched with the original or a photocopy so that
can be used as valid evidence and has been marked TI-1 to
with the TI-38, as follows:**

**1. Evidence of TI - 1 : Press Release No. 154/HM/KOMINFO/08/2019, Monday
August 19, 2019 About Access Restrictions
in some areas of Papua and West Papua.
(copy according to *print out*);**

**2. Evidence of TI - 2 : Press Release No. 155/HM/KOMINFO/08/2019, Wednesday
August 21, 2019 About Blocking
Data Services in Papua and West Papua. (photocopy
suitable for *print out*);**

**3. Evidence of TI - 3 : Press Release No. 159/HM/KOMINFO/08/2019, Friday
August 23, 2019 About Blocking
Data Services in Papua and West Papua Still
Continuing. (copy according to *print out*);**

**4. Evidence of TI - 4 : Press Release No. 163/HM/KOMINFO/08/2019, Thursday
29 August 2019 About Press Release
Minister of Communication and Information of the Republic of Indonesia (photocopy according to *print out*);**

**5. Evidence of TI - 5 : Press Release No. 170/HM/KOMINFO/09/2019, Wednesday
September 4, 2019 About Government
Gradually Unblock Data Services in Papua
and West Papua. (copy according to *print out*);**

6. Evidence of TI - 6 : Press Release No. 173/HM/KOMINFO/09/2019, Friday
September 6, 2019 About Nabire District
and Dogiyai Conducive, Block Data Services Unlocked.
(copy according to *print out*);
7. Evidence of TI - 7 : Press Release No. 175/HM/KOMINFO/09/2019, Monday
September 9, 2019 About Data Services at
Papua Continues To Open Gradually, Leave 5
Areas That Are Still Not Conductive. (photocopy
suitable for *print out*);
8. Evidence of TI - 8 : Press Release No. 177/HM/KOMINFO/09/2019, Wednesday
September 10, 2019 About Mimika and
Jayawijaya Kondusif, Block Data Services Opened.
(copy according to *print out*);
9. Evidence of TI - 9 : Press Release No. 179/HM/KOMINFO/09/2019, Wednesday
September 11, 2019 About Data Services
Internet throughout West Papua Opened. (photocopy
suitable for *print out*);
10. Evidence of TI - 10 : Press Release No. 181/HM/KOMINFO/09/2019, Friday
September 13, 2019 About Data Services
Internet in Jayapura Opens Gradually.
(copy according to *print out*);
11. Evidence of TI - 11 : Press Release No. 187/HM/KOMINFO/09/2019, Monday
September 23, 2019 About Restrictions
Data Services in Wamena. (copy according to *print out*);
12. Evidence of TI - 12 : Press Release No. 190/HM/KOMINFO/09/2019, Saturday
September 28, 2019 About Data Services
Wamena Opens Again, Telecommunication Services in

- All Papua Back to Normal. (copy according to *print out*);**
- 13. Evidence of TI - 13 : Summary of Hoax Content Distribution Statistics**
- Papua Riot Provocation Period August 18 - 08**
- November 2019. (*print out* original signature);**
- 14. Evidence of TI - 14 : Letter from the Coordinating Ministry for Political Affairs,**
- Law and Security of the Republic of Indonesia Number:**
- UN-1478/SD.00/08/2019 dated 28 August 2019,**
- Subject : Invitation to accompany the Coordinating Minister for Political, Legal and Security Affairs.**
- (photocopy of photocopy);**
- 15. Evidence of TI - 15 : Photo of internet access service for media for**
- send news to their respective offices in Jakarta.**
- (copy according to *print out*);**
- 16. Evidence of TI - 16 : The Constitution of the Republic of Indonesia**
- 1945. (photocopy of photocopy);**
- 17. Bukti TI - 17a : Law of the Republic of Indonesia Number 19 Year**
- 2016 About Changes to the Law**
- Number 11 of 2008 concerning Information and**
- Electronic Transactions. (photocopy of photocopy);**
- 18. Bukti TI - 17b : Law of the Republic of Indonesia Number 11 Year**
- 2008 concerning Information and Electronic Transactions.**
- (photocopy of photocopy);**
- 19. Evidence of TI - 17c : Law of the Republic of Indonesia Number 82 Year**
- 2012 Concerning the Implementation of the System and**
- Electronic Transactions. (photocopy of photocopy);**
- 20. Evidence of TI - 18 : Law of the Republic of Indonesia Number 30 Year**
- 2014 About Government Administration. (photocopy**
- from photocopy);**

21. Evidence of T1 - 19 : Law of the Republic of Indonesia Number 39 Year 1999 on Human Rights. (photocopy of photocopy);
22. Evidence of T1 - 20 : Law of the Republic of Indonesia Number 12 Year 2005 On Ratification of the *International Covenant On Civil and Political Rights* (International Covenant on Civil and Political Rights). (photocopy of photocopy);
23. Evidence of T1 - 21 : Regulation of the Supreme Court of the Republic of Indonesia Number 2 of 2019 Regarding Guidelines Government Action Dispute Resolution and Authority to Prosecute Unlawful Acts By Government Bodies and / or Offices (*Unlawful Government Act*). (photocopy dari photocopy);
24. Evidence of T1 - 22 : Tempo.co News on August 19, 2019 with title : "Wiranto Holds Closed Meeting to Discuss Situation Manokwari". (copy according to *print out*);
25. Evidence of T1 - 23 : News Trimbun News.Com on August 19, 2019 with the title: "Update Riots in Manokwari" Papua: Police Call Hoax Photos of Students Killed So the cause of the riots." (copy according to *print out*);
26. Evidence of T1 - 24 : CNBC Indonesia News on August 19, 2019 with the title: "West Papua is Riot, Kominfo" Slow Internet Access". (copy according to *print out*);
27. Evidence of T1 - 25 : News tempo.co on August 20, 2019 with title: "Chronology of Riots in Manokwari and Sorong, West Papua". (copy according to *print out*);

28. Evidence of T1 - 26 : *Deutsche-Welle (DW) News on 21 August 2019 with the title: "Secure the Situation in Papua, Police Deploy Thousands of Additional Personnel". (photocopy suitable for *print out*);*
29. Evidence of T1 - 27 : Antara News on August 21, 2019 with title: "Accelerate the recovery process of Kemkominfo Block Internet Data Services in Papua and Papua West". (copy according to *print out*);
30. Evidence of T1 - 28 : Katadata.co.id news on August 22, 2019 with title : "Internet Blocked in Papua, Telephone Service and Normal Telkomsel SMS". (copy according to *print out*);
31. Evidence of T1 - 29 : CNBC Indonesia News on August 22, 2019 with the title: "Jokowi Says About Full Blocking Internet access in Papua". (copy according to *print out*);
32. Evidence of T1 - 30 : News coverage6.com on August 28, 2019 with title: "Ricus demonstration in Deiyai Papua, 1 member of the TNI" Died and 5 Police Injured". (copy according to *print out*);
33. Evidence of T1 - 31 : BBC News Indonesia on 29 August 2019 with the title: "Jayapura Riot, Colored by Action" Burning And Looting: 'Anyone wants messing up Papua' said Wiranto". (copy according to *print out*);
34. Evidence of T1 - 32 : CNN Indonesia News on August 30, 2019 with the title: "Telkom Opens Voice Optical Cable Problem" Break up in Jayapura". (copy according to *print out*);

35. Evidence of TI - 33 : Kompas.com News on August 31, 2019 with
title: "Here are 5 Wiranto Statements About Riots"
in Papua". (copy according to *print out*);
36. Evidence of TI - 34 : Papua Police Official Twitter on September 1st
2019 with a tweet: "Papua Police Chief Notice
About Maintaining Public Security and Order".
(copy according to *print out*);
- 37 Evidence of TI - 35 : CNN Indonesia News on September 2, 2019
with the title: "Papua Police Chief Releases Information
To Respond to Riots". (copy according to *print out*);
38. Bukti TI - 36 a : Invitation to the Work Meeting on September 3, 2019
from the House of Representatives Number: PW/
14492/DPR RI/IX/2019, September 3, 2019
for the Discussion of Papua Issues and Solutions
The explanation. (copy according to *print out*);
39. Bukti TI - 36 b : Draft Conclusion of Commission I Working Meeting of DPR RI with
Minister of Defense, Minister of Foreign Affairs, Minister of Communication and Information, TNI Headquarters and BIN,
Thursday, September 5, 2019. (photocopy according to *print out*);
40. Bukti TI - 36 c : *Print out* the Ministry of Communication and Informatics website on the 6th
September 2019 in the news category with the title:
Working Meeting with Commission I DPR RI. Kominfo Explain
Internet Restrictions. (copy according to *print out*);
41. Evidence of TI - 37 : Letter from the Coordinating Ministry for Political Affairs,
Law and Security of the Republic of Indonesia addressed to the Director General of
APTIKA, Kemenkominfo, Number : B-92/KL.01/2/2020,
February 24, 2020 regarding: Related information
RPTM regarding Internet Signal Weakening in the Region
Papua Year 2019. (photocopy according to *print out*);

42. Evidence of T1 - 38 : *Screen capture* WhatsApp group “Love Papua”
regarding the coordination of internet restriction policies
in Papua between the Ministry of Communication and Informatics and
Related Ministries / Institutions And Enforcement Apparatus
Law. (copy according to *print out*);

Considering, that in order to strengthen the arguments of the Defendant,
Il has submitted written evidence in the form of photocopies of the letters that have been given
the stamp is sufficient and has been matched with the original or a photocopy so that
can be used as valid evidence and has been marked T.2.1
up to T.2.13, as follows:

- 1. Evidence T.2.1 : Article 1 number 12 of Law Number 5 Year
1986 concerning the State Administrative Court. (photocopy
from photocopy);
- 2. Evidence T.2.2 : Article 1 point 9 of Law Number 5 Year
1986 concerning the State Administrative Court. (photocopy
from photocopy);
- 3. Evidence T.2.3 : Article 53 paragraph 1 of Law Number 5 Year
1986 concerning the State Administrative Court. (photocopy
from photocopy);
- 4. Evidence T.2.4 : Law Number 5 Year 1986 Regarding
State Administrative Court. (photocopy of photocopy);
- 5. Evidence T.2.5 : Article 1 point 6 Regulation of the Supreme Court
Republic of Indonesia Number 2 Year 2019 About
Action Dispute Resolution Guidelines
Government and the Authority to Judge Acts
Breaking the Law By Body and / or Office
Pemerintahan (*Unlawful Government Act*).
(photocopy of photocopy);

6. Evidence T.2.6 : Regulation of the Supreme Court of the Republic of Indonesia
Number 2 of 2019 Regarding Guidelines
Government Action Dispute Resolution and
Authority to Prosecute Unlawful Acts
By Government Bodies and / or Offices
(*Unlawful Government Act*). (photocopy dari
photocopy);
7. Evidence T.2.7 : Article 2 Presidential Regulation of the Republic of Indonesia
Number 54 of 2015 concerning the Ministry
Communication and Informatics. (photocopy of photocopy);
8. Evidence T.2.8 : Regulation of the President of the Republic of Indonesia Number 54
2015 concerning the Ministry of Communications and
informatics. (photocopy of photocopy);
9. Evidence T.2.9 : Law of the Republic of Indonesia Number 30 Year
2014 About Government Administration. (photocopy
from photocopy);
10. Evidence T.2.10 : Article 52 paragraph 1 of the Law of the Republic of Indonesia
Number 30 of 2014 concerning Administration
Government. (photocopy of photocopy);
11. Evidence T.2.11 : Article 53 paragraph 1 of the Law of the Republic of Indonesia
Number 30 of 2014 concerning Administration
Government. (photocopy of photocopy);
12. Evidence T.2.12 : Law of the Republic of Indonesia Number 36 Year
1999 About Telecommunications. (photocopy of
photocopy);
13. Evidence T.2.13 : *Press Release* Jokowi's Working Visit to Papua and
West Papua. (copy according to *print out*);

Considering, that in addition to submitting documentary evidence, to strengthen the argument lawsuit, the Plaintiffs have submitted 3 (three) witnesses who named JONI ASWIRA PUTRA, IKA NINGTYAS UNGRAINI, and NAHEMIA LUCKY IREEUW and 2 (two) Experts named Dr. PRIMARY HEART WIRATRAMAN, SH, MA, and OCE MADRIL, SH, MA as follows:

Witness 1. JONI ASWIRA PUTRA, under oath to give a statement basically as follows:

- That the witness has been working as a journalist at CNN Indonesia since last month November 2017 until now, placed in the coverage coordinator and base camp in Jakarta;
- That internet blockage occurs from August to September 2019 and with the blocking the witness cannot use data internet;
- That at the time of the internet blocking, on September 3, 2019 the witness was assigned by the office to cover the riots in Papua especially in Jayapura;
- Whereas the witness covered Jayapura until September 8, 2019; and covering only certain cities in the Abepura District;
- That before leaving for Papua the witness knew there was an internet problem in the form of internet slowdown from reporting and coordination with friends office mates and crew in Jayapura;
- That the witness made a recording and the recording was sent to Jakarta but delivery to Jakarta is not smooth delayed up to 12 hours;
- Whereas the witness as a television journalist is tasked with delivering news in the form of images and sound (audio-visual) from the location, coverage of recorded images and voices are sent to Jakarta and broadcast on television;

- Whereas in one reporting team there are 3 (three) people, the witness is the producer field, there are correspondents / reporters and cameramen, Correspondent Assigned to do *live report*;
- That the way a *live report* works is to report a direct incident that is in the field with pictures and sound, but witnesses can't do a *live report* with pictures directly;
- That to be able to carry out a *live report* , there are 2 (two) way, the first is by using Mobile Satellite which uses direct satellite network and use *Stream Box* which uses data internet network, because this *stream box* has 10 SIM cards available entered and the witness uses a *stream box* for a *live report*;
- That the *stream box* tool that the witness used to conduct *the live report* was not can be used because it uses a sim card and data package because there is no internet;
- That because *the stream box* does not work due to internet interference, then *live report* with pictures cannot be sent and witnesses send news via telephones such as radio journalists reporting events;
- That the witness did not do a *live report* using the satellite network because it is expensive;
- That the witness did not know before the delays and restrictions were held internet there is a notification from the government;
- That the witness did not know that after September 28, 2019, the internet was already available back to normal;
- That the witness did not know that there was a message from the local police chief for stop the spread of hoaxes;
- That the internet in Papua can still be accessed with the hotel's wifi.

- That as long as there are obstacles from the 3rd to the 8th of September 2019, *live reports* that must be broadcast are 19 and those that are not fulfilled are 5 *live report* (in the sense of not being able to send pictures and sound);
- That the sending of images via the hotel's *wifi* that is played is not in time unable to meet the *live report requirements*;
- That internet usage is normal after the coverage is over material can be broadcast directly. Witnesses can directly *stream*;
- That the witness knew that the internet was cut off before leaving for Papua and witnesses seeking information on internet usage. All journalists using the hotel internet, but the witness had problems due to the internet the hotel limit is not sufficient enough to send picture and sound files, different from other journalists who send text and photos. Until the witness waiting for midnight when the internet is quiet and even then it fails many times. So coverage material that witnesses cover every day that should be sent immediately quickly delayed up to 12 hours or 1 (one) day;
- That the incident was repeated from September 8, 2019, once 4 (four) days in a row experienced such an incident and finally asked help local Telkom officials to help the witness, but in reality stay the same. The witness has also moved to another hotel and using another access in a different hotel the result is the same;
- That because the situation and the latest information in Jayapura are very difficult, finally the television where the witness worked replayed the material previously;
- Whereas the coordination of the witness with the company has also been delayed;
- Whereas the witness did not know that on September 5, 2019 the Government had providing internet access to the press at the Wintel Jayapura Office and at Telkom Manokwari Office;

- That the delay is from 3 to 8 September 2019,
so that 5 (five) *live reports are not fulfilled*. The target is from planning
producer because every day the witness is given the task of 1 to 3 times *a live report* by
office;
- Whereas as a journalist the witness works to fulfill public information and
if the target of the office is not achieved as a journalist can not report
real time situation at the time;

Witness 2. IKA NINGTYAS UNGRAINI, under oath to give
the information is basically as follows:

- Whereas the Witness worked as a journalist at Tempo from 2008 until
with now and since 2018 assigned the task of fact checking;
- That the difference between journalists and fact-checkers is journalists
cover all events for witnesses to report. Fact checker job
is to check the information circulating, especially in the media
social whether the news actually happened / fact or not;
- That the witness knew that on August 19, 2019 there was an internet blocking from
reporting when the witness checks the facts from home in Banyuwangi;
- That the fact that the witness examined at that time was a demonstration incident
kind of anarchy against Papuan students and apparently it was followed by
There is a lot of information circulating on social media. So who
witnesses do is check whether the information circulating in the
social media is a fact or a hoax;
- Whereas what the witness did as a fact checker was sorting
what information will be presented that day;
- That on August 19, 2019 there was a photo circulating on Twitter, there are
dozens of men who seem lined the streets and the narrative will exist
killing of workers in Papua, and witnesses verifying

online , namely checking with verification using the *tools* available in internet;

- That when the witness checked with the online verification stage, it turned out that not found. When *online* verification doesn't work, witness using the network of fact-checking friends in the area or friends of journalists who work in the area and contact fact checkers who are in Papua to help witnesses check if this photo is really happening there;
- As a result, friends in Papua at that time found it difficult to fact check because the network is *down* and they can't fact check via HP network does not exist ;
- That what the witness did when he found it difficult to find facts through friends in Papua is to wait 1 or 2 days maybe the internet is stable it turns out that up to 3 days it is still not stable. Because of the witness can't find this photo, and because there is no answer finally witness decided not to check it;
- That the witness asked for help to Papua via whatsapp but a friend there can't open the link because the photo content is heavier and need additional data. WA was *delayed* up to 3 hours;
- That apart from checking photos regarding the murder of workers
On August 22, 2019, the witness did another check, namely
On August 23, 2019 there was news on Twitter, YouTube and Facebook a the mosque in the city of Sorong, there are many demonstrators and there is the sound of the call to prayer and there was a call from the people for jihad because there was an attack.
This witness value is quite provocative and I check whether this is true or not hoax. Witness checking didn't work because I couldn't contact with network of friends in Papua, they can't complain about it opening the link, unable to perform a fact check due to obstruction;

- That the witness had another fact check, namely on August 29, 2019

At that time many photos of corpses circulated. The narration that appeared on twitter on that time was that this was the victim of the shooting that took place at Deliyard, because it went viral, the witness tried to contact his friends again because *online* verification didn't work, and also can't tell if it is victims of shootings by the TNI;

- That the witness knew about the blocking on August 19, 2019 from the news

but from which media did the witness forget because the witness works with many media social media and the witness tried to *cross check* with Kominfo which confirmed the existence slowdown;

- That is the way for witnesses to confirm that the news is true or a hoax

is to use tools and witnesses have been trained to do fact check with *online* verification by google and team from america Union;

- That news is a hoax if it fulfills: 1. The incident or video narration

and the photo is not as shown, 2. It could happen that there is manipulation in those photos and videos, 3. Maybe the photos and videos are true but the narration what is wrong and enough with *online* verification we can find that this is a hoax category;

- Whereas for the three reports on 19, 23 and 29 August 2019

the witness only contacted friends in Papua to ask questions and it turns out that the network there is difficult and delivery can be *delayed* up to 3 hours;

- That the witness did not check that internet slowdown, blocking and

the extension of the blocking is broadcast through a press release;

- Whereas the witness's work is only *online* , not fact-checking

field, because so far with *online* verification it can be answered and if it is not answered by *online* verification then contact friends who are is in Papua;

- That the accuracy of the verification carried out by the witness must be accurate because otherwise accurate then the consequences of witnesses can be reported. Accuracy is what the first thing the witness must make sure before the witness gives a conclusion a fact is a hoax;
- That after witness verification results found that this is the next hoax news the witness must write the news in an article called Fact Check Article then the witness uploaded it on the Tempo Site. After the witness wrote and verify the article, because tempo cooperates with the witness's face book provide a label for the information is a hoax or not;
- Whereas the witness did not know that there was a recommendation from the Papuan Police Chief which forbade do spread hoax news;
- As far as the witness knows, the slowdown in blocking has been normalized September 4, 2019;
- Whereas the witness is an independent examiner in the Papua case, so that witnesses cannot rely on sources from the Police or Kominfo, so witnesses conduct fact checks from sources in Papua;

Witness 3. NAHEMIA LUCKY IREEUW, promised to give information to basically as follows:

- That the Witness works at the Cendrawasih Pos Newspaper as a leader Editor since 2017 until now;
- That the witness was aware of the internet blocking on August 13 2019 starts with internet throttling, August 21, 2019 can't send news and pictures;
- That with internet throttling texts can still be sent but images can't you can, with blocking you can't send pictures and text until it happens by September 28, 2019 ;

- That the witness experienced on August 13, 2019 until the 21st August 2019 there was a slowdown and starting on the 21st until the September 28, 2019 the internet is absolutely not working ;
- That when the internet was blocked and could not be opened, the witness looked for an alternative other. The witness looked for another place that still had internet access;
- Whereas the internet network has been opened since September 28, 2019;
- Whereas there are 18 journalists who work for Cendrawasih Pos scattered in throughout Papua, most of the journalists are in Jayapura City, Kabupaten Jayapura, and other districts such as in Merauke, Wamena, Biak, Waropeng, Timika and Seruni;
- That the routine work of journalists at Cendrawasih Pos before it existed Internet disconnection is sending news and information from anywhere via whatsapp or email you don't have to come to the office because of the distance very far away such as in Timika, Biak and Seruni and mountainous areas. For journalists in Jayapura City, he does not have to go to the office, if experiencing problems in the field can send news via email or *whatsapp*;
- That during the internet blackout journalists from 3 (three) regions, namely journalists in Jayapura City, Jayapura Regency and in Sorong Regency, they are required to come to the office to send news and pictures;
- That for journalists outside the three regions they experience obstacles, and they are looking for a hotel or other place that has internet and that too slow. Usually they send 7 to 8 news times in one day, since the slowdown was only able to send 3 news in one day because it's a bit difficult, they even store news and pictures on a flash disk and sent by entrusting it to the person at the airport.
- That the alternative for sending news outside the three regions is in addition to flash disk can be with the phone, but that's just for confirmation;

- That on 30 and 31 August 2019 there were demonstrations and riots

so journalists can't go to the office and can't send news so they don't

there is a stock of news and the witness media decides not to be published;
- That in Jayapura the demonstration and blocking the road were often witnessed

naturally, it can still be anticipated since news can be sent from anywhere

because there is internet. It's different from yesterday's situation so the witness can't

published in 2 (two) days on August 30 and 31, 2019 because in addition to the

security is also no news stock;
- That by not publishing the Cendrawasih Pos Daily for 2 (two) days

experienced a loss and decreased income. The circulation of Cendrawasih Pos every

day 5,000 copies with a selling price of Rp. 7,000,-/copy and because not

issued, the witness's loss is Rp. 70,000,000,- (seventy million rupiah)

and there is also a loss in advertising revenue of Rp. 60,000,000,-

(sixty million rupiah), because the witness's media income is quite large from

advertisement;
- That there is already a contract for advertising because the Cendrawasih Pos daily exists

24 pages and of which 5 pages contain ads, there is an advertising contract per month and

there are weekly and because for two days it is not published there are complaints from

advertisers because they are not in accordance with the target;
- That since the internet was cut off, telephone interviews have been less effective

except for news confirmation. If by phone it must be re -*edited* , so

like making news on top of news.
- Whereas the witness, apart from being a journalist at the Cendrawasi Pos Daily, also

joined in one organization AJI since 2002 and a witness as a member of the AJI organization

Head of AJI in Jayapura;
- That every day has its own focus and the Cendrawasih Daily

Post is the most important general media and actual news. when

- The witness's newspaper did not come out, that's when the witness considered the news very important because of the riots;
- That the witness has never joined the SAFEnet Organization, but the witness know of SAFEnet but no details;
 - Whereas the witness did not know that on September 5, 2019 the Government had providing a media center in Jayapura City;
 - That the witness knew that the government had slowed and blocked access internet of news to prevent the spread of hoaxes;
 - That the witness did not know that in Jayapura there was a decree issued by the Kapolda Jayapura;
 - That journalists can communicate via SMS but cannot send news via SMS because SMS is limited in character;
 - Whereas Cendrawasih Pos Daily is in the same group as Jawa Pos, with there is a delay and the news is not sent, the witness reports the problem it to Jawa Pos;
 - Whereas as a member and chairman of AJI Jayapura, where AJI is an institution, Press organizations and witnesses fight for freedom of information and rights journalists with actions from the government in the form of slowing down and blocking internet access is detrimental to AJI as an organization because of what? which the witnesses fought for the freedom of the press and the rights of journalists by the existence of these obstacles becomes unattainable;
 - That the action of blackout internet access, AJI Jayapura together with AJI Indonesia made a complaint to the government by make *Press Release*;
 - That on August 30 and 31 2019, the Cendrawasih Pos daily did not published there is a SOP, namely on August 29, 2019 the witness meeting for decided on August 30 and 31 the newspaper would not be published and the SOP for

inform the public that the newspaper is not published, but the witness newspaper
not announce it;

Member 1. Dr. HERLAMBANG PREDANA WIRATRAMAN, SH, MA, below

swear to give the following opinion:

- Whereas the ICCPR has existed since 1966 and has only been in effect for ten years

then. Ratified together with socio-cultural economic rights

2005. In its development, Indonesia has reserved Article 1;

- Whereas since 2005 there has been ratification of the *optional protocol* but it is related to
the abolition of the death penalty is not carried out;

- That human rights relations are related to internet disconnection

In the context of national and international law, there is freedom

people about expression, freedom of opinion and freedom

obtain information or access. In the international system there are

several legal provisions ratified by the Government of Indonesia

through Law No. 12 of 2005 while in law

Nationally, there is a constitution that regulates freedom of expression,

think and write, including freedom of the press;

- Whereas the press was tried to be constitutional when the Agency

Constituent Assembly, but it was canceled and in the process of being amended, an attempt was made

but not adopted, even so the freedom of the press is guaranteed, because

the provisions of national human rights law also comprehensively regulates

aspects of press freedom. So freedom of expression, freedom of the press

including the freedom to obtain information is regulated in the constitution and in

Law About Human Rights and Law About

Public Information Disclosure;

- Whereas specifically regarding the internet there were new developments in 2011.

The United Nations through the Human Rights Council through the rapporteur pays particular attention to

the development of *digital technology* as part of institutional life

modern humans, where the internet is an integral part of the needs of human life today. So that the United Nations in some resolution or *general comment* when communicating always attention to the internet as a human rights issue. In the In its development, the United Nations emphasized that *internet rights are human rights*. *Internet right* is often referred to as *digital rights*, which is part of human rights humans who are inseparable because in the past communication was verbal but now communication uses a medium that utilizes technology;

- That the internet is a human right. Internet restrictions are an inseparable part and that is possible based on Article 19 paragraph (3) ICCPR includes restrictions on internet access. In Article 19 paragraph (3) there is a detailed formulation, some of which are possible as far as the standards of Article 19 paragraph 3 are: first *Prescribed by the Law* concerns about predictable principles, the second relates to with *Legitimate Aim* that the limitation must be fit for purpose, the third is *Necessary or Necessity* which talks about principles principles of necessity and *proportionality*. Become a special rapporteur in the field of freedom of expression has been asserted with regard to testing the limitation is legally based on *Prescribed by the Law*, *Legitimated Aim* dan *Necessary*;

- Whereas *Prescribed by the Law* refers to interpretation, because it interprets Articles 19 paragraph (3) is based on legal doctrine which in one article there are 4 yang Pertama: *The Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights* tahun 1984, Kedua *the Paris Minimum Standards of Human Rights Norms in a State of Emergency* created by the experts of the international legal committee year 1984, ketiga *The Johannesburg Principles on National Security, Freedom of Expression and Access to Information* tahun 1996. Keempat *The Camden*

Principles on Freedom of Expression and Equality tahun 2009. *Prescribed by the Law* is an interpretation of doctrine, the same as social economy our culture recognizes the *Limpard Principles* to test whether or not it is appropriate to called human rights violations;

- Whereas *Prescribed by the Law* must be interpreted in terms of 4 things, namely: 1. None restrictions on human rights, except by affirming them in law generally accepted national laws that are consistent with the ICCPR and enforced within a limited period of time, 2. Laws issued restrictions on human rights must not be arbitrarily or without justifiable reasons, 3. Legal rules aimed at to limit must be clear and accessible to all parties, 4. Settings appropriate must also be provided or regulated in these provisions, including when there are regulatory obligations that are *abusive* and *illegal* or the consequences of the exercise of the limitation of the right;
- That there are 4 *Prescribed by the Law* measurements and from 4 it becomes important to measure whether the standard when limiting or blocking internet meets the standards of *Prescribed by the Law*. Here it must be clear and must in the form of national rules or laws as in the 4 elements above;
- That apart from *Prescribed by the Law* there is a *Legitimate Aim* interpretation of this relating to restrictions that must fulfill one of the objectives contained in the text of the special human rights legal instrument article 19 paragraph (3) of the ICCPR is easier to measure and the last one is *Necessary*, this limiting step is carried out to achieve the desired goal determined, this can be tested from: is the proposed constraint proportional with the aim? Is there a major public interest in provide information? Is the restriction probably harmless right itself. As stated in the UN *General Comment* No.

34, *Necessary* must be connected with the goal to achieve the function

perlindungan yakni *"must be appropriate to achieve their protective function"*;

- Whereas the consequences of the ratification of Law no. 12 of 2005 means

Indonesia is subject to the provisions of international human rights law and because

In the form of a covenant, Indonesia has an obligation to carry out its contents

that article seriously. The seriousness will be tested from the *report*

submitted to the United Nations automatically and periodically and there are also

which is based on a review submitted by the government and there are reports

shadows that are accepted as part of the human rights legal system;

- That every government action bound by ratification is obligatory

implement human rights, especially those that have been ratified;

- That the guarantees in the constitution and other international mechanisms are related

with the right of expression in the constitution, there are those relating to

freedom of expression, firstly Article 28C paragraph (2) everyone has the right

fight for himself, Article 28E paragraph (3) everyone has the right to gather

and associate and express opinions and Article 28F everyone is free

obtain information and communication;

- Whereas there are other laws related to human rights that regulate

the right of expression in the articles regulated in Law Number 39

1999 concerning Human Rights and Press Law Number 40

1999;

- Whereas at the national level human rights are limited in their implementation in the constitution

and in other human rights laws and at the international level human rights can

limited in its implementation in Article 28J and because we ratified

International Covenant on Civil and Political Rights (ICCPR) melalui Undang

12 of 2005, then it has become a national law and a way

implement it need to consider the mechanism, process, substance

which is related to Article 19 paragraph (3) in Law No. 12 of 2005;

- Whereas in relation to Article 19 paragraph (3) of the ICCPR, the Government of Indonesia is bound with the Principles of Siracusa, Johannesburg in matters relating to ratified international law. When for translating an interpretation that has been ratified, then how to interpret it The United Nations has provided a doctrine to be referred to so that the state is not arbitrary authority. That doctrine can be born by scientists who are later adopted by the United Nations. That doctrine can be born from good Court decisions at regional, national and international levels;
- That is related to submitting the report specifically related to with the internet, *human rights* and how to block, *throttling* must be done with the right standard cannot be done directly, even in in the UN special report that *censor chips* themselves are stated as human rights violations;
- That if there are citizens who feel aggrieved by the arrangement *throttling* or internet throttling can do with the mechanism Standard *Prescribe by the Law*, the meaning behind why should it be stated in in a certain decision or law, because he must be able to accountable and can even be controlled by parliament or the judiciary or a special agency by the local government, so that when there are individuals *offline*, related to this problem then he asked other institutions to work within that system, the second complaint can also be made by means of asserting, when certain legal products can be measured mechanisms that can be used including the public can know the reasons. Even the public shouldn't have to sue if it's clearly explained detailed according to *the Prescribed by the Law* standard because it is in *Prescribed by the Law* it is explained that if you want to block it, what is the impact, it must be set and should not be allowed. So if the government wants to block it, it must what's blocked and for how long, who's in charge, who

protected, and with what impact. If you use what legal argument?

basically? The United Nations has given instructions *Prescribed by the Law* in translate Article 19 verse (3;

- That the impact of the government not paying attention to regulation

In the UN forum, the government could lie about the facts, in government UN forums present different data, or do not report the same what are the consequences? The mechanism also regulates the possibility alternative reports. The UN mechanism also provides space for other countries question the commitment of the State of Indonesia and if the conditions are the UN can specifically order to come and make special investigative mechanisms to hold processes accountable the process carried out for not complying with what has been ratified it. That is a consequence of international law that has been become national law;

- Whereas in interpreting and interpreting the Law on Information and

Electronic Transactions Article 40 paragraphs (2a) and (2b) must approach right. Article 40 paragraph (2a) is related to Article 40 paragraph (2b).

Article 40 paragraph (2a) deals with information and documents etc., more specifically content. Here that has a load that is prohibited according to the provisions legislation. Here it is the same as human rights if

the load violates or contradicts then he can be limited. Article 40

paragraph (2b) contains the contents of the prevention as referred to in

Article 40 paragraph (2a) the government has the authority to terminate access against electronic information or electronic documents that have

breaking the law. The interpretation of Article 40 paragraph (2a) and (2b) uses method of systematic interpretation in law because all refer to

filtering content which in *content filtering* does not include breaking, stop and delay internet access;

- That journalists work in accordance with the Press Law and work use the internet, with the internet being cut off, journalists cannot use the internet and it is a violation of human rights. This case is already became a concern at the United Nations when in India, especially in the Kashmir region and in Myanmar. In these two cases the government argued for creating national security, but the fact is that in these two cases, the UN finds it difficult to access information regarding the massacre of humans, issues Human rights violations occurred in these two areas. So internet blocking is constitutes a violation of human rights and the impact is much broader;
- That to come to the conclusion that internet restrictions are an act violates human rights, it must be proven whether human rights are *derogable* or *non-derogable rights*, there are a number of rights that are *non-derogable rights* and this case includes *derogable rights* , meaning that it can be reduced or limited. When it can be reduced it is still said to be a violation of human rights, but it can be limited and limited by mechanisms that are subject to Article 4 paragraph (3) of the ICCPR and the reference to Article 4 paragraph (3) related to the emergency situation in Indonesia must be subject to specifically national laws even in Article 4 paragraph (3) of the ICCPR must notify the United Nations as a country that has ratify;
- That the internet restriction is indeed a violation of human rights, in UN instruments are known as *Permissible Limitations* , namely restrictions on permitted restrictions, that doesn't mean it doesn't violate human rights, he still violates human rights but is permitted by law;
- That an act is said to violate human rights or not, there is a forum that related. When called the name it is against the law but only refers to one chapter and no forum to finish it, but when state an action that violates human rights with the existing interpretation, then must be proven. The forum here for example Court is one forum

to emphasize that it is a form of human rights violation. So the forum can court and people can express and convey opinion with consideration and this forum that tests well that at court or not. That's why *Prescribed by the Law* is important because *Prescribed by the Law* is measurable, tested and predictable;

- That what the expert understands in the *a quo* case is to use press releases not a legal product and the press release itself is not a legal doctrine and press releases cannot be measured and tested, so press releases are like NGOs or Any NGO can make press releases and that's not the standard in question in Article 19 paragraph (3) in *Prescribed by the Law*;
- Whereas the role of the press so far, especially in conflict situations, has become very important vital to balance information whether it's a conflict horizontally and structural conflicts. The role of the press is very important in information given, the news can be used to take the policy that begins with the news that was born by the work of journalism. It That's why we have a Press Law that guarantees independence for the press as a human right. In conflicts in countries authoritarians are so easy to stop events like ours before. Today Suharto-style *authoritarianism* does not happen because we have changed to a more democratic situation. Myanmar is an example of a country that when the press conflict situation was silenced so as to reveal blockpin and became the worst record in the United Nations so as to detect the state of Myanmar must use satellites, even that can't explain how many people died and villages burned. Let's hope we don't back to antiquity when there was a model of *authoritarianism* in the form of called the *Digital Authoritarian* , which is a model of government that is anti-democracy, does not want to be monitored, does not want public scrutiny, does not provide an easy way for journalists to seek news;

- Whereas since Law no. 40 of 1999 is true

media inflation and press inflation but the press is not serious

works and does not maintain a code of ethics that likes propaganda and spreads

the hoax will die by itself, which is an important lesson in

our country the press provides alternative news, the press also helps

government because it carries out the information function of the public. Government

helped by the press because with the press information can be accessed and

accountable. There is a mechanism that requests

accountability for journalistic work. Related to press products

The hoax certainly won't last long. In my research

hoax product statistics will collapse ;

- Whereas in its development, the media is *multi-platform*, there are printed ones

broadcast and some are internet/digital *media*. The trend going forward is with

digital media because access to information is faster and more accurate and reliable,

then the internet is part of the development of digital technology is very helpful

press work. But it's a shame if there is internet *blocking*

then work to find, store or convey that information

become more difficult and interfere with journalistic work. In glasses

The Press Law on internet *blocking* is a violation of

Article 4 of the Press Law. Internet *blocking* has a big impact on

the press in the midst of technology where the press utilizes internet access;

- That with the aim of protecting national security it can be justified

to implement *throttling* and must submit to Article 4 paragraph 3 and

Article 19 paragraph (3) of the ICCPR, *throttling* for security reasons may

but the conditions used for *national security* reasons are longer

must be notified to the government and to the United Nations. The President must determine

a state of *emergency/emergency* because it threatens the nation;

- That the internet is slowing down based on the statement of the Papuan Police can be a consideration for the national government but policy not from the region but from the national, it means the center is considering whether what the Papuan Police said is important or not. Standard it must be clarified to the public, what is the meaning of the Polda statement;
- Whereas in terms of human rights, forgiveness is not known. In Human Rights Law Internationally there is the term *Permissible Limitations* and there is no term exceptions as in the criminal;
- Whereas justification for *throttling* let alone *blocking* is not justified in human rights humans and if *throttling* continues , information must be obtained from internal ranks to be used as a basis for consideration, including press information. The information is managed by the government, at what time can it be done? issue, at a time when standards that, when viewed from the point of view of human rights different from the point of view of administration. In the context of human rights, the government has obligation to provide guarantees for the protection of human rights, including to enforce restrictions. In the reasons included in Article 19 paragraph (3) seperti *Public Moral, Public Health, National Security, Public Order*. Like now because of Corona the public is prohibited from going out first. It can be limited mobility but considering why it should be limited and it shouldn't may go through a press release but must be by decision;
- That based on Article 19 paragraph (3) internet restrictions are allowed but there must be reasons, namely national security, social order and moral order. How to carry out public order and moral order and to explain this refer to the doctrine of *The Siracusa Principles* of 1984, how to interpret it First expression _____ related to public order used in the ICCPR is defined as a set of rules that ensure the functioning of people's lives or provisions in the basic principles related to the existence of society

- which must be protected. Respect for human rights is part of order general. Second, public order must be interpreted in the context of a special purpose for human rights that are limited on this basis. The Three State Institutions responsible for managing public order must be able to supervised by their powers through the parliament, judiciary, and other agencies other independent specialty;
- That in order to protect public order, in the presence of a condition social unrest in an area can be said to protect public order;
 - That not all social riots, conflicts and hoaxes go straight limit, the government can use law enforcement officers to overcome, local governments can overcome so not by blocking internet;
 - That the government in *throttling* must provide information *accessible* to the public, the standard is that there are rules, there are limits and can be accounted for. What are the limits and what are the government's actions what in the meaning of the rules have to say if this is closed the impact will be like this and what will the government do, for example in an effort to process recovery of condition or loss;
 - Whereas *throttling* and *blocking* violate human rights. The government has authority to do;
 - That the authority is only in the government, because it is given the authority then there must be held accountable for the use of authority the. The authority used must be by decision or must with clear rules that can be legally justified;
 - That there must be a forum stating that an act has taken place violate the law and the institutions that have the appropriate authority

- with the provisions of laws and regulations are PTUN, PN, Komnas
- Human rights, in government at Kominfo or in international forums;
- Not many people understand that internet *blocking* is happening in Myanmar
 - how to solve the problems of what is happening in Myanmar and in
 - Myanmar turns out to be not only about journalists who can't cover but
 - the impact is much more than that;
 - Whereas the mechanism that must be carried out by the Government before carrying out
 - limitation is that the government conveys to the public publicly
 - directly in an accountable form;
 - That the news on social media or on government *websites* , that
 - only *supplementary* and from a human rights perspective it is not enough because
 - Internet restrictions in Papua or West Papua must go through a decision
 - not through *websites* or press releases. From a human rights point of view
 - used is *Prescribed by the Law*;
 - Whereas provisions related to human rights, related to international law, conventions
 - international treaties or international treaties that have not been ratified by the Government
 - The Republic of Indonesia cannot apply this provision in Indonesia;
 - That if there is a riot, you cannot prioritize *digital rights*
 - or public order, because it's not just a matter of which one to do
 - precedence. When HAM emphasizes that *digital technology* is a human right then
 - between human rights with one another in human rights law known principles.
 - The principles are *universality, indivisible, non-discrimination, equality*
 - and *interdependency*, as well as *state responsibility*;
 - That in making a *throttling* or blocking decision, there must be confirmation first
 - against the law. Why is human rights limited only by
 - the law and even sanctions are only possible with regulations
 - the law in Law no. 12 of 2011 is because it is related
 - There are two lawmakers, namely the executive and the legislature

if you want to limit the rights there are two elements that control each other. So

no restrictions through PP or Perpres let alone press releases;

Member 2: OCE MADRIL, SH, MA, under oath giving opinion

as follows:

- Whereas a government action carried out by the Minister, the President

as the superior of the Minister is responsible for the actions of the Minister

According to this, the relationship between the President and the Minister can be interpreted as a mandate relationship.

The Minister is an official appointed and appointed by the President.

The responsibility of a minister must be seen by the laws and regulations

related invitations because it cannot be judged in general whether the relationship

the mandate or relation of the appointment of the President to the Minister shall apply

common to all sectors of government affairs because there are many affairs

government regulated by laws and regulations;

- That it must be seen which laws and regulations are being discussed.

For example, laws and regulations that provide authority

directly to the Minister but there are laws and regulations

which is actually the President's authority but then the President is over

the basis for the appointment provides that government affairs are managed by the Minister;

- Whereas in Law no. 19 of 2016 concerning ITE (Information and

Electronic Transactions) the construction is somewhat different due to the inner construction

The government ITE Law referred to there is not only the Minister but also

President. So the government in the sense of a responsible minister

for information matters appointed by the President. This means that the relationship between

The President and the Minister look like they are in the construction of the ITE Law because of their position

Minister there is a position appointed by the President, so it should be

logically administrative law there are organizational structure logics

government, there is the logic of superiors, there is the logic of officials who appoint or

appointing official. In administrative logic in some ways

superior/appointing official may be held accountable or actually he has the authority also in the affairs he does by his subordinates/Ministers, especially the direct appointment means it can be interpreted that the matter is more severe than the mandate issue;

- Whereas in the logic of the Government Administration Law, a superior who make decisions or actions actually given the burden for perform certain actions or carry out certain decisions. He can make decisions or corrective actions such as revocation, cancellation, and reinforcement. So there is a superior responsibility to take action corrective and in the Government Administration Act there are several articles which imposes responsibility on superiors;
- That if we look at the administrative logic of the logic carried out to superior in the case of an appeal and when the superior takes action or correct the decision, then the superior of the official who issues the decision or the action may carry out remission, revocation, cancellation even if he was not the one who did the direct action in the decision;
- That acts against the law by the government are basically when viewed in Perma refers to government action followed by compensation. The origin of the act against the government's law is from government;
- Whereas in the construction of Law no. 30 of 2014, Administrative Action The government in Article 1 number 8 is actions government to do and or not do the act in governance framework. This means that the government according to the law ITE has two meanings: first, the government's actions to do something and the two acts of the government not to do something. So not doing something is also included in action government. Doing something is also a form of government action. In

construction which is how we see the relationship between the minister and the president. is
when the minister does an action and there are objections to the action

that and the president did not take corrective action and the president did not
take any action, can this be interpreted by the President already
implement government actions. According to experts the silence of the president and
not taking any action included in the action category
government because there is actually a choice for superiors, namely to do
correction of actions taken by subordinates or allow.

Leaving in the concept of the doctrinal concept of government action he actually
do something. This doctrine that we take in Law no. 30 years
2014;

- That if viewed from the side of the concept of administrative law, the concept taken
by administrative law is a very broad concept, not only
doing concrete actions but not doing concrete actions either
including government action. When there are subordinates who do
something then there is no corrective action from superiors let alone already
an attempt to object, then in fact the superior has taken action as well;
- That in the Perma every administrative lawsuit must be preceded by an effort
objection then it is actually counted as a series because before
enter the trial. Administrative logic says if there is
subordinates who make decisions then there are citizens who
objected to the decision and was not corrected by the official who
concerned, his superior can take over. The boss can
take action to correct or confirm;
- Whereas in the context of administrative efforts that must be carried out before
the lawsuit goes to the Administrative Court, then actually if there is no change there
then the logic that is brought to the Administrative Court of both (Minister and President) can be
sued. Perma hopes that this issue will be resolved administratively in the

government then the logic is multilevel logic, put forward first object to the officer who did it then to the superior. If this function does not work then the court will take over. When Perma requires regulating administrative efforts that must be taken, the logic is that these officials did or their superiors could sued in court, because superiors do not use their authority to do something, correct or the boss actually approves the act is not annulled, the superior can be sued because have implemented government actions;

- Whereas the question of authority when viewed from the concept of administrative law regarding

There are 2 legal requirements for a decision, the first is formally valid and legal materially. The concept of administrative law views the issue of authority is part of the material legal requirements because in a decision or action must be preceded by the presence of authority. It means an official or the body that performs governmental actions must be a body or authorized official. This is a basic material concept. The link is with the concept of not being authorized, there are 3 concepts of being not authorized to be wrong the other is not materially authorized, meaning that authority is the basis on which an official or body uses his authority;

- Whereas in the initial articles of the AP Law in Article 8 it is explained the use of government authority. Every action must be defined or performed by an authorized official, then in the AP Law Article 7 paragraph 2 it is said that every official is obliged to make decisions or actions that in accordance with its authority then comply with AAUPB in accordance with legislation and procedures;

- Whereas the laws and regulations concerning the legal aspects of authority are placed in the beginning. The concept of State Administrative Law (HAN) sees that authority is material aspects and is very important in assessing the validity or illegitimacy of

a decision or action also included in Law No. 30

2014 was the most important aspect. In Administration Law

there is a special chapter on the prohibition of abuse of authority, because

Authority is important, so in the Administration Law there is a special chapter

officials are prohibited from using authority without any basis. Basically if

seen in Article 5 on legality that a power must be used

legally, then there is the principle of not using authority, there is the principle of

legal certainty etc. It's all related to whether the governing body

or the official has the authority to act or not;

- Whereas in Article 40 of the ITE Law the Government is given

some authority. In Article 40 paragraphs (2a) and (2b) there is indeed

said the government was authorized. The question is what kind of authority?

Article 40 paragraph (2b) states that the government has the authority to carry out

severance of access or ordering the system operator

electronically to terminate access to electronic information

which has an unlawful charge;

- Whereas in Article 40 paragraph (2b) the elements are the first element

The government can terminate access but the termination is to

electronic information whose contents violate the law. Article 40 paragraph (2b)

must be read in full cannot be read until the Government has

access, but it must be interpreted that the Government cut off access that

how or what object to electronic document information, namely

electronic documents whose contents violate the law. So the government

authorized but its authority is limited only to cut off access

the cargo violates the law;

- That in this law there is no further explanation of what

is meant by access whose contents violate the law, perhaps

which the law makers imagine is illegal

with the context that there has been a decision or determination on the content the load is unlawful. Article (2b) is a little heavy because of him limiting the government's authority is no joke. Government authorized but limited by sentences that violate the law. In the law does not explain what to do with the charge which violates the law, because this relates to whether it is *urgent* or not actions taken by the government when it exercises authority Article 40 paragraph (2a) and (2b), this is a limited authority, his authority is clear, his actions are clear to cut off access but object is also clear to information or electronic documents that have unlawful loads;

- That if the government does something beyond the attribution given by this law, it can be said that the action or termination is outside their authority if they do not comply with the orders of Article 40 paragraph (2a) and (2b). But if you focus on Article 40 paragraph (2b), then that authority is the authority that is limited to the object and the object also exists the condition is not only about the cargo but the cargo must violate the law;
- That if the Government terminates access in its entirety then of course he is beyond what is required by Article 40 paragraph (2b), i.e. it could happen but the verse (2b) must be changed first that the charge must be removed. If a disconnection is made overall, then simply there will be the first two applications of the load negative ones can be blocked but other charges can also be blocked, in There the government has no authority and there is potential abuse of authority;
- Whereas the concept of discretion in the law has four first because the law gives a choice, the two rules are not clear, the third exists the fourth rule vacancy is stagnation of government;

- That it is within these four scopes that discretion can be exercised. It means
Conceptual discretion is basically made to override the rules
legislation. But once this concept is normalized in the law
law, that discretion cannot be viewed only as a principle because he
has been normalized in positive law. The Administration Act regulates that even
Discretionary procedures are also regulated, so that discretion is now seen as a
an authority that must be exercised according to the Administrative Law
Government;
- That after fulfilling the requirements, is the discretion exercised with the rules?
the method taken, for example, discretion that causes financial inflation
the state must have approval, there must be discretion that is detrimental to the community
report to superiors and approval. If this procedure is not carried out then
would violate the discretionary powers that exist in the law. If
the scope and conditions are not met then it violates the norm
discretion in the law;
- Whereas the Government is indeed given the authority to cut off access, but
then the object is clear, namely the violating charge
law. The law does not explain how the violation
that law. Does the hoax have to be proven first that the information
it contains negative charge or not. What is the procedure to be followed
to prove he broke the law or not. If we go back to
the principle of legal certainty, of course, there must be a decision stating that
the content that violates the law is assessed based on a permanent decision;
- That the expert did not find out how to prove a charge
violate the law or not, because this relates to authority. So
these loads are declared first as unlawful loads
only then does the Government have the authority to cut off access;

- Whereas based on the principle of prudence the Government takes action

carefully means that all document information is complete so that actions taken based on complete documents and information. When The government uses incomplete information the action will definitely violate the rules, violate the rights of citizens and so on. That's why we have the principles of AUPB;

- That if there is a determination of the load whose information contains matters that violate the law, that's where the new government has the authority to issue cut off access, if the government suddenly cuts off access and makes separate *judgment* with a charge that violates the law, then the action it cannot be accounted for. Accountability is weak, aspect legal certainty is weak, the aspect of accuracy is weak then there there will be potential for violating authority because he can be recessive or anything which limits that authority;

- That if the procedure does not yet exist and the SOP is signed only after the decision is published or the act is done, as long as it is not violate the norms that exist in the law, then the discretion is taken in accordance with the articles in the Law Government Administration, the discretion may be taken and determined by the office;

- That the President has responsibility for the actions taken by the President Minister of Communication and Informatics, the logic used is the logic of problem solving administration, the superior of the official who took the action can be sued because the logic is in the AP Law and strengthened by the Perma there are administrative efforts what we know as objections and administrative appeals are addressed to the determining office and then directed to the superior office which determine. Basically in the logic of government there is a structure government and decisions made or actions taken by

Lower officials can be corrected, can be revoked or even confirmed by higher officials this is the logic we take in administration government. When the Perma requires that there must be an attempt to object, then aggrieved citizens must take this effort with hope

The official's superior takes corrective action with administrative efforts that, but then the administrative effort was not made and the result was not expected by citizens, citizens can file cases in

PTUN. The higher-ups of the officials who made the decision both have responsibility because this is an administrative matter, it's different if the question is being sued is his superior or the highest leadership of the government because it no longer exists superiors above him then there will be no logic of officials below and the above officials in the government. In a case like this actually si superiors also perform what actions both are considered for do or not do something, because he did not do corrective action and we'll see what the government's actions mean including government actions that do not do something, with thus the superior officer is considered to have approved the action;

- That the expert does not know the details of the Minister of Communication and Informatics Regulation No. 19 years old 2014 concerning the handling of the creation of negatively charged sites;

- That talking about losses and legal interests, there are many concepts and its interpretation, including many judicial decisions regarding compensation make a loss. In this case the Plaintiff is an organization and as long as the interests of represented by the Plaintiff has the same interest as the object lawsuit means he can argue that he has an interest in In that case, there are enough concepts that can be referred to and many too this concept was accepted in court. The loss can be direct loss or not directly to the Plaintiff, but in relation to the object of his lawsuit

have an interest and it can be argued what kind of loss

suffered and represented by the Plaintiff;

Considering, that in addition to submitting documentary evidence, to strengthen the argument his objection, Defendant I has submitted 2 (two) named witnesses SEMUEL ABRIJANI PANGERAPAN and IRJEN POLICE Drs. RUDOLF ALBERTH RODJA and 1 (one) expert named Prof. Dr. YOS JOHAN UTAMA, SH, M.Hum., which is essentially as follows:

Witness 1. SEMUEL ABRIJANI PANGERAPAN, promised to give information basically as follows:

- Whereas the witness works at Kominfo with the position of Director General of Applications Informatics since October 2016 until now;
- Whereas before the witness served in Kominfo the witness was a private employee and open your own business and also as the General Chairperson of the Organizing Association Indonesian Internet Services (APJII);
- That the internet slowdown in Papua occurred on August 19, 2019, which continued with a limited closure starting on August 21, 2019;
- Whereas in the process of slowing down and limited closure, the witness was not involved, the one who does the limited closure is the operator because the witness does not have the tools for that, but the slowdown and disconnection of the instructions from Government;
- That the instructions were carried out to the operator on August 19, 2019 already there is a meeting in the *WhatsApp group* where there are several director generals as well as all CEOs of operators;
- That the witnesses of the meeting with all CEOs are online, not face-to-face conducted in the morning on August 19, 2019;
- That the meeting was held in the WAG, and the members of the WAG were

Minister of Communication and Informatics, Director General of Postal and Information Technology Equipment Resources

- (SDPPI), Director General of Post and Information Technology (PPI) and the witness himself
- there is also a CEO from a cellular operator and a CEO from Telkom;
- That the decision to slow down internet access was taken through meeting in WAG, we are looking for ways how to do control because it is based on Article 40 of the ITE Law, the Government mandatory, then we look for an effective way and based on the results of the discussion, the most effective way is to slow down and from reports in field required limited closure;
 - That the basis for the slowdown is to control information hoax and the WAG that is being discussed is still *throttling* , nothing other choice;
 - That at that time the *throttling* policy was chosen because it was based on Information from security forces in the field and reports from intelligence, information at that time could not be controlled and could not be done in the normal way, then the chosen step is *throttling*;
 - That because the conditions were not as usual, many hoax news circulated, content blocking can be done and it takes time and at that time steps that must be taken immediately are slowing down;
 - That at the time there was disinformation of Papuan students in Surabaya who continues to Papua, the occurrence of the information is very fast and happens warming in Papua so it was decided at that time to carry out *throttling*;
 - That on August 19, 2019 in the morning there was a meeting at Ministerial level, followed by a meeting at WAG which finally followed up with escalation in the field and provide orders to the operator to slow down internet access and continue with limited closures;

- That the decision to slow down internet access continued with a limited closure not stated in the form of a letter
Results;
- That after August 21, 2019 there will be a delay and closure limited we monitor day by day, hour by hour;
- That after the Minister has slowed down and made a limited termination, Kominfo mechanism, of course, the Minister has reported to the President is related to this action;
- That after the delay and termination of witnesses, the witnesses have been summoned by Commission I of the DPR and before being summoned by Commission I there was a meeting with the KSP (Presidential Staff Office) the Minister of Communication and Informatics and I was there to discuss the meeting with Commission I;
- That for slowing down and cutting off access to the internet cellular network due to the distribution of information that cannot accounted for and the limitations of using cellular. We do limited restrictions because *fixed* internet is not done restrictions. *Fixed* internet is a cable internet service in the office office or at home;
- That due to the escalation of news of the spread of hoaxes and this incident is the second, the first in May ever done restrictions and the legal basis used is the ITE Law Article 40 paragraph (2a) and (2b) which states that the government is obliged to control, and there must be action, because in the mandate of the law the law is mandatory. So the first obligation that is given is the authority. At that time the technology we had and what existed at that time was technology throttling and disconnection;
- That there are reports related to the statistical escalation of the spread of hoax news in Papua which explains the types of hoaxes and their media as well as

accumulation of spread. That's what we observe why at that time arrived access was closed, because there were students in Wamena shouting *crush* and finally combustion occurs;

- That the monthly escalation report is issued by the Director General of Applications informatics. Every day we issue the table but it depends on talks. We have a machine called AIS and all activities are recorded there, the machine has the ability to search and read again. Under normal circumstances we monitor on issues that are popular in the community and that is reported to the Minister to be followed up and we will focus on the object related to the data in Papua;
- That after a limited decision has been made by the Minister, the Minister instruct the mobile operator to provide internet on the period 19 August 2019 to 4 September 2019, so that the media can cover and send news, the government provides internet facilities for the media and press at the Wintel Jayapura Office and at the Telkom Office Manokwari;
- That why the limitation is comprehensive for data services mobile and not to content, because to control content in abnormal and specific situations. If the closure is carried out normal then we should write a letter to the service provider then they review. So we took a practical step, because ordering a content to be taken down has a process, where content service providers like facebook, twitter they have civil rights and we don't want that kind of condition, so we take a calming attitude first, then we run the normal situation. That's what we decided at that time;
- Whereas in closed meetings or discussions, one of the negative issues what we are talking about is about disintegration because we find it in the field

there are already contents that come from outside that we recognize as *IT*

come from outside but use Indonesian and do

disinformation there. That's what we base our decision on because

there are already those who want to bring about the disintegration of Papua. Even though at the United Nations

declared to be Indonesian territory and the situation in Papua was made an issue

international. This is what we found in the field and will be discussed on

ministerial level meeting;

- That the Ministry of Communication and Informatics does not access every individual who

provide information that is charged with violating the law, because

we are not like a country in China that carries out a *self-influence system*,

where we can *upload* all, we choose not to use

the system because we are a democratic country, we do it after the incident,

that's why we need operator assistance because of the slowdown and

the closure is not carried out directly by the government. Everything we

do it openly and there are *checks and balances*, the government has the authority

to close but have no means to close. At the time

the situation in Papua is not normal, a more practical and faster way is

slow down and shut down the internet because the government is obliged to

do that according to the law. There are indeed some

do not agree with the government's actions but if they are ignored then

the risk will be greater;

- That what the government wants to achieve with this *throttling* is

how to return to a normal situation, we calm down first,

That's why on September 5, 2019 the opening ceremony was held

gradually. So on August 19, 2019, the delay was carried out, on the 21st

August 2019 limited closure and September 5, 2019

We were called by the DPR and we have done a limited opening

based on facts on the ground and reports from the Regional Police and from

Governor of West Papua who sent a letter for the opening. And we do the opening gradually according to the conditions in field;

- That the Minister then took steps to instruct operators to decide on the internet, in the form of discretion and verbally announce to the public because all information disclosure is announced to the public public because it is obligatory by law;**
- That cut off access due to hoax based on data and us verification with conditions in the field and with authorities who have authority over it, and how we can find out if it's a hoax or not we verify with several parties;**
- That all untrue news can be blocked if it concerns and disturbing the community and locking up there must be 2 elements that must be fulfilled, namely disturbing and disturbing public order. The two elements it must be met and it is in the law. Not only blocked, we can bring the perpetrators to the police;**
- That when making a decision to slow down and close access, there is a request from the authorities to law enforcement or Kominfo that asking for closure after verification of the data on social media whether? the event is true or not;**
- That Kominfo already has an MoU and legal umbrella, so we don't need it another letter to the authorities. Kominfo does not work alone regarding with content management. For medicine we work together with BNN, related to food with BPOM, linked to terrorist cooperate with Densus 88. Everything is in the MOU to help us analyze faster;**
- That when there is a decision to slow down or terminate all information, especially those circulating in West Papua, the situation and**

conditions in the field have escalated, it does not show the content of content because it is out of control. We can't know who sent news, then we first calm the people in Papua, then the rest of us process. If the condition is normal, we look for the content, we will do a legal study and we close the content, we explain the legal basis of the violation.

Conditions in Papua we cannot prioritize the normal process because takes a long time and no one can guarantee that escalation in Papua can be controlled so we close access. in law the government is obliged to close and if we don't do it any step i can be sued. When such a situation is necessary step together not only Kominfo, there is BIN, there is the police Minister of Foreign Affairs and all this is accountable to the DPR. Minister Polkumham on September 5, 2019 was questioned by the DPR and that open and closed, at the time the Ministry of Foreign Affairs spoke The state is open and at the time the Minister of Human Rights, BIN and The ABRI Commander is closed because it is for state security;

- Whereas the witness as the Director General of Informatics Applications, his main task is to make policies on governance related to content and application informatics, and everything that moves over the internet is in the Director General of Applications;
- Whereas the incident in Papua where the cellular media network is limited decided by the Director General of Post Informatics (PPI) who can instruct mobile operators to slow down and disconnect;
- That cutting off the internet is not only a report from BIN but from the Police as well Army and this is a meeting at the Ministerial level there is BIN, The TNI Commander and Menkopulhukam were decided jointly, not by one institution;
- That after the meeting between the DPR and the Coordinating Minister for Politics and Security on 5 September 2019 directed to recovery measures

gradually based on reports from the field in this case the Governor and Regional Police. We are open by region. For areas that are very vulnerable to the opening of districts;

Witness 2. IRJEN POLICE Drs. RUDOLF ALBERTH RODJA, promise to give the information is basically as follows:

- That the witness knows the ongoing case, namely the termination or internet throttling in Papua and West Papua during riots in Papua in August to September 2019;
- That when there was a riot in Papua, at that time the witness served as Papuan Police Chief for the period from 2 May 2019 to 30 September 2019;
- Whereas while serving as the Papuan Police Chief, the witness issued a Maklumat The Papuan Police Chief is related to the riots in Papua;
- That initially the riot took place on August 19, 2019, before riots broke out in Papua riots broke out in Surabaya where the flag Merah Putih was sent down at the Papuan Student Dormitory and there was also a greeting racist remarks in the form of monkey words to Papuan students and there are other intimidations about Papua in the Papuan student dormitory in Surabaya so that anger arose from all walks of life in the land Papua starting from the Governor, Papuan People's Assembly, Church Leaders up to all levels of society and at that time the Chair of the MRP issuing information that tells all students who are in Java Island as well as in other areas to return to the land of Papua and This was the beginning of the riots on August 19, 2019, whether it happened in the territory of Papua as well as in the Province of Papua Bara;
- Whereas the witness knows the characteristics of the Papuan people, they will definitely take action in Papua as a result of the racism incident in Papua Surabaya, so that on August 19, 2019 the witness held a meeting

- coordination with Muspida and church leaders to calm down community and internally develop a security plan against the possibility of demonstrations, excesses of the events in Surabaya;
- That after H plus 2 events in Surabaya, Forkopinda (Coordination Forum Regional Leaders) hold a meeting at the POLDA to anticipate the situation events that may occur in excess of the incident in Surabaya with visiting church and religious leaders;
 - Whereas in addition to holding an internal meeting for Forkopinda, the witness also through WA report to the National Police Chief, the main official related to the Director of Intelkam, Brimob and to Kabareskrim about the incident in Surabaya and the anticipation that the Papua Regional Police have carried out in stages;
 - That the witness reported in addition to WA, he also did it with *video conference* or by telephone directly to the Chief of the National Police, Deputy Chief of Police and Head of Intelligence and Security Division;
 - That when the riots occurred in the period of 19 August 2019 in Papua no damage to public facilities, but on August 29, 2019 During the second demonstration, public facilities were damaged in the form of: burning of Telkom offices, KPU, Gramedia stores, shop houses on Jalan Hamadi and shophouses in front of the harbor and dozens of two-wheelers and four-wheelers which were set on fire by the rioting mob, including police posts. In Papua date 19 August 2019 demonstration proceeds safely but in West Papua the MRP office and other public facilities were burned. New on August 29, 2019 there was damage;
 - That when the riots occurred on 19 and 29 August 2019 other than witnesses protect witnesses as well as verify the existence of hoax news what's happening in the media. Of the 29 regencies of the city, there are 14 regencies that have held demonstrations including Jayapura City, while the 15 other districts did not hold demonstrations, so witnesses

convey to Kominfo that 15 districts should not be delayed or the internet was closed, then the witness re-coordinated with Forkopinda related to this internet disconnection can cause turmoil in the community and related to criminal acts that may occur on the ground Papua due to the absence of internet connection;

- That the termination and slowdown of the internet according to the knowledge of the witness was carried out on August 21, 2019 there was a disconnection 2 days after the demonstration the first;

- Whereas the witness only conveyed from a security perspective the existence of Internet disconnection in Papua is very beneficial because groups groups driven by KNPB who still want to hold demonstrations follow-up is hampered because so far they have communicated through WA groups or via Facebook, with the disconnection, they can't reconnect with groups both in Jayapura City as a motorbike in the capital city and in the district other. Then there are a lot of hoax news in Surabaya once in Papua and the call for SARA conflict did not come to fruition. So there provocateurs, both natives and immigrants.

This does not reach the community only by a handful of groups. Then propaganda on social media both at home and abroad countries cannot enter Papua Province. Then communication between resistance groups on the political *front* led by KNPB (West Papua National Commission), and KKB groups in the forest do not can connect because the internet is disconnected or slowed down;

- Whereas the witness issued a notice to the Papuan Police Chief on September 1 2019 two days after the riots that resulted in public facilities burned on August 29, 2019. The response from the community is very support the issuance of the Papua Police Chief's edict. Characters

The Church, the Chiefs, the Forkopinda all support it the information and they promised to deliver it during the worship service Sunday to the Congregation not to protest, head the head of the tribe will also convey to his community not to anymore carry out vandalism, demonstrations or riots;

- That when the situation in Papua has started to recover and the level has decreased riots, the witness as the Kapolda coordinates with Kominfo to perform or re-open disconnected internet access, because the witness always gets reports from the district police chiefs what is the situation of the Polres in their jurisdiction and if In those districts there were no more demonstrations, so the witness asked to Kominfo to immediately open internet access. According to the witness The last districts to open the internet were Jayapura and Jayapura City for being a base for resistance groups driven by KNPB (West Papua National Committee). There are several JPS for example in Wamena, Tanah Hitam and in dormitories we do not open because fear of further demonstrations;
- That Kominfo open the internet always gets recommendations from the authorities security. The witness did not suddenly ask to open the internet, but the witness get a report from the police chiefs in the field whether it can be opened or not? no and after the internet reopened the region rallied;
- Whereas the Police Chiefs make reports and coordinates to witnesses using *video conferencing* media because *the video conferencing* in The police do not use the internet as usual. They used to use Visad so that witnesses can carry out *videos conference*;
- That because there is an internet disconnection, other networks can do it used by the public or the press media to communicate with parties in the

- outside can only use *sms* only, communication with other media is very very difficult because geography in Papua is very difficult, not all districts the internet network is good and if there is a decline it will be more difficult;
- Whereas the witness is always in contact with local print media and media electronics from Jakarta including those from TV One, Metro, Kompas TV, they always call the office to get progress from the situation in Papua and the media can *live stream* from there;
 - That some of the media have complained because of the disconnection the internet is difficult to deliver news when you want to report to the center for example from Antara, Kompas. Sometimes witnesses lend space to the media report the results of its coverage in the field;
 - Whereas the witness did not know whether Kominfo has provided a place for *media center*;
 - Whereas the contents of the Papua Regional Police's Declaration contain 6 points, the contents of which are each
People are prohibited from demonstrating and expressing opinions in public can lead to acts of anarchy, destruction and burning of facilities general and will be given strict action ... etc.;
 - That in the edict related to internet disconnection there is
on the fourth point, which is prohibited from inciting, *posting*, spreading news that is not true and that can cause hatred, sense hostility between fellow citizens of the community as stipulated in Article 28 paragraph 2, Article 45 paragraph 2 of Law no. 11 of 2008 concerning ITE jo. Chapter 45 paragraph 1 of the Criminal Code;
 - Whereas one of the causes of the riots in Papua is the case in Surabaya, which Papuans feel insulted by being called a monkey, social media everyone said that, it was so unsettling at that time resistance groups to the Government, be it the MRP, DPRD, The governor is all angry. They say that we are not

- monkey and MRP said Papuan students should go home. Group
- the resistance group submitted for a demo, and there were various
- hoaxes and various other provocations;
- Whereas the witness does not recommend disconnecting the internet, the Polri domain does not to disconnect the internet. The witness does not have the competence to decide internet, witnesses only maintain security so that there are no victims, but witnesses recommending to open the internet again to Kominfo;
 - Whereas the Papuan Police do not recommend cutting off the internet. Witness report any developments and confident witnesses from Kominfo, also in Papua itself there is the State Intelligence Agency, there is the Kodam, they also report developments in the field. This means that those who have the authority to decided not Polda but from the Center and the Center got a report from field;
 - That the witness did not know that the National Police Headquarters asked Kominfo to make a decision internet;
 - That the witness did not know who asked for the internet disconnection, because
On August 19, 2019 there was a riot and on August 21, 2019
the internet has been cut off, what is clear at the center does not stay silent because of the issue
hoaxes circulating in Papua must be read by the Center either by BIN,
Polri, Kominfo or by the President;
 - That the witness did not know that on August 19, 2019, the Communications and Informatics had carried out internet slowdown in some areas in Papua and West Papua Provinces;
 - Whereas the witness always communicates with the Kominfo team who are members of the WA Kominfo group with several other Ministries;
 - Whereas before August there were a lot of hoaxes in Papua. There is
several cases that the witness has handled and there are several suspects who have
up to P 21 in the Prosecutor's Office and Court;

- Whereas in dealing with hoaxes in Papua, sometimes witnesses are faced with problems existing internet. At Polda often experience this sometimes the internet dead for a few hours, then alive again and dead again, until the witness asks to Telkomsel so that the internet does not turn off because it will interfere with activities;
- That before August the witness never asked to extinguish it internet to deal with hoaxes, witnesses only arrest and take action in Criminal Law only;
- That during August and September 2019 there were many hoaxes, witnesses take action and arrest perpetrators of hoaxes based on the priority scale, witnesses handle demonstrations that have never been stop. After the demonstration, there will be no witnesses to handle the case hoax case. Everything has been recorded, but because of the witness's duty it arrived by September 30, 2019, it will be continued by the next Officer;
- That according to the witness, the internet disconnection was not all day long from the 21st August 2019 to September 4, 2019. If there is no demonstration was opened and if there was a demonstration on August 29, 2019 it was closed return;
- That the witness knew that it was a hoax because there was a General Crime Directorate who handles it;
- That coordination with Kominfo through WA and the witness became a member of the the Love Papua *group* and those who are members of the WA group as far as I remember witnesses were from the Ministry of Foreign Affairs, Kominfo and the Regional Police themselves;

Member Prof. Dr. YOS JOHAN UTAMA, SH, M.Hum., swears to give the main opinion is as follows:

- Whereas in Article 1 point 8 of Law no. 30 of 2014, Government Administration Actions are the actions of government officials

- or other agency organizers to do or not to do
concrete actions in the framework of governance;
- Whereas in Article 49 of Law no. 5 of 1986 as amended
with Law no. 51 of 2009, the Court is not authorized to examine,
decide and resolve State Administrative disputes in terms of
the disputed decision is due to: a. in time of war,
state of danger, state of earthquake or natural disaster and the state of
dangerous based on the laws and regulations that
happen b. In urgent circumstances for the public interest based
applicable laws and regulations;
 - That in Perma No. 2 of 2019 in his decree there are several things
rejected etc., and added there is an obligation to stop an action and
matters regarding the compensation given when there is an action case
government which is considered invalid or void;
 - Whereas in filing a lawsuit, one must look at Article 55 of the Administrative Law
and Perma No. 2 of 2019 regarding the grace period. What can be submitted
A lawsuit is an act that is still within the grace period
filing a lawsuit is 90 days. When it's over, of course you can't
filed a lawsuit. Mixed object of dispute can only if in one
network but if the act is separated one after the other then it must
submitted individually;
 - Whereas in Article 1 point 4 of Perma No. 2 of 2019 is a dispute
Acts that violate the law by government bodies and or officials
is a dispute in which there is a demand for
convey the invalidity and or nullification of government actions or not
have legal force and damages in accordance with the provisions
legislation. So it's very clear in this case amar notation

which is delivered is not an act against the law but is illegal

or cancel the action of the government official;

- That there is no one definition of the explanation of the problem of interest

The plaintiff was harmed by the termination of internet access which referred to in Article 1 point 6 of Perma No. 2 of 2019 as a result of doing it

government action. In Article 53 paragraph (1) of the Peratun Law, related

with the knowledge that experts have, the word loss is a word that is based

there is a real loss that is proven to be a real loss

real, while feeling that the loss is a potential that must be

proved later;

- Whereas the loss in Perma No. 2 of 2019 which represents a loss

society as a whole, in this case the Papuan people, the loss

Thus, when representing a *legal standing* based on

the field only applies to the field, can't then

on behalf of the general public. In the absence of principles

as if it was considered a *class action*. That's why here the *legal standing* of

What is the position of the Plaintiff in the construction? If the construction is

representing a journalist association is limited to the loss or potential harm that

suffered by journalists who are members of the journalists' association;

- That in the issuance of a KTUN or government action it must be

based on authority. In Article 40 paragraph (2) of the ITE Law, one of the objectives is:

is to protect the interests and security of the state, which means the use of

telecommunications including the internet must be in that corridor so that

contrario actus, then that authority is good at providing services

or revoke services when faced with a problem of interest

and state security;

- Whereas when Defendant I had the authority but there was no SOP for

take a government action in this case is the termination of

internet access, then based on Article 9 paragraph (4) of the Administration Law Government, namely the absence or lack of clarity of legislation the invitation as referred to in paragraph (20b) does not prevent government agency or official authorized to determine or make decisions and or actions as long as they provide benefits general and in accordance with AAUPB. That's why in the Administration Act Government is opened what is called discretion, namely when: there is a need for action that there is no regulation that can be done discretionary measures;

- That for the safety and public interest it is possible to make discretion, especially with regard to situational problems urgently as in Article 49 of Law no. 5 of 1986. What is meant urgent situation in the explanation of Article 25 paragraph (5) of Law No. 30 Years 2014 is an objective condition which is urgently needed determination and/or implementation of decisions and or actions by officials government to deal with conditions that can affect, hinder, or stop running the government;
- That the discretion is not only there are no rules. Discretion is a condition possible 1. when there is no law, 2. there is ambiguity in the law, 3. Is optional, 4. In case of stagnation. So not only no there is a law, when there is a law and when it is implemented it creates stagnation can be done discretion. Then so that there are no violations and abuse of authority then it must return that discretion is measured first from the side of the objectives regulated in Article 32 paragraph (2) of Law no. 30 years 2014 which says the goal is to carry out the implementation of government, filling legal voids, providing legal certainty and overcome government stagnation. When the law is clear and the law is used didn't cause any trouble, then suddenly took that discretion

is an abuse of authority, but if there is a law it happens
stagnation then makes discretion whether or not there is a law
the law. So the discretion must be in the corridor of the four things, it can't be
out of it. So there can't be a law to make discretion, it's not allowed,

There is also a condition in discretion in Article 24 that the discretion must be in accordance with the
purpose, does not conflict with the provisions of laws and regulations,
in accordance with AUPB, based on objective reasons, does not cause
conflict of interest and carried out in good faith. Discretion taken

in an emergency can be done without prior notification to

Public. So it can be done immediately and it is in Article 29 of Law No. 30

In 2014 it can be done but then reported by the person who did it

the action is referred to the superior in this case to the President as the superior of the Minister;

- That a government can be said to be in a state of danger is not
always related to emergencies, because there is an emergency law.

When the situation is urgent then we have to do what is called
as in Article 25 paragraph (5) earlier. The size is clear there that
may affect, hinder or stop the implementation of
government. Indeed the action is qualitative and it is supported by
the information and information was obtained from officials in the regions
and possibly direct monitoring from the center;

- That when the government declared itself in a state of emergency,
in matters relating to social conflicts and emergencies that exist
size, but when there are urgent matters as regulated in Article 25 it
no need for a *statement*, just an objective assessment;

- That the administration is legally responsible for actions
can be proven in a Court which will test whether the action
what has been done is an act of abuse of authority, if that
is considered a discretion, then the discretion will be tested;

- Whereas in administrative law what is meant by abuse
that authority exists beyond authority, mixing authority and
act arbitrarily. In Article 17 of Law No. 30 Year 2014
already explained. The so-called surpassing authority is going beyond
term of office or the time limit for the validity of the authority, exceeding the
the area where the authority applies, contrary to the provisions of the regulations
legislation. What is meant by mixing up?
authority is beyond the scope of the field or material authority that
granted, contrary to the purpose of the authority granted, act
arbitrarily without any authority and/or contrary to
sentence;
- That who has the right to declare the government in a state of emergency, in
The Emergency Law that declares an emergency is the President, in social conflicts
provincial level, Governor and district level, the Regent who announced.
Based on Article 49 there are urgent and dangerous situations
unregulated. Therefore, each official is given the authority to
take action based on their authority, because there is no need for
statement;
- Whereas Article 40 paragraph (2b) of the ITE Law reads in carrying out prevention
as referred to in paragraph (2a) the Government is authorized to carry out
severance of access and or ordering the system operator
electronically to terminate access to electronic information
and/or electronic documents that have content that violates the law;
- Whereas Article 40 paragraph (2b) of the ITE Law is very clear an authority that
Attributive nature, directly given by law to the government
in this case the Minister of Communication and Informatics who in this case is the supervisor;
- That there is an electronic access termination phrase which has a different content
breaking the law and for those not breaking the law is it possible

The internet is sorted out specifically for journalists, specifically for civil servants, specifically for those who violate;

- That government action cannot be when a system becomes one unity, the government has the right to take preventive action, political action another. Kominfo can't close only hoaxes, because of this internet, then when it is opened everyone can enter;
- That if there are the same series of activities, the actions of which are the same or similar in one problem can be made into one lawsuit, for example in one case process there is an inspection, then data collection, then decision making, that's called a network, but if the action is one to one cannot, it must be one lawsuit;
- That an internet blackout in period A was later extended, is it an extension or is it stand alone. We have to look to his decision whether the decision was extended by his words or that then is a stand-alone action. If that decision extension means the action continues but when it's in the decree it doesn't there is an extension, then it is a separate act;
- That the Government's action to shut down the internet is in the realm of the authority of Perma No. 2 of 2019;
- That an institution or government public official in issuing discretion through *the whatsapp group* can be justified, because this is a action is not the decree and it is in Article 29, because this is a actions do not even need to be notified to the community. In Law No. 30 of 2014 Officials exercising discretion in accordance with Articles 26, 27 and 28 excluded from the provision of notifying the public as referred to in Article 7 paragraph (2);
- Whereas there must be a basis for what is called discretion, namely legal certainty. This means that there may be legal certainty within a certain period of time or

can be extended until notified otherwise and if in action

no issuing grace period can be justified due to policy

its discretion continues;

- That if in an area there is an internet disconnection and internet disconnection

there is no grace period, because this is an action, it is responsive to

something that is urgent, then this action can be carried out until

deadline to be announced later. In this case we can't

said there is no legal certainty because maybe the conditions cannot be

predict when it will end, let alone something related to

conflicts;

- Whereas according to the expert, discretion can be in the form of decisions and actions;

- That in Kominfo the responsibility and accountability must be seen

source of authority from Kominfo itself, who gets it?

this authority. In the Telecommunications Law, it is very clear that

attributive authority;

- That Kominfo is fully responsible for all actions taken

carried out by Kominfo is not like that too, we have to sit down

Kominfo's action, because internet consumers are not related

directly with Kominfo but in contact with the organizers. Kominfo

here as a coach, which is related to the organizers (Telkomsel,

Indosat etc.) this relates to them, which is directly there

loss relationship because of those who organize and because of him

as an executor related to the community and who gets

direct services from the community;

- Whereas the hoax in the ITE Law is a criminal act,

for the crime, it must be political, the authority of Kominfo is the authority of the

internet and telecommunications. On the basis of the assessments, namely Article

25 and the urgency based on the information obtained by Kominfo

such as the meetings in Jakarta, on that basis the Communications and Informatics took the following actions:

based on their authority. If he acts in the Internet field means

is an absolute authority because it has been designated in the Act

Telecommunications and the ITE Law. If the problem is related to the hoax

get into politics;

Considering that Defendant II did not present witnesses or experts although the Court has given the opportunity for it;

Considering, whereas the Plaintiffs, Defendants I and Defendants II submit their Conclusions on 20 May 2020 and for shorten the description of this Decision, then the Conclusion is not included in the Decision but contained in the Minutes of the Trial and is an integral part of this decision;

Considering, that everything that happened in the trial during the examination of this case as stated in the Minutes of Preparatory Examination and Minutes of Trial are considered has been contained and is an integral part of this Decision;

Considering, that in the end the Parties stated that they would not submit something else in this case and then ask for a verdict;

ABOUT LEGAL CONSIDERATIONS

Considering that the purpose and objectives of the Plaintiffs' lawsuit are: file a claim for a statement as an act of violating the law of the Agency and/or Government Offices against Government Actions Defendant I and Defendant II in the form of:

1. **Government Action *Throttling* or throttling of access/*bandwidth* in some areas of West Papua Province and Papua Province in 19 August 2019 from 13.00 WIT (East Indonesia Time) until at 20.30 WIT;**

2. Government action, namely blocking of data services and/or complete severance of internet access in Papua Province (29 City/Regency) and West Papua Province (13 Cities/Regencies) dated August 21, 2019 until at least September 4, 2019
puck 23.00 WIT;
3. The Government's action is to extend the blocking of data services and/or disconnection of internet access in 4 Cities/Regencies in Papua Province (i.e. Jayapura City, Jayapura Regency, Mimika Regency, and Jayawijaya Regency) and 2 Cities/Regencies in West Papua Province (i.e. City of Manokwari and City of Sorong) since September 4, 2019 at 23.00 WIT until September 9, 2019 at 18.00 WIB / 20.00 WIT;

Considering that in the *a quo dispute*, the Panel of Judges (hereinafter referred to as the "Assembly") has received 2 (two) *Amicus Curiae* submitted by Access Now on 7 May 2020 and the Institute for Community Studies and Advocacy (ELSAM) May 8, 2020, both of which were sent directly to the Chief Justice Jakarta State Administration until it was finally submitted and accepted by Assembly on May 13, 2020. Although the two *Amicus Curiae* come from two different institutions and sent in two envelopes separate, but the two envelopes have the same logo, namely the logo of the Institute Community Studies and Advocacy (ELSAM), so that the Assembly is of the opinion that There is an affiliation between the two institutions. There is affiliation between the two the institution that filed the *Amicus Curiae* did not cause legal issues and does not affect the status of independence
The Amicus Curiae proposed by the two, because neither of them are litigants. However, it turns out that the *Amicus Curiae* proposed by Access Now has been used as evidence of a letter by Plaintiff I as evidence letter marked P.1.45 at the trial on May 13, 2020, so that the Assembly

considering that because between *Access Now* and the Study Institute and Community Advocacy (ELSAM) has an affiliation and one between the two *Amicus Curiae* is the one submitted by *Acces Now* used as evidence of the letter by Plaintiff I, the Panel concluded that the two *Amicus Curiae* which should be independent and have nothing to do with the Plaintiff or the Defendant is not independent, so as to maintain impartiality (impartiality) because the Assembly must behave fairly and guarantee independence The tribunal in adjudication, the two *Amicus Curiae* will not be considered by the Assembly in providing a legal assessment of the *a quo dispute*;

IN EXCEPTION:

Considering, that against the Plaintiffs' claim, in the answer: as well as conclusions, the Defendants have filed an exception which basically as follows:

Exception of Defendant I (in conclusion):

1. The State Administrative Court Has No Authority to Judge the Object of the Lawsuit (Absolute Competence);
2. Plaintiffs' Lawsuits with Formal Disability due to Expiration for Objects First and Unclear Lawsuit (*Obscuur Libel*) Petitem;

Exception of Defendant I (in response):

3. The Plaintiffs Have No Interest to Sue (No Having *Legal Standing*);

Exception of Defendant II:

1. *Error in Persona* Exception ;
2. Exception Plaintiffs are not entitled to file a lawsuit (*Exceptio Legitimate Person to Stand in Judgment*);
3. Exception regarding the Fleeing Lawsuit (*Exceptio Obscuur Libel*);

Considering, that because in the answer and conclusion, Para The Defendant also filed an exception, and the exception filed by Defendant I

In its conclusions, among others, it concerns the absolute authority of the Court State Administration to adjudicate the *a quo dispute*, then based on in the provisions of Article 77 paragraph (1) of Law Number 5 of 1986 concerning State Administrative Court as amended by Law Number 9 of 2004 and Law Number 51 of 2009 which was enacted of which basically stipulates that exceptions regarding absolute authority Courts can be filed at any time during the examination, so even though the *a quo dispute* has gone through a *dismissal process* examination by the Chairman State Administrative Court and also through a preparatory examination by Assembly, but with the exception of absolute competence being raised in the conclusion, then the Assembly will first consider the exception absolute competence;

Considering, that regarding the absolute competence/authority of the Judiciary State Administration in adjudicating disputes, originally based on provisions Article 25 paragraphs (1) and (5) of Law Number 48 of 2009 concerning Judicial Power, Article 4 and Article 47 of Law Number 5 Year 1986 concerning the State Administrative Court and Article 1 point 10 of the Law Law Number 51 of 2009 concerning the Second Amendment to the Law Number 5 of 1986 concerning State Administrative Court, authority The absolute power of the State Administrative Court is to adjudicate Administrative Disputes State, namely disputes that arise in the field of State Administration between person or civil legal entity with the Agency or Administrative Officer State, both at the center and in the regions as a result of the issuance of State Administrative Decisions including Personnel Disputes based on applicable laws and regulations. But with the occurrence Law Number 30 of 2014 concerning Government Administration (hereinafter referred to as the "Government Administration Act"), in accordance with with the provisions of Article 85 paragraph (1) and the General Elucidation of the 5th paragraph of the Law

Government Administration Act which states that Citizens may file a lawsuit against the Decision and/or Action of the Agency and/or Government Officials to the State Administrative Court and the provisions of Article 1 number 18 of the law which states that The Court is a State Administrative Court, then the authority The State Administrative Court does not only adjudicate Administrative Disputes State or Government Administration Decision Dispute, but also adjudicate Disputes on Government Administration Actions. What is meant by Government Administration Actions according to Article 1 point 8 of the Law Government Administration is the act of a Government Official or other state administrators to do and/or not to do concrete actions in the framework of administering the government;

Considering that further the procedural law of dispute resolution Government Administration Actions are regulated in Court Regulations Supreme Court Number 2 of 2019 concerning Guidelines for Action Dispute Resolution Government and Authority to Prosecute Unlawful Acts by Government Bodies and/or Offices (*Onrechmatige Overheidsdaad*) (hereinafter referred to as "Supreme Court Regulation Number 2 Year 2019"). In the Title and Article 1 point 1 of the Regulation of the Supreme Court Number 2 Year The 2019 Government Administration Actions are referred to as Actions Government;

Considering that in the exception raised in the conclusion, Defendant I argued that a lawsuit could not be brought to the Court State Administration when the country is in danger and the Court is not authorized to examine the case based on the provisions of Article 49 Law Number 5 of 1986 which states that the Court of not authorized to examine, decide and resolve administrative disputes Certain countries in the event that the disputed decision is issued:

- a. in time of war, state of danger, state of natural disaster, or extraordinary circumstances that are dangerous, based on the rules current regulation;
- b. in urgent circumstances for the public interest based applicable laws and regulations;

Considering, that against the exception, the Assembly considers: that from the formulation of Article 49 letters a and b of Law Number 5 Year 1986, then the provisions regarding the conditions as mentioned in in Article 49 it is stated "based on the legislation" applicable". Defendant I argued expressly in his exception that: Government action which is the object of dispute is carried out because the state in a state of danger, so that according to Defendant I the Administrative Court The state has no absolute authority to try it;

Considering, that due to the determination regarding the state of danger, according to Article 49 letter a above, it must be based on laws and regulations applicable law, then in Indonesian national law, regulations the legislation that regulates the state of danger is Government Regulation in Lieu of Law Number 23 of 1959 concerning Repeal of Law No. 74 Year 1957 (National Gazette No. 160 Year 1957) and the Determination of State of Danger which in some regulations legislation, including the General Elucidation of Law Number 7 Year 2012 concerning Handling of Social Conflicts, also known as Law Law Number 23 Prp of 1959 concerning Dangerous Conditions as already stated amended twice, most recently by Law No. 52 Prp of 1960 (hereinafter referred to as "Government Regulation in Lieu of Law" Number 23 of 1959 / Law Number 23 Prp of 1959 concerning Dangerous Conditions");

Considering that on pages 12-13 the conclusion is that Defendant I postulated that the state of emergency of a civil emergency as regulated in in Government Regulation in Lieu of Law Number 23 of 1959 is a condition that cannot be equated with the conditions of Papua and West Papua, so that Government Regulation in Lieu of Law No 23 of 1959/Law Number 23 Prp of 1959 concerning the Circumstances of Danger cannot be tied to the security conditions of Papua and West Papua around August to September 2019, but Defendant I did not explain what is the difference between the conditions of Papua and Papua West in those months with the conditions as referred to in Government Regulation in Lieu of Law Number 23 of 1959/Law Law Number 23 Prp of 1959 concerning Dangerous Conditions, as well as expert testimony submitted by the Defendants, namely Prof. Dr. Yos Johan Utama, SH, M. Hum., also stated that the state of danger does not have to be always like an emergency according to a Government Regulation in Lieu of Law Law No. 23/1959/Law No. 23 Prp/1959 about the State of Danger, because the size is clear that is qualitative which can affect, hinder or stop the implementation of government supported by information from local officials and monitoring directly from the center, so it is based on an objective assessment only. Will but according to the member to account for the objective assessment it opens the possibility of a lawsuit in the Court which will test whether the action taken is an act of abuse of authority and if it is considered a discretion, then the discretion will be tested, so that from expert statement Prof. Dr. Yos Johan Utama, SH, M. Hum., proposed by Para On the one hand, the defendant stated that the Government's Actions were object of dispute related to state of danger or state security cannot be sued in the State Administrative Court and the state of danger is not

must always be like an emergency according to the Substitute Government Regulation Law Number 23 of 1959/Law Number 23 Prp of 1959 1959 concerning the State of Danger, but on the other hand the expert stated that to account for the objective assessment is open to possibility a lawsuit in the Court that will test whether the actions taken constitutes an act of abuse of authority and if it is considered an discretion, the discretion will be tested;

Considering, that based on the argument of Defendant I and the expert testimony above, by because Article 49 letter a of Law Number 5 of 1986 confirms that: that the state of danger that causes a Decision and/or Action The government cannot be sued in the State Administrative Court based on the applicable laws and regulations, the Assembly believes that it is impossible to determine the state of danger only on the basis of the assessment of the Agency and/or Government Officials, because when that is possible, Government Bodies and/or Offices can just making subjective judgments and potentially always using excuses dangerous conditions in every publishing Decision and/or doing Government action to avoid legal testing by the State Administrative Court. Moreover, the expert testimony of Prof. Dr. Yos Johan Utama, SH, M. Hum., proposed by the Defendants also stated that that to account for the assessment of the Agency and/or Officials The government opened the possibility of a lawsuit in the Court which would test whether the decisions and/or actions taken are abuse of authority and if it is considered a discretion, it will be tested discretion by the Court. Therefore, the Assembly is of the opinion that Decision making and/or Body and/or Office Actions Governance carried out in a state of danger must be based on objective parameters both from the perspective of Government Agencies and/or Offices

who take Decisions and/or Actions, from the perspective of society affected as well as from the perspective of the Court who will judge legally Government Decisions and/or Actions. The objective parameters is a law, which in this case is a Government Regulation Substitute for Law No. 23/1959/Law No. 23 Prp Year 1959 on State of Danger;

Considering that a Government Regulation in Lieu of Law Number 23 of 1959 / Law Number 23 Prp of 1959 concerning The State of Danger in Article 1 point (1) states in essence that The President/Supreme Commander of the Armed Forces declares in whole or in part from the territory of the Republic of Indonesia in a state of danger with a level of state of civil emergency or martial law or state of war. Furthermore, in Article 2 paragraph (2) Government Regulation in Lieu of Law The law stipulates that the announcement of a statement or deletion of the state of danger is carried out by the President. In the *a quo* dispute, Defendant I and Defendant II has never submitted evidence showing that The President/Defendant II has stated in writing or decided that all or part of the territory of the Republic of Indonesia which in this case are the provinces of Papua and West Papua in a state of danger;

Considering, that because there has been no decision of Defendant II which declare that all or part of the territory of the Republic of Indonesia which in this case are the provinces of Papua and West Papua in a state of danger, then the Government Action which is the object of the dispute is carried out in a situation that has not been legally declared as a dangerous situation, Therefore, the reason for Defendant I is that the Government Action which is the object of disputes carried out in a state of danger must be ruled out;

Considering, that if the object of dispute is carried out by Defendant I in In the context of public interest, the Assembly considers that Article 49 letter b

Law Number 5 of 1986 also states that the reasons for public interest must be based on laws and regulations that apply. Based on the formulation of the article, the Assembly further gave an assessment that in the laws and regulations governing the development in the public interest, laws and regulations. Instead, it gives authority to the State Administrative Court to adjudicate Government Decisions, including Law No 2 of 2012 concerning Land Acquisition for Development for Public Interest which in Article 23 states that the Administrative Court State Enterprises have the authority to examine and decide on lawsuits against determination of the location of development for the legal public interest. The event is then further regulated in a Supreme Court Regulation Number 2 of 2016 concerning Guidelines for Proceeding in Determination Disputes Construction Locations for Public Interest in the Administrative Court Country;

Considering, that based on the above considerations, according to Assembly, Government Actions that are the object of dispute are carried out in a situation that has not legally been declared a state of danger, because The Jakarta State Administrative Court has absolute authority to examine and adjudicate the *a quo dispute*, so that the exception of Defendant I thus must be declared not accepted;

Considering, that in the future the Assembly will consider the exception others in accordance with the order in which the exception is filed, so that the which will be considered first are the Defendants' exceptions which submitted together with the answer which if these exceptions declared not accepted, then other proposed exceptions will be considered Defendant I in conclusion;

Considering, that in the future the Assembly will consider the exception regarding the *legal standing* of the Plaintiffs in filing lawsuit;

Considering, that in its exception the Defendants basically similarly postulates that the Plaintiffs have no *legal standing* / legal position in suing because there are no elements interest in the Plaintiffs based on the doctrine of understanding interests as expressed by Indroharto, the provisions of Article 53 paragraph (1) Law Number 9 of 2004 concerning Amendments to the Law Number 5 of 1986 concerning the State Administrative Court and its explanation, various decisions of the State Administrative Court as well as the provisions of Article 1 number 5 and number 6 of the Regulation of the Supreme Court Number 2 of 2019. In their lawsuit, the Plaintiffs did not explain the relationship at all direct relationship with the object of the lawsuit. The Plaintiffs only explained losses suffered by media editors led by members of the Plaintiffs I and the loss of the members of Plaintiff II as well as the losses suffered by Regional Government and the community without being accompanied by the basic authority of the Para Plaintiff to represent the loss as argued by Para Plaintiff. According to the Defendants the right of organization/Legal Standing is a known practice in environmental matters and consumer protection, in the *a quo case*, the Plaintiffs argue that the basis for the right to file a TUN lawsuit through organizational/legal lawsuits Unknown standing in the PTUN case. In addition, as broadcast Press No. 190/HM/KOMINFO/09/2019 on September 28, 2019, on the day Saturday, September 28, 2019, at 09.00 WIT, Defendant I has opened back to internet data services in Wamena Regency and carried out in 15 percent Jayapura City points/sites which are still subject to restrictions when some most other regions have opened on September 13, 2019, so that all

telecommunications and internet services in 29 districts/cities in Papua Province and 13 regencies/cities in West Papua Province have functioned normally as again, because of that there is no more dispute between Defendant I and Para Plaintiffs, so that the Plaintiffs do not have interests that are harmed as a result of the object of the lawsuit;

Considering, that with respect to the exception, the Plaintiffs have denied it by stating that the Plaintiffs had an interest to sue because the Plaintiffs are legal entities of the association which has been confirmed by the Ministry of Law and Human Rights as civil law subjects who have carried out activities in accordance with the Deed The establishment/Articles of Association and in the lawsuit have explained the interests and losses suffered. In addition, according to the Plaintiffs, various Decisions The State Administrative Court to the Supreme Court has recognized the rights of sue the organization that is filed using the organization's right to sue mechanism (*legal standing*) other than in environmental and consumer cases. Related internet access has been reopened, the Plaintiffs argue that negligence or intentional failure to release a lawsuit by someone or legal entity that is harmed by the action, so that it is in accordance with the provisions of Article 53 paragraph (1) of Law Number 9 of 2004 along with the explanation, Supreme Court Regulation No. 2 of 2019 and the doctrine Indroharto regarding interests, the Plaintiffs argue that they have *legal standing* to file a lawsuit;

Considering, that regarding the exception of *legal standing* The Plaintiffs, the Tribunal considered that in accordance with the principle of "*point d'interet-point d'action*" or "*no interest, no action*" in procedural law in court, a person or party is said to have legal standing to can file claims or lawsuits when they have an interest.

This is also in line with the provisions of the procedural law of administrative courts

state as regulated in Article 53 paragraph (1) of Law Number 9
Year 2004 concerning Amendments to Law Number 5 Year 1986
concerning the State Administrative Court which states that: "Persons or
a civil legal entity that feels that its interests have been harmed by a
State Administrative Decisions may file a written lawsuit against
competent court which contains a demand that the Administrative Decision
The disputed country is declared null or void, with or without
accompanied by a claim for compensation and/or rehabilitation", as well as the provisions of Article 1 point
5 Supreme Court Regulation Number 2 of 2019 which states that
Community citizen is a person or civil legal entity that is related
with Government Actions" and Article 1 number 6 of the Court Rules
The Supreme Court stated that "The Plaintiff is a Citizen"
whose interests are harmed as a result of taking the Action
government", so that to be able to file a lawsuit, it is required if:
has an interest in the issuance of the object of dispute and its interests
is harmed by the issuance of the disputed object;

Considering, that the Law on State Administrative Court does not
explain the meaning of the term interest. According to judicial doctrine and practice,
interest in administrative procedural law has two meanings, *first*;
Interest as a value or quality that is protected by law,
second; Importance as a goal to be achieved by the process. Importance
as a value that must be legally protected is a value that
influence or be judged reasonably can be expected to be profitable
or harm arising from the issuance of a state administrative decision
or the refusal to issue a state administrative decision. At the value
must be protected by law, there is a relationship between legal subjects
on the one hand with administrative decisions on the other. The concrete is determined
by factors related to the legal subject itself and on the other hand

by factors related to administrative decisions. Whereas
the importance of the process is the goal to be achieved with a lawsuit with
in other words, the purpose of the process being carried out by the initiator of the case;

Considering, that based on the above considerations, according to
Assembly, what is meant by interest is legal interest, namely
interests based on the existence of a legal relationship between the Plaintiffs
with the object of the dispute and whether there are losses suffered by the Para
Plaintiff;

Considering, that in addition to setting a lawsuit, it must be filed by the
who suffer direct losses, jurisprudence based on
Professor Christopher Stone's doctrine in an article entitled "*Should Trees Have
Standing?*" grants the organization the right under certain conditions to
be a guardian (*guardian*) for natural objects that are animated (cannot be
speak) to file a lawsuit to the court as the Decision
Central Jakarta District Court Number 820/PDT.G/1998/PN.JKT.PST dated 7
August 1989 which was then followed by a court decision in the judiciary
public and within the state administrative courts. Correspondingly,
The Supreme Court through the Decree of the Chief Justice of the Supreme Court No
36/KMA/SK/II/2013 concerning the Enforcement of Case Handling Guidelines
The Environment also states that the lawsuit goes through the mechanism of litigation
organization (*legal standing*) can be submitted to the State Administrative Court;

Considering that the organization 's *legal standing* mechanism
Initially in Indonesia was born from jurisprudence in environmental matters,
finally recognized in various laws and regulations including
Law Number 32 of 2009 concerning Protection and Management
Environment in Article 92 and in the field of consumer protection law
namely Article 46 paragraph (1) letter c of Law Number 8 of 1999
regarding Consumer Protection and related to waste management as

regulated in Article 37 paragraphs (1), (2) and (3) of Law Number 18 Years 2008 concerning Waste Management;

Considering, that based on jurisprudence and legislation, invitation above, the Supreme Court and judicial bodies below it has recognized and given rights to organizations that although not suffered a direct loss, but with certain conditions can file a lawsuit to the court as a guardian not only for the object inanimative nature but also for the benefit of society in various fields law is not limited to the environment, consumer protection and waste management;

Considering, that based on the provisions of the law and practice judiciary which is reflected in the legal considerations on the Jurisprudence which followed regularly by subsequent decisions, the Tribunal draws a conclusion that the organization can file a lawsuit in court through the mechanism organization's right to sue (*legal standing*) if the claim submitted is limited on a claim to perform a certain action without a substitute claim loss except for real costs or expenses and meet the following requirements:

- a. in the form of a legal entity;
- b. confirms in its articles of association that the organization established for the benefit of developing fields in accordance with the intent and purpose of its establishment; and
- c. has carried out real activities in accordance with the articles of association in the field of environmental conservation at least 2 (two) years, in the field of waste management for a minimum of 1 (one) year, while in the field of consumer protection it is not limited to a minimum timeframe;

Considering, that based on the evidence of letter P.1.1 submitted, Plaintiff I in the form of a copy of the Deed of Statement of the Decisions of the Journalists Alliance Congress

Independent dated December 23, 2017 Number 32 made before Ida Noerfatmah, SH, MH, Notary in South Tangerang City and proof of letter P.1.2 in the form of a Decree of the Minister of Law and Human Rights dated 12 January 2018 No. AHU-00000027.AH.01.08.2018 concerning Approval Changes in the Legal Entity of the Alliance of Independent Journalists, then The Tribunal obtained the fact that Plaintiff I was an association which in the form of a legal entity. Likewise, Plaintiff II, the Association of Southeast Asian Defender of Freedom of Expression based on documentary evidence P.2.1 was established based on a copy of the Defense Association Establishment Act Southeast Asia Freedom of Expression Number 04 dated 11 January 2019 which made before I Gusti Agung Bagus Mahapradnyana, SH, M.Kn., Notary at Denpasar City is also a legal entity association as it turns out from the evidence of letter P.2.2 in the form of a Decree of the Minister of Law and Human Rights Number AHU-0000401.AH.01.07 Year 2019 dated January 19, 2019 which give ratification of Plaintiff II's legal entity, because that is the first requirement fulfilled;

Considering, that further based on Article 9 a copy of the Deed Statement of Decisions of the 23rd Alliance of Independent Journalists Congress December 2017 Number 32 made before Ida Noerfatmah, SH, MH, Notary in South Tangerang City, as evidenced by P.1.1, Plaintiff's vision I is the realization of a free, professional and prosperous press that upholds high democratic values. Furthermore, in Article 10 letter a Deed of Declaration The decision of the Congress stated that one of the Plaintiffs Mission I is to fight for press freedom and the public's right to information. Accordingly, based on the evidence of letter P.2.1 in the form of a copy of the Deed The Founding of the Association of Defenders of Freedom of Expression in Southeast Asia No 04 dated January 11, 2019 made in front of I Gusti Agung Bagus Mahapradnyana, SH, M.Kn. Notary in Denpasar City, in Article 4 paragraph (1)

it is stated that the aims and objectives of this Association are:

promote and fight for digital rights in Southeast Asia

especially Indonesia, so based on the facts above, according to

The Tribunal, in the Articles of Association of the Plaintiffs and their amendments have

assert that their organization was founded for the sake of the struggle

human rights such as the right to information including digital rights and

freedom of the press as the fulfillment of the second condition;

Considering, that furthermore, based on the evidence of letters P.1.3, P.1.4, P.1.6, P.1.7, P.1.8, P.1.10, P.1.11, P.1.12, P.1.13, P.1.14, P.1.15, P.1.16 respectively P.1.17, it turns out that Plaintiff I has carried out various activities related to Human Rights and press freedom by filing a lawsuit in court and book publishing. In addition, based on the evidence of letters P.2.4, P.2.5, P.2.6, P.2.7, P.2.8, P.2.9, P.2.10, P.2.11, P.2.12, P.2.13, and P.2.14, Plaintiff II also has carried out various activities in the field of promoting digital rights both in the form of discussions and publication of books and research reports, so that according to the Tribunal, the Plaintiffs have fulfilled the third requirement, namely: carry out real activities in accordance with the articles of association;

Considering, that in the future the Assembly will consider whether The Plaintiffs in filing a lawsuit are limited to demands for take certain actions without any claim for compensation;

Considering, that in their lawsuit, the Plaintiffs postulated among other things that Governmental Actions carried out by the Defendants contrary to the laws and regulations and general principles of good governance, furthermore in the petitum, The Plaintiffs request that the object of the dispute be declared as an act violate the law of Government Bodies and/or Offices;

Considering, that with such a posita and petitum, then According to the Panel of Plaintiffs' lawsuits, it is limited to demands for

take certain actions, namely so that the Court declares the object of the dispute is an act that violates the law of a Government Official in the absence of claims for compensation;

Considering, that based on the above considerations, the Assembly concluded that the lawsuit filed by the Plaintiffs fulfill the requirements as a lawsuit that can be filed through the mechanism organization's right to sue (*legal standing*) for the sake of the struggle for human rights human rights, including the right to information including digital rights and press freedom;

Considering, whereas regarding the argument for the Defendants' exception that by because Defendant I has reopened data services in Papua and West Papua, then there is no longer any dispute between the Plaintiffs with the Defendants, therefore the Plaintiffs no longer have legal interest in filing the *a quo* lawsuit, the Assembly considering that based on the provisions of Article 71 paragraph (5) of the Law, The Government Administration Act states that the losses incurred as a result of the canceled Decision and/or Action becomes responsible Government Agency and/or Official. Based on these provisions, then despite a Decision and/or Action of a Body and/or Office Government has ceased to exist because it has been abrogated, repealed or terminated, however, as long as at the time the Decision and/or Action takes effect or has been done has caused a loss, then the Community can still file a lawsuit against the Agency and/or Officials Governments that issue Decisions and/or take Actions Government;

Considering that in their lawsuit, the Plaintiffs argue that: that as a result of the actions of the Defendants have resulted in losses in including the members of Plaintiff I who are in charge of

Tabloid Jubi, editor-in-chief of Cendrawasih Pos, Tempo.Co and coordinator coverage of CNN Indonesia TV which has difficulty verifying and clarifying information, coordinating with editors and field reporters, delays in delivering information even had time to not publish a newspaper printing and declining revenues, resulting in material losses and immaterial. Meanwhile, the members of Plaintiff II also suffered losses in the form of the termination of the Papua and Papua Sub-Division SAFEnet organizational program The West in educating Papuan youth uses the internet positively. The service system of the Regional Government of the Papua Province electronically towards *e budgeting* and *e-planning* were also disrupted. Online transportation driver too suffered losses and reduced the number of foreign tourists who visiting Papua;

Considering, whereas therefore the Assembly considers that even in disputes *a quo* Government Actions that become The object of the dispute is no longer done by the Defendants, but by because these Governmental Actions have been carried out and At the time it was carried out it was deemed by the Plaintiffs to have caused a loss for the Citizens of the Community, then the Plaintiffs who have fulfilled the requirements as an organization that can file a lawsuit through the organization's *legal standing* mechanism still has the right to file a lawsuit against the Defendants;

Considering, that based on these considerations, Para The plaintiff has the *legal standing* to file the *a quo* lawsuit , because of that the exceptions of Defendants I and II regarding the *legal standing* of Para Such a plaintiff must be declared disapproved;

Considering, that in the future the Assembly will consider the exception Defendant II regarding *error in persona*;

Considering that regarding the *error in persona exception*, Defendant II argued that Defendant I had the task of administering the affairs of government in the field of communication and informatics to assist Defendant II in administering the state government whose authority is delegated from Defendant II through Presidential Regulation Number 54 of 2015 regarding the Ministry of Communication and Information Technology, thus Action Defendant I who became the object of the lawsuit was carried out on the basis of delegation authority, then according to the law as regulated in the provisions of Article 1 point 23 of the Government Administration Act to be considered responsible for the issuance of the Decision/Action and therefore that must be sued is Defendant I, therefore the Plaintiffs are wrong withdraw Defendant II as the Defendant, so that the Plaintiffs' lawsuit harus dinyatakan tidak diterima (*declared inadmissible*);

Considering, that on this exception, the Plaintiffs denies it by stating that Defendant II clearly and has clearly also known, approve, and support the object of the lawsuit by declaring blocking internet in Papua and West Papua for the benefit and good together. In addition, the Plaintiffs have filed administrative measures against Defendant II to correct the object of the lawsuit made by Defendant I, will but Defendant II did not give any response or concrete action on the Defendant II's actions, so that even though Defendant I did the action law but did not release Defendant II as the leader who committed control and monitoring of government actions that are the object lawsuit;

Considering, that based on the claim of the Plaintiffs who linked to evidence of letter P.1.18 which is the same as evidence of letter P.2.15 and TI-1 letter evidence in the form of Press Release No. 154/HM/KOMINFO/08/2019, Monday, 19 August 2019 regarding Access Deceleration in Several Regions of West Papua and

Papua, proof of letter P.1.19 which is the same as proof of letter P.2.16 and proof of letter TI-2 in the form of Press Release No. 155/HM/KOMINFO/08/2019, Wednesday, August 21 2019 concerning Data Service Blocking in Papua and West Papua and evidence letter P.1.20 which is the same as proof of letter P.2.17 and proof of letter TI-3 in the form of Press Release No. 159/HM/KOMINFO/08/2019, Friday, 23 August 2019 regarding Data Service Blocking in Papua and West Papua Still Continues, which shows that there are Acts of the Government of Defendant I which become object of dispute which is also associated with the answers of the Defendants who stated that the object of dispute was carried out by Defendant I in accordance with authority based on Article 1 point 23, Article 40 paragraph (2), paragraph (2a), paragraph (2b) of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Transactions

The following is the General Explanation of number I paragraph 9 of the law and Article 1 number 35 of Government Regulation Number 82 of 2012 concerning Implementation of Electronic Systems and Transactions, the Assembly shall obtain the fact that the Government Act which is the object of the dispute is carried out by Defendant I;

Considering, whereas according to the Defendants, the Acts of

The government which is the object of the dispute has been delegated by Defendant II to Defendant I, so by basing on Article 1 number 23 and

Article 13 paragraph (7) of the Government Administration Act and Regulations

Supreme Court Number 2 of 2019 Article 1 number 7 which states that

The Defendant is a Government Official or other state administrator who carry out Government Actions based on the authority that is in him or transferred to him who is sued by the Community,

responsibility and accountability should be transferred to Defendant I;

Considering, that with regard to the inclusion of Defendant II as a party, in the *a quo* case, the Panel considers that in its lawsuit,

The Plaintiffs argue that the object of the lawsuit is contrary to the laws and regulations, including that the object of the lawsuit is not carried out in accordance with the principle of limiting human rights in the event of an emergency as referred to in the Government Regulation in Lieu of Law Law No. 23/1959/Law No. 23 Prp/1959 concerning Dangerous Conditions which in Article 2 paragraph (2) stipulates that announcement of a statement or elimination of a state of danger is carried out by Defendant II;

Considering that in the Government Regulation in Lieu of Law, Law No. 23/1959/Law No. 23 Prp/1959 about the State of Danger in Article 1 number (1) is stated in the main that the President/Supreme Commander of the Armed Forces declares all or part of the territory of the Republic of Indonesia is in danger state of civil emergency or military emergency or state of war. Furthermore, in Article 2 paragraph (2) of the Law, it is regulated that: announcement of a statement or elimination of a state of danger is carried out by President;

Considering, that based on the answers of Defendant I and Defendant II and witness testimony Samuel Abrijani Pangerapan as Director General of Applications Informatics on Defendant I among others stated that the Action The government of Defendant I who became the object of the dispute was carried out in situations of abnormal and specific for control in preventing the massive spread hoax information that has the potential to cause riots and national disintegration;

Considering, that apart from legal issues/problems regarding what is the abnormal and specific situation as referred to by the witnesses of the Defendants which underlies the reasons for Defendant I to take Government Actions that being the object of a dispute is a state of danger or an emergency as referred to in the Government Regulation in Lieu of Law

Law No. 23/1959/Law No. 23 Prp/1959

about the Danger State or not and whether Defendant I to do

Government action that is the object of the dispute must first

first there was a statement of emergency from Defendant II or not,

because to consider these things is an assessment

law in the main realm of the case is not an exception, but the Assembly

argues that although the regulation regarding the authority obtained

through delegates in various laws and regulations stated:

that the accountability and responsibility of delegation authority rests with

recipient of the delegation, because the Plaintiffs have stated in

a claim that one of the laws and regulations

violated in the Actions carried out by the Defendants are Rules

Government in Lieu of Law Number 23 of 1959/Law

Number 23 Prp of 1959 concerning Dangerous Conditions which contains:

authority and actions that should be taken by Defendant II in

its connection with the Actions performed by Defendant I which is the object

dispute, the Panel concludes that in addition to filing a lawsuit,

against Defendant I, the inclusion of Defendant II as the Defendant in the

the *a quo* dispute is not wrong and does not result in a lawsuit by the Plaintiffs

becomes an *error in persona*, therefore such an exception must also be declared

not accepted;

Considering that regarding the exception to the vague claim, Defendant II

argued that the Plaintiffs could not describe the events

the basis for the filing of the lawsuit clearly because the Plaintiffs did not

describe the actions of Defendant II which are contrary to the provisions of

legislation. Plaintiff's Argument against Defendant II

does not at all describe the actions of Defendant II which

is an arbitrary act, therefore the legal basis

filed by the Plaintiffs against Defendant II is inappropriate and cause a discrepancy between the facts and the legal basis, therefore the Plaintiffs' claims are obscure (*obscuur libel*);

Considering, that against the exception, the Plaintiffs denied it by stating that the Plaintiffs' claim had clearly contains the identity of the Plaintiffs, names of positions and places the position of the Defendant, and also contains the basis and reasons for the lawsuit and other matters requested to be decided by the Court on the publication of the three objects of the lawsuit, so that it has fulfilled the requirements of the lawsuit as stipulated in Article 56 paragraph (1) of Law Number 5 of 1986 concerning Administrative Court Country;

Considering, that based on the exception of Defendant II regarding the lawsuit, he fled or it is not clear what the Plaintiffs have denied above, after studying carefully the Plaintiffs' claims, in their Plaintiffs' postulated that Defendant II knew, agreed, and supported the object the lawsuit made by Defendant I by stating that internet blocking in regions of Papua and West Papua for the common good and interests. Besides Therefore, the Plaintiffs stated that they had submitted an administrative effort to Defendant I and Defendant II to correct the object of the lawsuit made Defendant I, but Defendant II did not provide a response or concrete action any action against Defendant I, so that according to the Plaintiffs, even though Defendant I who took legal action but did not release Defendant II as a leader who controls and monitors actions government that is the object of the lawsuit, therefore the Assembly consider that regardless of whether or not the Plaintiffs' arguments are correct, regarding the responsibility and role of Defendant II for the occurrence of the Action The government carried out by Defendant I because to assess it is proven whether or not the responsibilities and roles of the parties in a legal action

can only be done in the realm of the subject matter, but according to the Assembly
In fact, in the lawsuit, the Plaintiffs have outlined their responsibilities
and the role of Defendant II in Government Actions carried out by
Defendant I who is the object of the dispute;

Considering that further the Assembly also observes that in
posita of their lawsuit, the Plaintiffs have also clearly described
the legal relationship between the Plaintiffs and the Defendants and the object
disputes and describe the status, interests and legal consequences
caused by the conduct of the object of dispute which, according to the Plaintiffs,
contrary to the applicable laws and regulations and the principles of
general principles of good governance and further in the petitum
submit a request that the object of the dispute be declared as
an act that violates the law of a Government Official, because of that the Assembly withdraws
conclusion that the Plaintiffs' claims are not vague and clear, so that
such exception must also be declared not accepted;

Considering, that in the future the Assembly will consider the exception
Another thing proposed by Defendant I in conclusion is the claim of the Plaintiffs
formal defects due to the expiration of the object of the first lawsuit and it is not clear (*obscur*
libel) petition

Considering, that regarding the expiration date of filing a lawsuit for
the object of the first lawsuit, the Panel considers it based on the
the provisions of Article 55 of Law Number 5 of 1986 concerning Administrative Courts
State Enterprises as amended by Law Number 9
of 2004 and Law Number 51 of 2009 which states:
that: "A lawsuit can be filed only within a grace period of ninety days"
starting from the time of receipt or announcement of the Decision of the Agency or
State Administrative Officer”;

Considering, that furthermore concerns the lawsuit regarding the Action Government, the Assembly also refers to the provisions of the Administration Act Government which in Article 75 to Article 78 regulates administrative efforts against the Decisions and/or Actions of the Agency and/or Government Administration Officer. Then specifically, Article 4 paragraph (1) Supreme Court Regulation Number 2 of 2019 further stipulates that a lawsuit in relation to Government Actions is filed no later than 90 (ninety) days since the Government Action was performed by the Body and/or Government Offices and according to Article 1 number 10 of the Regulation The Supreme Court stated that what is meant by days is working days. Furthermore, Article 4 paragraph (2) of the Regulation of the Supreme Court Number 2 The year 2019 confirms that as long as the community takes the administrative efforts, the time limit for calculating the filing of a lawsuit as referred to in Article 4 paragraph (1) is suspended until a decision on the last administrative received. In Article 77 paragraph (4) of the Law Government Administration outlined the provisions that the Agency and/or Officials The government resolves objections within 10 (ten) working days at most;

Considering, that based on the above provisions, the calculation The grace period of 90 (ninety) working days for filing a lawsuit is from the object of the lawsuit is carried out until the lawsuit is filed, not until the with the improvement of the lawsuit and the calculation of the grace period suspended as long as the community members take administrative efforts until the the last administrative effort decision is accepted or the longest grace period 10 (ten) working days for the completion of administrative efforts that are obligatory Government Agency and/or Official is passed;

Considering, that in the *a quo* dispute based on evidence from letter P.1.18 which is the same as proof of letter P.2.15 and evidence of letter TI-1 in the form of Press Release No. 154/HM/KOMINFO/08/2019 which is the object of the first dispute, apparently

the object of the first dispute was carried out on Monday, August 19, 2019.

Furthermore, based on the evidence of letter PI30 which is the same as P.2.28 in the form of:

letter from the Plaintiffs dated September 4, 2019 received by the Defendants

I on September 4, 2019 Regarding Objection to Termination of Access

Internet in Papua and proof of letter PI31 which is the same as P.2.29 in the form of a letter

from the Plaintiffs dated September 4, 2019 received by Defendant II

on September 5, 2019 Regarding Objection to Termination of Internet Access

in Papua, the fact turned out that on September 4, 2019 Para

The Plaintiff has filed an administrative effort in the form of an objection letter which

received by Defendant I on September 4, 2019 and accepted by

Defendant II on September 5, 2019 so that the Defendants stop

and not repeating the action of slowing down and/or cutting off internet access,

however, after passing the deadline of 10 (ten) working days, there is no

evidence that the Defendants have settled the objection, so that

based on the evidence of the letter above linked to the date of submission

lawsuit by the Plaintiffs, the Panel concluded that it was calculated from

since the Government Act was carried out which became the object of the first dispute

which is August 19, 2019, which is then the calculation of the grace period

dismissed since the Plaintiffs filed administrative remedies which were accepted

by Defendant I on 4 September 2019 and received by Defendant II on 5

September 2019 until the 10 (ten) working day deadline has passed

It is the obligation of the Defendants to complete administrative efforts, namely:

September 18, 2019, so the deadline for filing a lawsuit

recalculated since September 19, 2019, then Para's lawsuit

Plaintiffs filed on November 21, 2019 are 58 (fifty

eight) working days since the object of the first dispute was made, therefore the submission

lawsuit, whether calculated from the object of the first, second or third lawsuit being made

the third has not passed the grace period of 90 (ninety) working days for submission

lawsuit as regulated in Article 55 of Law Number 5 Year

1986 concerning the State Administrative Court and Article 4 paragraphs (1) and (2)

Supreme Court Regulation Number 2 of 2019. Thus the exception

Defendant I regarding the expiration date for filing a lawsuit must be declared not accepted;

Considering, that regarding the exception to the lawsuit, it is not clear (*obscuur libel*)

its petitum, because the petitum of the lawsuit asking the Court to declare Para

The defendant committed an unlawful act that was not in accordance with the provisions

Article 53 paragraph (1) of Law Number 5 of 1986 concerning Administrative Courts

State Enterprises jo. Article 1 point 4 Regulation of the Supreme Court Number 2 Year

2019, the Panel considers that the Supreme Court Regulation

Number 2 of 2019 in the Considering section letter b states that

Acts against the law by government bodies and/or officials

(*onrechtmatige overheidsdaad*) is an Act of Government or by

in other words Government Action is the same as the term Legal Act by

Government bodies and/or offices, other than that according to the member's testimony

proposed by the Defendants Prof. Dr. Yos Johan Utama, SH, M. Hum., Yang

states that if the Government Action has been carried out, then the lawsuit

can be submitted is about damages and on the testimony of the member

The Assembly agrees, because this is also in line with the provisions of Article 71

paragraph (5) of the Government Administration Act that the losses incurred

as a result of the canceled Decision and/or Action becomes responsible

Government Bodies and/or Offices;

Considering that, however, in a lawsuit, to state

the existence of compensation must first be ascertained that the act

constitutes an illegal or revocable act or violates the law. Thing

This is based on the idea that at the time it was still the authority

adjudicating a civil court within the scope of a general court, an act

declared as an act of violating the law of government officials or

the other party must meet 5 (five) elements, namely: *i)* the existence of an act, *ii)* the act includes the criteria for violating the law, *iii)* the existence of an error, *iv)* the existence of loss, and *v)* the existence of a causal relationship between acts with the losses incurred (causality relationship), so that if a lawsuit also contains a petition for compensation, then before it is determined compensation, the act must first be declared as

Acts that violate the law when proven in evidence as unlawful act. Because between the act of violating the law and damages must have a causal relationship. Possible losses being sued must be as a result of an unlawful act;

Considering that in the *a quo dispute*, the object of the dispute has been completed carried out or has ended or at the time of filing a lawsuit, Action

The government is no longer carried out, so it is impossible to declare invalid or void, let alone a request for a revocation or termination order

Actions, claims that can be filed in accordance with Article 71 paragraph (5) of the Law

The Government Administration above is compensation, but if: want to grant a claim for damages, then the act of the official the government being sued must first be declared as an act breaking the law;

Considering, that because the Plaintiffs' lawsuit was filed through organization's *legal standing* mechanism that does not allow claims for damages, then the only claim is for Office Action

The government was declared as an act of violating the law, so that based on the above considerations, the Plaintiffs' claim that the Court declares the Governmental Actions of Defendants I and II which become the object of dispute is declared as an act of violating the law and/or Government Officials are correct, so that the exception of Defendant I it must also be declared not accepted;

Considering, that based on the above considerations, all
The Defendants' exceptions are declared not accepted, therefore furthermore
The council will consider the subject matter;
IN THE TREE OF THE MATTER;

Considering that the purpose and objectives of the Plaintiffs' lawsuit are:
as mentioned above;

Considering, that based on the Plaintiffs' claim, Para's answer
The Defendant and the overall liability between the Plaintiffs and the Para
The defendant who is connected with the evidence presented at trial,
then the legal issues disputed in the *a quo* case are:

1. Is the action of Defendant I contrary to the laws and regulations
invitation and/or general principles of good governance (AUPB)?
2. What is the responsibility of Defendant II in the occurrence of the Action?
Government exercised by Defendant I?

Considering, that the Assembly will then provide a legal assessment
Are Government Actions the object of the *a quo* dispute?
contrary to the prevailing laws and regulations and/or
violate the general principles of good governance by using 3
(three) parameters for the validity of Government Actions, namely:

- a. determined by the authorized officer;
- b. made according to procedure; and
- c. substance that corresponds to the object of the Action;

Considering, that the Assembly will consider first
regarding the authority of Defendants I and II in conducting the object of dispute;

Considering, that based on the Plaintiffs' claim, Para's answer
The Defendant and the overall liability between the Plaintiffs and the Defendants
associated with the evidence presented at trial, namely evidence

letter P.1.18 which is the same as proof of letter P.2.15 and proof of letter TI-1 in the form of Press Release No. 154/HM/KOMINFO/08/2019, Monday, 19 August 2019 regarding Slowing Access in Several Regions of West Papua and Papua, letter evidence P.1.19 which is the same as proof of letter P.2.16 and proof of letter TI-2 in the form of a Broadcast Press No. 155/HM/KOMINFO/08/2019, Wednesday, August 21, 2019 regarding Blocking of Data Services in Papua and West Papua and proof of letter P.1.20 which is the same as proof of letter P.2.17 and evidence of letter TI-3 in the form of Press Release No. 159/HM/KOMINFO/08/2019, Friday, 23 August 2019 regarding Blocking Data Services in Papua and West Papua Still Continuing, which shows the existence of Defendant I's Government Actions which are the object dispute, then the object of dispute in the matter *a quo* is:

1. Government Action *Throttling* or throttling of access/ bandwidth in some areas of West Papua Province and Papua Province in 19 August 2019 from 13.00 WIT (East Indonesia Time) until at 20.30 WIT;
2. Government action, namely blocking of data services and/or complete severance of internet access in Papua Province (29 City/Regency) and West Papua Province (13 Cities/Regencies) dated August 21, 2019 until at least September 4, 2019 p.m. 23.00 WIT;
3. The Government's action is to extend the blocking of data services and/or disconnection of internet access in 4 Cities/Regencies in Papua Province (i.e. Jayapura City, Jayapura Regency, Mimika Regency, and Jayawijaya Regency) and 2 Cities/Regencies in West Papua Province (i.e. City of Manokwari and City of Sorong) since September 4, 2019 at 23.00 WIT until September 9, 2019 at 18.00 WIB / 20.00 WIT;

Considering, whereas in their Response, the Defendants stated:

that the object of the dispute was carried out by Defendant I in accordance with his authority based on Article 1 number 23, Article 40 paragraph (2), paragraph (2a), and paragraph (2b) as well as General explanation number I paragraph 9 of Law Number 19 of 2016 concerning Amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions (hereinafter referred to as the "Act") Law on Information and Electronic Transactions”), Article 1 number 17 of the Law Number 36 of 1999 concerning Telecommunications, and Article 1 number 35 of Regulation Government Number 82 of 2012 concerning the Implementation of the System and Electronic Transactions;

Considering that regarding this authority,

Assembly

further consider that Article 40 paragraph (2), (2a) and (2b) of the Law Law Number 19 of 2016 stipulates that:

(2) The government protects the public interest from all kinds of interference as a result of misuse of Electronic Information and Transactions Electronics that disturb public order, in accordance with the provisions legislation.

(2a) The government is obliged to prevent the spread and the use of Electronic Information and/or Electronic Documents that has a prohibited load in accordance with the provisions of the regulations legislation;

(2b) In carrying out the prevention as referred to in paragraph (2a), The government has the authority to terminate access and/or instruct the Electronic System Operator to cut off access to Electronic Information and/or Electronic Documents that have content that violates the law;

Considering that what is meant by "Government" according to Article 1 number 23 of the Law is the Minister or other official who

appointed by the President. Minister according to Law Number 36 Year 1999 concerning Telecommunications in Article 1 number 17 is the Minister whose room scope of duties and responsibilities in the telecommunications sector. Likewise in in the provisions of Article 1 number 35 of Government Regulation Number 82 of 2012 concerning the Operation of Electronic Systems and Transactions, it is stated that What is meant by the Minister is the minister who organizes the affairs of government in the field of communication and informatics;

Considering, that related to government regulations as implementation of the Law on Information and Electronic Transactions, because Government Regulation Number 71 of 2019 concerning System Implementation and Electronic Transactions in lieu of Government Regulation Number 82 The year 2012 only took effect on October 10, 2019 after it was done Government action which is the object of dispute, then in providing legal assessment of Government Actions that are the object of dispute, The Assembly does not use Government Regulation Number 71 of 2019 as an analytical instrument, but based on the Rules Government Number 82 of 2012 which at the time of Government Action done is still happening;

Considering, that based on the provisions of Article 1 number 23, Article 40 paragraph (2), paragraph (2a), and paragraph (2b) as well as the General Explanation of number I paragraph 9 Law on Information and Electronic Transactions, Article 1 number 17 of the Law Law Number 36 of 1999 concerning Telecommunications, Article 1 number 35 Government Regulation Number 82 of 2012 concerning System Implementation and Electronic Transactions and Articles 2 and 3 of Presidential Regulation Number 54 Year 2015 concerning the Ministry of Communication and Information Technology, the Assembly believes that Defendant I has the authority to commit termination of access and/or ordering the System Operator

Electronic to terminate access to Electronic Information

and/or Electronic Documents that have contents that violate the law;

Considering, that regarding legal issues, what is the authority?

Defendant I to terminate and/or order

The Electronic System Operator to make such termination is only

can be done in the form of severing access to Electronic Information

and/or Electronic Documents that have content that violates the law

or in the form of severing access to internet data services

result in cut off access not only to Electronic Information

and/or Electronic Documents that have contents that violate the law,

then the Tribunal will consider the matter in relation to

the use of the authority of Defendant I from the aspect of procedure and substance;

Considering, that related to the authority of Defendant II in the object

dispute made by Defendant I, the Panel considers that in

In their lawsuit, the Plaintiffs argued among other things that the object

the lawsuit is made not in accordance with the principle of limiting human rights

in the event of an emergency as referred to in the Regulations

Government in Lieu of Law Number 23 of 1959/Law

Number 23 Prp of 1959 concerning Danger Conditions which in Article 2 paragraph (2)

regulates that the announcement of the declaration or elimination of the state of danger

carried out by Defendant II;

Considering that in the Government Regulation in Lieu of Law,

Law No. 23/1959/Law No. 23 Prp/1959

about the State of Danger in Article 1 number (1) is stated in the main

that the President/Supreme Commander of the Armed Forces declares all or

part of the territory of the Republic of Indonesia is in danger

state of civil emergency or military emergency or state of war.

Furthermore, in Article 2 paragraph (2) Government Regulation in Lieu of Law

The law stipulates that the announcement of a statement or deletion of dangerous situation is done by the President. Article 3 paragraph (1), (2) and (3) of the Regulation Government in Lieu of Law Number 23 of 1959/Law Number 23 Prp of 1959 concerning Dangerous Conditions stipulates that supreme control in dangerous situations is done by the President/Commander Supreme of the Armed Forces as the ruler of the Civil Emergency Center / Ruler Central Martial Law/Central War Authority in doing control can be assisted by a body consisting of parties such as mentioned in paragraph (2) of the said Article and can appoint Ministers/Officers other than those mentioned in paragraph (2) of the said article when deemed necessary as confirmed in paragraph (3) of that Article;

Considering, that further in Article 13 of the Government Regulation Substitute for Law No. 23/1959/Law No. 23 Prp 1959 on the State of Danger stated that the Civil Emergency Authority reserves the right to enforce regulations to limit performances display, printing, publication, announcement, delivery, storage, dissemination, trade and attachment of writings of any kind, paintings, clichés and pictures. Furthermore, in Article 17 paragraph (1), (2) and (3) it is also stated that the Civil Emergency Authority has the right to:

1. know all the news and conversations that spoken to the telephone office or radio office, also prohibiting or decide on sending news or conversations by telephone or radio.
2. limit or prohibit the use of codes, secret writings, secret printing, shorthand, pictures, signs, too the use of languages other than Indonesian;
3. establish regulations that limit or prohibit the use of telecommunications equipment such as telephone, telephone, transmitter

radio and other tools related to radio broadcasting
and which can be used to reach the masses, also confiscates
or destroy the equipment;

So, because of the Government Regulation in Lieu of Law No
23 of 1959/Law Number 23 Prp of 1959 concerning the Circumstances of
In particular, Article 13 regulates the provisions regarding the authority to
limit the printing, publishing, and delivery of writings in the form of
whatever and Article 17 paragraphs (1) and (3) stipulates provisions concerning
termination of access, namely "limiting or prohibiting" the use of tools
telecommunications, all of which are carried out within the framework of the Defendant's authority
II based on Article 1 paragraph (1) and Article 2 paragraph (2), namely:
announcement of a statement or elimination of a state of danger, the Assembly
concluded that Defendant II also has the authority to
in relation to Government Actions carried out by Defendant I
as long as the Government Action taken by Defendant I
carried out in a state of danger or an emergency as referred to in
in Government Regulation in Lieu of Law Number 23 Year
1959/Law Number 23 Prp of 1959 concerning Dangerous Conditions,
while regarding legal issues, what is the underlying situation?
the reasons for carrying out Governmental Actions that are the object of dispute are
a state of danger or an emergency as referred to in the Act
Law Number 23 Prp of 1959 concerning Dangerous Conditions or not and
related to the validity of the use of the authority of Defendant II regarding the Actions
The government exercised by Defendant I who is the object of the dispute will
considered by the Tribunal in terms of procedure and substance;

Considering, that based on the above considerations,
The Tribunal is of the opinion that the Defendants have the authority to
take Government Actions that are the object of the dispute;

Considering, that the Assembly will consider the following aspects:
the procedure and substance of carrying out the Government Action that is the object
dispute;

Considering that in their lawsuit, basically the Plaintiffs
postulates that the object of the dispute is contrary to various regulations
legislation and general principles of good governance and
the absence or limitation of internet access makes journalists difficult
do their job to get news, contact sources
to confirm news, download news to *online* media and spread
news through the internet media, which is an obstacle to freedom
press which has an impact on the obstruction of the public's right to information so that
people have difficulty deciding what information is correct
and not the potential decision-making and assessment that is taken to be
distorted. In addition to having an impact on freedom of information, according to Para
The plaintiff's object of dispute also has an impact on the non-fulfillment of economic rights
Public;

Considering, whereas on the contrary, the Defendants denied the argument of Para
The Plaintiff by stating in essence that the object of the dispute does not
contrary to various laws and regulations and principles
general good governance because of the Constitution of the State
Republic of Indonesia of 1945 (UUD 1945) as well as laws and regulations
other invitations even though it gives rights to the press and the public
to obtain and disseminate information, but that right
limited by laws and regulations and these restrictions
give authority to the Government to take Action
Government in order to maintain public order and state security
including Government Actions that are the object of the dispute carried out
in order to prevent the spread of false news (hoaks) and

hate speech or hostility of a racist nature that has the potential to cause riots, divide unity and threaten national security particularly in the areas of Papua and West Papua Provinces;

Considering that Article 28F of the Constitution of the Republic of Indonesia Indonesia in 1945 (UUD 1945) states that everyone has the right to communicate and obtain information to develop personal and social environment, and has the right to seek, obtain, possess, store, process, and convey information by using all kinds of channels available. Accordingly, Article 14 paragraphs (1) and (2) Law Number 39 of 1999 concerning Human Rights as well regulate the right to communicate and obtain the necessary information as well as to seek, obtain, possess, store, process, and convey information by using all kinds of means available. Acknowledgment of the right to obtain and convey the information is in line with the provisions of Article 19 paragraph (2) *International Covenant on Civil and Political Rights* (International Covenant on Civil and Political) which has been ratified by Indonesia based on Law Number 12 of 2005 concerning Ratification of the *International Covenant on Civil and Political Rights* (International Covenant on Civil and Political Rights) which has been ratified by law, the Covenant can also be used as an analysis knife to give an assessment legally in a *quo dispute*;

Considering that the right to seek, obtain and convey information as regulated in the laws and regulations above in the formulation of Article 28F of the 1945 Constitution it is stated that it can be done by: use "all types of available channels", while Article 14 paragraph (1) and (2) The Human Rights Law mentions it as "everything types of facilities available", while Article 19 paragraph (2) of the International Covenant

on Civil and Political Rights wrote it as “through other media” according to his choice, so that according to the Assembly the right to seek, obtain and conveying information can be done through all kinds of available channels/means/media including via internet. Therefore The internet can send various forms of information that can reach people around the world in a fast and efficient time, then in its development The internet has been used not only as a vehicle to channel rights express opinions and the right to search, obtain and communicate information, but also used as media to create freedom broad expression that enables many human rights to be exercised including the right to education and teaching, the right to benefit from science and technology, arts and culture, the right to employment, political rights, the right to association and assembly, and the right to health services as recognized and guaranteed also expressly in in Article 28 C, Article 28D paragraph (2), Article 28E and Article 28H of the 1945 Constitution;

Considering, that therefore the right to internet access as a means of to establish the right to express opinions as well as the right to search, obtain and convey information and other rights, are recognized, respected, protected and guaranteed by the constitution of the 1945 Constitution and the Law, then these rights must be fulfilled by the state;

Considering, that however, in accordance with the provisions of Article 29 paragraph (2) of the United Nations Universal Declaration of Human Rights, Article 28J paragraph (2) of the 1945 Constitution, Article 73 of Law Number 39 of 1999 on Human Rights, and Article 19 paragraph (3) of the International Covenant on Civil and Political Rights stipulates that in exercising the rights and freedoms, including the right to internet access to realize freedom expression and the right to seek, obtain and impart information, everyone must submit to the restrictions established by law

law with the sole purpose of guaranteeing recognition as well as respect for the rights and freedoms of others and to meet demands justice in accordance with moral considerations, religious values, security, and public order in a democratic society;

Considering that the provisions of Article 29 paragraph (2) of the Universal Declaration of Rights United Nations Human Rights, Article 28J paragraph (2) of the 1945 Constitution, Article 73 of the Human Rights Law, and Article 19 paragraph (3) of the Covenant International Civil and Political Rights and related interpretations Article 19 of the International Covenant on Civil and Political Rights in several instruments such as: i) *Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights*, ii) *The Johannesburg Principles on National Security, Freedom of Expression and Access to Information* dan iii) *The Camden Principles on Freedom of Expression and Equality*, as well as *General Comment No. 34 on Article 19 of the International Covenant on Civil and Political Rights* provide guidelines regarding restrictions on freedom of expression and rights to seek, obtain and impart information and other rights including those used over the internet;

Considering, that from various international human rights law instruments above, in fact Article 28J paragraph (2) of the 1945 Constitution and various national laws governing human rights have conveyed quite clearly the limitation criteria, so that in considering the dispute *a quo*, the Assembly will refer more to the 1945 Constitution and national laws Indonesia as well as international treaties, namely the International Covenant on Human Rights Civil and Political Rights that have been ratified by law include interpretation which, according to the Assembly, authentic interpretation is an interpretation that published by the *United Nations Human Rights Council Committee*) in *General Comment No. 34*, so

**The Assembly concluded that restrictions on freedom
expression and the right to seek, obtain and impart information
and other rights used through the internet must fulfill 3 (three)**

requirement:

i. restrictions must be regulated in laws and regulations in the form of:

law;

ii. restrictions must meet/fit one of the following objectives:

a. to guarantee the recognition and respect of rights or good name

other parties, or

b. to meet fair claims in accordance with consideration:

1) moral,

2) religious values,

3) security,

4) morality,

5) public order, or

6) public health.

in a democratic society;

iii. it must be demonstrated that the limitation is legally necessary

proportional;

**Considering that although in the 1945 Constitution and various instruments,
human rights law states that 3 (three) human rights restrictions are written in order:
as mentioned above, but by paying attention to logic
the legal event in practice is that an event or
a situation that is made or gives rise to a reason to achieve a goal
so that the purpose as intended in the second limitation at once
is also interpreted as a reason for limiting human rights starting from
concrete events that exist, then the reason or purpose is searched for the basis
the law in the law is it possible to do something?**

actions with the reason or purpose in the law and

Then it will be considered whether this action is really necessary

and proportionate to achieve the goal of eliminating events or

the original condition used as a reason to perform an action, until

with that premise, in the *a quo dispute* according to the Assembly,

the order of requirements for limiting human rights as an analysis tool for the object of dispute is:

- i) whether or not one of the objectives is fulfilled to ensure the recognition and respect for the rights or reputation of another party, or to fulfill fair demands in accordance with moral considerations, religious values, security, decency, public order, or public health in a democratic society;
- ii) such restrictions must be based on law, and
- iii) it must be demonstrated that the limitation is legally necessary proportional;

Considering, that related to the first condition, namely fulfilled whether or not one of the purposes or reasons for the object of the dispute against one or more of the criteria as mentioned above, the Assembly consider that in the answer, duplicate and conclusion, Para

The Defendant argued that the object of the dispute was carried out by Defendant I based on by the riots between students who are members of the Alliance Papuan students (AMP) who demand an independent Papua with residents and security forces in Malang on Thursday, August 15, 2019.

Then on Friday, August 16, 2019 and Saturday, the 17

August 2019 there was a siege carried out by several CSOs

against the Papuan Student Dormitory in Surabaya accompanied by the words racist as a result of the issue of destroying the Red and White flag. Follow

incident in Malang and Surabaya, there is a lot of news spread in the media

online which is not necessarily true, thus triggering mass action in the Manokwari, then Jayapura, and several other places in Papua and Papua West on Monday, August 19, 2019. More related dissemination of the news, Defendant I verified to the Police and The TNI then identified one news item that was categorized as disinformation (news in which there are facts but are led to incorrect information) namely the Surabaya Police kidnapped two delivery people food for Papuan students and one hoax news, namely Student Photos Papua was killed by the police in Surabaya, which was announced on the Kominfo *website* and stophoax.id on August 19, 2019, so as to prevent its spread the spread of hoaxes that triggered mass action, then Defendant I carried out *throttling* or *throttling of access/bandwidth* on August 19, 2019 starts at 13.00 WIT in several areas of Papua and West Papua which was carried out gradually as the Defendant's Press Release I No. 154/HM/KOMINFO/08/2019 dated August 19, 2019 which was then followed by blocking cellular telecommunications data services but not for voice and SMS services;

Considering that in order to strengthen the argument for the object of dispute, Defendant I has submitted letter evidence marked TI-1, TI-2 and TI-3 which is the Press Release object of dispute, then evidence of letters TI-4, TI-5, TI-6, TI-7, TI-8, TI-9, TI-10, TI-11 and TI-12 in the form of a series of Press Releases shows the chronology of blocking until it is unblocked Internet access. Further evidence of letters TI-13, TI-14, and TI-15 which shows the massiveness of fake news (hoaks) and the coordination that is carried out by the Defendants with other agencies as well as efforts to accommodate access the media. In addition, evidence of letters marked TI-22, TI-23, TI-24, TI-25, TI-26, TI-27, TI-28, TI-29, TI-30, TI-31, TI-32, TI-33, TI-34, TI-35, TI-36, TI-37, and TI-38 showing media coverage of events at

Papua and West Papua and the Actions taken by the Defendants who also connected with the testimony of the witness Inspector General of Police Drs. Rudolf Albert Rodja who at that time served as the Papuan Police Chief and witness Samuel Abrijani Pangerapan who served as Director General of Informatics Applications in Defendant I similarly stated that the riots in Papua and West Papua is indeed triggered by the spread of fake news (hoaks) and speech hatred offends ethnicity, religion, race and intergroup (SARA), so that based on the evidence of the letter which is connected with the information witnesses proposed by Defendant I, the Panel agrees with the Defendants that the object of dispute was carried out by Defendant I to control spreading false news (hoaks), incitement, hate speech or hostility based on SARA which has the potential to cause riots that can divides unity and threatens national security, especially in Papua and West Papua Provinces;

Considering, that based on the above considerations, the requirements restrictions on internet rights in disputed objects meet the first conditions which is carried out in accordance with the demands for security considerations and public order;

Considering, that related to the second condition, namely restrictions, regulated in laws and regulations in the form of laws, in addition to explicitly stated in Article 28J paragraph (2) of the 1945 Constitution and Article 73 Law Number 39 of 1999 concerning Human Rights, related to with internet access rights to search, obtain and deliver information, General Explanation in the second paragraph of Law Number 19 Years 2016 also affirms that rights and freedoms through the use and the use of Information Technology is carried out by considering limitations set by law;

Considering, that at the level of law, the Law Number 11 of 2008 concerning Information and Electronic Transactions as referred to in has been amended by Law Number 19 of 2016 regulating various provisions, whether civil, criminal or administrative, which constitute limitation of rights and freedom of use and utilization of Technology Information via the internet. In the civil context, Article 26 paragraph (2) of the Law The Electronic Information and Transaction Law stipulates that parties who rights are violated, can file a claim for damages. More from criminal aspect, the act of making Electronic Information accessible and/or Electronic Documents that have contents that violate decency is threatened with a crime in Article 27 paragraph (1) and Article 45 paragraph (1) of the law If it contains gambling content, it is punishable by a criminal offense in Article 27 . paragraph (2) and Article 45 paragraph (2), the spread of insulting content and/or defamation is punishable by criminal sanctions in Article 27 paragraph (3) and Article 45 paragraph (3), the dissemination of information intended to create a sense of hatred or hostility towards certain individuals and/or community groups based on ethnicity, religion, race, and intergroup (SARA) are punishable by criminal in Article 28 paragraph (2) and 45B paragraph (2) and sending threats of violence or frighten that is intended to be personally punishable by Article 29 and Article 45B of the Electronic Information and Transaction Law. Meanwhile, human rights restrictions that are administrative in nature are regulated in Article 40 paragraphs (2), (2a) and (2b) as well as the General Explanation of the 9th paragraph which basically that in order to protect the public interest from all kinds of interference as a result of misuse of Electronic Information and Electronic Transactions disturbing public order, the Government is obliged to take preventive measures dissemination and use of Electronic Information and/or Documents Electronics that have prohibited or unlawful content in accordance with the provisions of the laws and regulations to carry out

Article 40 paragraph (2b) states that the Government has the authority
terminate access and/or order the Operator
Electronic System to terminate access to Information
Electronic and/or Electronic Documents that have a content that violates
law;

Considering that with the formulation of such a law,
according to the Plaintiffs which is supported by the expert testimony submitted by the Plaintiffs
The Plaintiff, namely Dr. Herlambang Perdana Wiratraman, SH, MA, and Oce
Madril, SH, MA, the authority of Defendant I is the termination of access and/or
instruct the Electronic System Operator to perform
termination of access to Electronic Information and/or Electronic Documents
which has content or content that violates the law, not termination
internet service, so because the object of the lawsuit is Action
Government throttling and termination of internet access in part and/or
throughout the Provinces of Papua and West Papua, then according to the Plaintiffs
contrary to statutory regulations and general principles
good governance;

Considering that, on the other hand, Defendant I in his answer and in
pages 8-10 of the duplicate and on page 33 of the conclusion, with
refers to the formulation of Article 1 number 23, Article 40 paragraph (2a) and (2b) of the Law
Law Number 19 of 2016, Defendant I argued that the Government is obliged to
prevent the dissemination and use of Electronic Information
and/or Electronic Documents that have prohibited contents according to
with the provisions of laws and regulations through 2 (two) authorities,
that is:

1. The government has the authority to terminate access; and/or

2. **Order the Electronic System Operator to
cut off access to Electronic Information and/or
Electronic Documents that have content that violates the law;**

**Defendant I stated that the authority to terminate access
by the Government with the authority of the Government to order
Electronic System Operators to terminate access are two
the broad scope of activities is different or not the same. With
based on the definition of Electronic System and definition of Access accordingly
the provisions of Article 1 points 5 and 15 of Law Number 19 of 2016 as well as
the definition of internet (*Interconnection Networking*) in the KBBI, then Defendant I
believes that the Government's first authority to carry out
termination of access is not only limited to Electronic Information
and/or Electronic Documents containing prohibited contents, but access
as referred to in Article 1 point 15 of Law Number 19
The year 2016 was in the form of interacting activities with electronic systems that
stand alone or in a network, *in casu* is the internet network. Whereas
The second authority of the Government is to order the
Electronic System Operators to terminate access to
Electronic Information and/or Electronic Documents that have
breaking the law is limited (limitative) only to Electronic Information
and/or Electronic Documents that have contents that violate the law only
which may be terminated by the Electronic System Operator
by order of the Government;**

**Considering that with respect to the differences in interpretation above, the Assembly
considering that the formulation of Article 40 paragraph (2b) of Law No
19 of 2016 is: "In carrying out the prevention as intended
in paragraph (2a), the Government has the authority to terminate access and/or**

instruct the Electronic System Operator to perform
termination of access to Electronic Information and/or Electronic Documents
which has a charge that violates the law, so that with the formulation that
Thus the Panel agrees with Defendant I in one respect, namely that
The authority includes two things, namely *i)* terminating access
and/or *ii)* instruct the Electronic System Operator to
cut off access. But about what is the area?
the scope/scope of access that can be terminated either by the government
as well as by the Electronic System Operator on the orders of the Government
or different, because the explanation of the article states that it is sufficient
clear, then the Assembly refers to the general explanation of the 9th paragraph of the Law
which stated among other things that: "In order to protect"
public interest from any kind of disturbance as a result of abuse
Electronic Information and Electronic Transactions, it is necessary to confirm the role
The government in preventing the dissemination of illegal content by carrying out
the act of terminating access to Electronic Information and/or Documents
Electronics that have a charge that violates the law so that they cannot be
accessed from Indonesian jurisdiction and required authority for investigators
to request information contained in the Electronic System Operator
for the sake of law enforcement of criminal acts in the field of Technology
Information and Electronic Transactions”;

Considering, that from the General Elucidation of the 9th paragraph of the Law,
Number 19 of 2016 above is clearly stated that the "role of the Government"
in preventing the dissemination of illegal content by taking action
termination of access to Electronic Information and/or Electronic Documents
which has unlawful content to make it inaccessible from
Indonesian jurisdiction”, not broadly severing access to the network
internet;

Considering that the opinion of this Assembly is also strengthened by the provisions of
in Law Number 12 of 2011 concerning the Establishment of Regulations
Legislation as amended by law
Number 15 of 2019 in Appendix II of Regulation Drafting Techniques
Legislation Chapter III Variety of Languages Legislation
in number 243 letter b it is stated that the characteristics of the language of the legislation
invitations, among others, are sparingly patterned, only the necessary words are used.
Article 40 paragraph (2b) of Law Number 19 of 2016 according to
The assembly must be read and interpreted that in carrying out prevention,
as referred to in paragraph (2a), the Government is authorized in 2 (two)

things, namely:

1. cut off access to Electronic Information and/or
Electronic Documents that have content that violates the law,
and/or
2. instruct the Electronic System Operator to
cut off access to Electronic Information and/or
Electronic Documents that have content that violates the law;

Because of the phrase “against Electronic Information and/or Electronic Documents”
which has an unlawful content” is used twice both in
the government's first authority to terminate access or
the authority of the two governments to order System Operators
Electronic to terminate access, then at the time of formulation
the two powers are combined, in accordance with the provisions of
Law Number 12 of 2011 concerning the Establishment of Regulations
Legislation that that the characteristics of the language of laws and regulations
invitations, among others, are frugal, only the necessary words are used,
then the phrase "with respect to Electronic Information and/or Electronic Documents that"

has a charge that violates the law” is only written once in the
the end of the sentence of the article, but it is intended to follow the two powers
government formulated in the previous sentence. Same thing too
found in the formulation of the title of Law No. 11 of 2008
as amended by Law Number 19 of 2016 namely
The terms “Electronic Information” and “Electronic Transactions” are two terms that
separate, but when combined, the word "Electronic" behind
both terms are only written once, until the title of Law
Number 11 of 2008 as a result of the merger of the two terms into
“Information and Electronic Transactions”;

Considering that more than that, based on the testimony of witness Samuel,
Abrijani Pangerapan, in the *a quo* dispute in fact the Defendant I
in slowing down and cutting off access, it is carried out by
instruct the Electronic System Operator to do so;

Considering, that by referring mainly to the General Explanation
the 9th paragraph of Law Number 19 of 2016 which expressly
formulate the scope of the Government's authority to carry out
termination of access is supported by the provisions of Law Number 12
Year 2011 concerning the Establishment of Legislation
as amended by Law Number 15 of 2019,
then the Assembly draws the conclusion that the broad scope of authority
government to terminate access and/or order
Electronic System Operator to terminate access
as referred to in Article 40 paragraph (2b) of Law Number 19
2016 is the same, namely the termination of access only to Information
Electronic and/or Electronic Documents that have a content that violates
legal and does not include cutting off access to the internet network;

Considering that the Assembly further considers that:

the meaning of the limitation of the right to the internet as formulated in Article 40 paragraph (2b) of the Electronic Information and Transaction Law only against Electronic Information and/or Electronic Documents that have violates the law and does not include cutting off access to the network internet is also in line with the provisions of Article 5 paragraph (1) of the International Covenant on Civil and Political Rights which states that nothing in the present Covenant which may be construed as entitlement to a State, groups or individuals to carry out activities or actions that aimed at destroying recognized rights and freedoms in the present Covenant, or to limit it more than has been provided for in the present Covenant;

Considering, that the provisions of the Information Law and The Electronic Transactions are the same and congruent with the provisions in terms of restrictions on internet rights are carried out for moral reasons or purposes and decency, which in Article 18 letter a of Law Number 44 Year 2008 on Pornography authorizes the Government to cut off the network of manufacture and distribution of products pornography or pornographic services, including the blocking of pornography through internet. However, the authority given by the Pornography Law and What the Government can do is cut off the network including: blocking only internet content that contains pornographic items or providing pornographic services, not by blocking all internet network, because if it is possible to cut off access to the entire network, the internet resulted in not only pornographic content being cut off, but positive content and the fulfillment of other rights through the internet will also access is also cut off;

Considering that therefore, even though Article 28J paragraph (2) The 1945 Constitution, Article 73 of the Human Rights Law and Article 19 paragraph (3) of the International Covenant on Civil and Political Rights stated that various human rights including the right to the internet as a means of to seek, obtain and convey information as well as to exercising other rights may be restricted by law the law and the law that limits it in relation to the *a quo* dispute is Law Number 19 of 2016 as amendments to Law Number 11 of 2008 concerning Information and Electronic Transactions, but it turns out that Indonesian legal politics is reflected in Article 40 paragraph (2), (2a) and (2b) of the law, the limitation of rights on the internet can be done by the government through the termination of access only against Electronic Information and/or Electronic Documents that have content that violates the law and does not include cutting off access to Internet Network;

Considering that it is related to the spread of fake news (hoaks), incitement, hate speech or hostility based on SARA that has the potential to cause riots that can divide the unity and threatens state security, especially in the Papua and Papua Provinces West, then in accordance with the human rights restrictions that have been regulated in the Information and Electronic Transactions Act, actions that can carried out by the Government are: from the aspect of criminal law carrying out the process criminal law against the parties who commit the act, namely: the act of disseminating information aimed at creating a sense of hatred or hostility towards certain individuals and/or community groups based on SARA, a legal process is carried out based on Article 28 paragraph (2) and 45B paragraph (2), while sending threats of violence or intimidation intimidation that is aimed at personally is punishable by a criminal offense under Article 29 and Article

45B of the Electronic Information and Transaction Law, while for Dissemination of fake news (hoaks) can also be punishable by criminal sanctions by: other laws, namely Article 14 and Article 15 of Law Number 1 1946 concerning the Criminal Law Regulations, while from the aspect of action administratively, the Information and Electronic Transaction Law provides the government's authority to restrict internet access by termination of access only to Electronic Information and/or Documents Electronics that have a charge that violates the law as mentioned above, does not cover network throttling and/or disconnections internet as the object of dispute;

Considering, that against this situation, Defendant I argued that considering the massive spread of fake news content (hoaks) on the 18th August to November 8, 2019 in Papua and West Papua which Based on the Summary Statistics of the Distribution of Provocation Hoax Content, there are: as many as 941,282 (nine hundred forty one thousand two hundred eight twenty-two) hoax content, then efforts to prevent news will not be effective it would be a lie if the government only limited access to information Electronic and/or Electronic Documents that have a content that violates law, which argument is also supported by the documentary evidence submitted by Defendant I marked TI-13 in the form of Summary Statistics of the Distribution of Provocation Hoax Content The Papua Riots for the period of 18 August-8 November 2019, so that in Defendant I argued that the object of the dispute was carried out in the authority of Defendant I to exercise discretion to fill the vacancy law as regulated in Article 22 and Article 23 of the Law Government administration. According to Defendant I, the legal vacuum that referred to is the absence of Standard Operating Procedures (SOP) for take Government Actions to cut off internet access;

Considering that the argument of Defendant I that the object of the dispute is a discretion is also supported by the expert testimony of Prof. Dr. Yos Johan Utama, SH, M. Hum., which stated that based on Article 9 paragraph (4) Government Administration Act that the absence or the lack of clarity in laws and regulations does not prevent the Agency from and/or Government Officials authorized to determine and/or make Decisions and/or Actions as long as they provide benefit general and in accordance with AUPB, so discretion can be exercised, then then the Assembly will consider the matter of discretion in the object dispute made by Defendant I;

Considering that the provisions of Article 6 paragraph (1) and (2) letter e of the Law The Government Administration Act states that Government Officials have the right to exercise authority in making decisions and/or Actions including using discretion in accordance with its objectives. Furthermore, the provisions of Article 22 paragraph (2) of the Administrative Law The Government declares that any use of the Official's Discretion Governance aims to:

- a. expedite the administration of government;
- b. fill legal voids;
- c. provide legal certainty; and
- d. overcome government stagnation in certain circumstances in order to public benefit and interest;

According to the book "Annotation of Law no. 30 of 2014 concerning Administration Governance" published by the University of Indonesia-Center *for the Study of Governance and Administrative Reform* (UI-CSGAR) 2017 on page 129 stated that:

The word "and" above shows that the 4 (four) goals are:

is not optional or optional, but a whole unit

must be fulfilled to be the goal in every use of discretion.

In other words, if one of the 4 (four) is not fulfilled,

then the use of discretion does not meet the requirements of a clear purpose

as regulated in Article 24 paragraph (1). With this provision, then

the use of discretion by government officials is not easy and is not

petty things."

Considering, that based on the description above, the four objectives
discretion as referred to in Article 22 paragraph (2) of the Law
Government Administration is cumulative, not alternative, so that all
objectives must be met;

Considering, that furthermore the provisions of Article 24 of the Law
Government Administration declares that Government Officials who
using discretion must meet the following conditions:

- a. in accordance with the purposes of the Discretion as referred to in Article 22
sentence (2);
- b. does not conflict with the provisions of laws and regulations;
- c. in accordance with AUPB;
- d. based on objective reasons;
- and.
e. does not create a Conflict of Interest; and
- f. done in good faith;

Considering, that in the future the Assembly will consider
whether or not the purpose of discretion in the disputed object is fulfilled
in Article 22 paragraph (2) of the Government Administration Act which
is one of the conditions for the exercise of discretion according to Article 24 letter a
Government Administration Act;

Considering that one of the purposes of discretion according to Article 22 paragraph (2) letter b is to fill a legal gap. In the perspective of emptiness law, Defendant I argued that a legal vacuum existed in the *a quo* dispute due to the absence of Standard Operating Procedures (SOP) to cut off internet access. According to the Tribunal, Defendant I conveying this argument is based on the idea that based on provisions of Article 40 paragraph (2b) of the Electronic Information and Transaction Law Defendant I has the authority to slow down and/or disconnection of internet access is not just throttling and/or termination of access against Electronic Information and/or Electronic Documents that have unlawful load, while as already considered

The previous assembly, the government's authority to make decisions access and/or order the Electronic System Operator to cut off access as referred to in Article 40 paragraph (2b) Law Number 19 of 2016 is the termination of access only against Electronic Information and/or Electronic Documents that have content that violates the law and does not include throttling and/or severance of access to the internet network, so that according to the Assembly, by because of restrictions on the right to the internet according to the 1945 Constitution and the Human Rights and Law Number 12 Year 2005 must be regulated in the law, when it is considered that there is a legal vacuum, then the issue/problem of the legal vacuum is not a problem regarding whether or not there is an SOP for slowing down and/or terminating internet network access, will but the problem is whether or not the law provides authority to the Government to terminate network access internet is not only cutting off access to Electronic Information and/or Electronic Documents that have content that violates the law;

Considering that in the *a quo dispute*, within the competence exception absolute, Defendant I stated that the object of dispute was carried out in danger as previously considered by the Assembly, will but on pages 12-13 the conclusion is that Defendant I argues that the conditions civil emergency situation as regulated in a Government Regulation The replacement for Law Number 23 of 1959 is a situation that does not can be equated with the conditions of Papua and West Papua, so that Government Regulation in Lieu of Law Number 23 of 1959 does not can bind to the security conditions of Papua and West Papua in the vicinity August to September 2019, but Defendant I did not explain what is the difference between the conditions of Papua and West Papua in the month of that month with the conditions as referred to in the Government Regulation Substitute for Law No. 23/1959/Law No. 23 Prp Year 1959 about the State of Danger, as well as the testimony of members who filed by the Defendants, namely Prof. Dr. Yos Johan Utama, SH, M. Hum., which states that the state of danger does not always have to be emergency according to Government Regulation in Lieu of Law Number 23 1959/Law No. 23 Prp/1959 concerning Circumstances Danger because the size is clear, that is, it is qualitative affect, hinder or stop the implementation of government supported by information from local officials and monitoring directly from the center, so it is based on an objective assessment only;

Considering, that based on the argument of Defendant I, which is supported by information, the expert, the Assembly considers that the right to the internet in addition to being a vehicle for enjoying and exercising the right or freedom of expression and the right to information as well as a medium for realizing many rights including the right to education and teaching, the right to benefit from science and technology, arts and culture, the right to

employment, political rights, the right to association and assembly, and the right to health services as recognized and guaranteed in Article 28 C, Article 28D paragraph (2), Article 28E and Article 28H of the 1945 Constitution and the Law Number 11 of 2005 concerning Ratification of the *International Covenant on Economic, Social and Cultural Rights* (International Covenant on the Rights of Economic, Social and Cultural), Law Number 12 of 2005 concerning Ratification of the *International Covenant on Civil and Political Rights* (Covenant International Civil and Political Rights), Law No. 40 1999 concerning the Press in order to guarantee press freedom, and various Other laws, so as to limit the exercise of rights and freedom, Article 28J paragraph (2) of the 1945 Constitution affirms that it must be The form of the law and the restrictions are carried out in various ways the reasons and objectives that have been limitedly stated in the 1945 Constitution and the above human rights legal instruments and must be carried out because it is really needed proportionally in a democratic state atmosphere;

Considering, that departing from that thought, is logical when then the legislator is the House of Representatives (DPR) and the Government formulate in Article 40 paragraph (2b) of the Law Information and Electronic Transactions (Law Number 19 of 2016) that restrictions on rights to the internet in the event of dissemination and the use of Electronic Information and/or Electronic Documents that have cargo that violates the law, the authority to take precautions by government by cutting off access only to Electronic Information and/or Electronic Documents that have content that violates the law and does not include cutting off access to the internet network. Restriction logic Rights to the internet in the Electronic Information and Transaction Law is in line with the principle in criminal law, namely "there is no crime without wrongdoing", namely criminally only against the party who commits the crime

illegal use of the internet that is carried out by the process
criminal law and only the perpetrator's internet rights are limited by
how to terminate access to Electronic Information and/or
Electronic Documents that have content that violates the law that
spread by the perpetrator, until the perpetrator no longer has rights
to have access to disseminate Electronic Information and/or
Electronic Documents that have content that violates the law, as well as
the public is also protected from Electronic Information and/or Documents
Electronics that have a charge that violates the law because it is disconnected
access to such Electronic Information and/or Electronic Documents,
so that the will and purpose of abuse by the perpetrator is not
achieved. Thus the Law on Information and Electronic Transactions
individualize restrictions on internet rights only to those who
make illegal use of the internet and can only
cut off access to Electronic Information and/or Documents
Electronics that have a charge that violates the law. Constitution
Information and Electronic Transactions do not allow disconnection of access
on the internet network that can have an impact on the human rights of other parties who
not the perpetrator;

Considering, that although the Information and Transaction Law
Electronics cannot be used as a basis for making objects of dispute by
Government, but that does not mean there are no provisions in the regulations
legislation at the level of the Act that gives authority
to Defendant I to make the object of dispute, the provisions are:
Government Regulation in Lieu of Law Number 23 of 1959/Law
Law Number 23 Prp of 1959 concerning Dangerous Conditions, however
the provision governs the country in a state of danger or
state of emergency;

Considering, that the Governmental Actions that are possible to can be done by Defendant I based on Article 40 paragraph (2), (2a) and (2b) The Information and Electronic Transaction Law is to do slowdown and/or termination of access to Electronic Information and/or Electronic Documents that have contents that violate the law, the Assembly argues that the object of the dispute is in the form of network slowdown and disconnection internet that exceeds the human rights restrictions allowed in Article 40 paragraph (2), (2a) and (2b) of the Information and Transaction Law Electronics is no longer a form of *restriction* on rights to internet as stipulated in Article 28J paragraph (2) of the 1945 Constitution, Article 73 Human Rights Law and Article 19 paragraph (3) of the Covenant International Civil and Political Rights, but is a form of reduction (*derogation*) rights to the internet which have implications for other rights as referred to in Article 4 paragraph (1) of the International Covenant on Civil and Political Rights carried out in an emergency and in line With that, it turns out that Article 13 of a Government Regulation in Lieu of Law Number 23 of 1959 / Law Number 23 Prp of 1959 concerning The State of Danger stipulates provisions concerning the Government's authority to including printing, publishing, announcement, delivery, storage, distribution, trade and attachment of writings in the form of whatever and the provisions of Article 17 paragraphs (1) and (3) regulate the authority Government to establish regulations that limit or prohibit use and confiscate or destroy equipment telecommunications equipment that can be used to reach the people many. According to the Assembly, the scope of such authority includes: authority to terminate internet access;

Considering, that therefore, even though Defendant I argues that that the Government Regulation in Lieu of Law Number 23 Year

1959/Law Number 23 Prp/1959 concerning Dangerous Conditions does not
can be binding and cannot be enforced on Papuan security conditions and
West Papua around August to September 2019 as well
expert statement Prof. Dr. Yos Johan Utama, SH, M. Hum., stated that
a state of danger does not always have to be like an emergency according to the Regulations
Government in Lieu of Law Number 23 of 1959/Law
Number 23 Prp of 1959 concerning the State of Danger because the size is already
clear that is qualitative in nature that can influence, inhibit or
stop the administration of government supported by information
officials in the regions as well as direct monitoring from the center, so it is based on
on an objective assessment only, but the Assembly considers that by
because the object of dispute is not only a restriction *on* the right to
internet as stipulated in Article 28J paragraph (2) of the 1945 Constitution, Article 73
Human Rights Law and Article 19 paragraph (3) of the Covenant
International on Civil and Political Rights, but is a form of
the derogation of rights to the internet which has implications for the rights of
others as referred to in Article 4 paragraph (1) of the International Covenant
about Civil and Political Rights that are done in a state of emergency and
In fact, Indonesia has a law that regulates emergencies
or a state of danger in which governs the authority of the Government
carry out Government Actions which are the object of dispute, the Assembly
draw the conclusion that the provisions in the Substitute Government Regulation
Law Number 23 of 1959/Law Number 23 Prp of 1959
1959 on Hazard Conditions can be used as an analytical tool for
provide a legal assessment of the object of the dispute;

Considering, that based on Article 1 number (1) of the Government Regulation
Substitute for Law No. 23/1959/Law No. 23

The PRP of 1959 concerning Dangerous Conditions stated in essence that:

The President/Supreme Commander of the Armed Forces declares in whole or in part from the territory of the Republic of Indonesia in a state of danger with a level of state of civil emergency or martial law or state of war.

Furthermore, in Article 2 paragraph (2) Government Regulation in Lieu of Law The law stipulates that the announcement of a statement or deletion of dangerous situation is done by the President. Article 3 paragraph (1), (2) and (3) of the Regulation Government in Lieu of Law Number 23 of 1959/Law Number 23 Prp of 1959 concerning Dangerous Conditions stipulates that supreme control in dangerous situations is done by the President/Commander Supreme of the Armed Forces as the ruler of the Civil Emergency Center / Ruler Central Martial Law/Central War Authority in doing control can be assisted by a body consisting of parties such as mentioned in paragraph (2) of the said Article and can appoint Ministers/Officers other than those mentioned in paragraph (2) of the said article when deemed necessary as confirmed in paragraph (3) of that Article;

Considering that in the *a quo dispute*, the Defendants did not submit evidence showing that Defendant II has stated that all or part of the territory of the Republic of Indonesia is in a state of danger following the level of emergency as before carried out by Defendant II for other areas including through a Decision President No. 88 of 2000 and Presidential Decree No. 28 of 2003. Other documentary evidence submitted by Defendant I marked TI-16 up to TI-21 and the evidence of the letter submitted by Defendant II marked T.2-1 to with T.2.12 only in the form of laws and regulations that have been become public knowledge and have become part of the consideration of the Assembly, while the evidence of letter T.2.13 *print out* the working visit of Defendant II to Papua and West Papua show events that occurred after the object dispute. In line with that, there is also no evidence that shows

The Agency that assists Defendant II has been established which consists of the following parties:
as stated in Article 3 paragraphs (2) and (3) of the Government Regulation
Substitute for Law No. 23/1959/Law No. 23 Prp
1959 concerning the State of Danger, including the absence of evidence that
show Defendant I to be a member of the said agency;

Considering, that based on these considerations, the Assembly
argues that although according to Defendant I, in carrying out the object
dispute, Defendant I has coordinated with the security parties
as proof of letters marked TI-14, TI-22, TI-33, TI-36a, TI-36b, TI-36c,
TI-37, and TI-38 as well as testimony from witness Samuel Abrijani Pangerapan and witnesses
Inspector General of Police Drs. Rudolf Alberth Rodja, but because of the object of the dispute
carried out by Defendant I, either in the form of delays or terminations
Internet access which is the object of the dispute is a series of actions
Governments that are intertwined because they stem from the same will of
Defendant I, apparently not preceded by a statement decision
dangerous situation by Defendant II and Defendant I is not a member
Agency that assisted Defendant II as the ruler of Civil Emergency
Center/Central Military Emergency Authority/Central War Authority, then from the aspect of
procedures, Government Actions carried out by Defendant I contradicted
with Article 1 paragraph (1), Article 2 paragraph (2) and Article 3 paragraph (1), (2) and (3)
Government Regulation in Lieu of Law Number 23 of 1959/Law
Law Number 23 Prp of 1959 concerning Dangerous Conditions;

Considering that the Assembly further considers that:
freedom of expression and information, including freedom of the press
by using any means deemed appropriate for
convey opinions and information in order to reach as many as possible
people is a fundamental human right that forms the basis of human rights and
other freedoms in a democratic society because it allows people

to actualize all rights and potential for development
himself, convey and reveal the truth and participate actively
active in the administration of government in order to realize a good government
transparent, accountable, responsive, effective and efficient (good governance)
good/good *governance*);

Considering, that based on the above considerations, the object
disputes in the form of slowing down and/or disconnecting the internet network not only
termination of access to Electronic Information and/or Electronic Documents
which has a charge that violates the law, even though according to Defendant I
carried out for the purpose of benefit, namely to prevent the spread of
hoax, incitement, hate speech or hostility based on
SARA which has the potential to cause riots that can be divisive
unity and threaten the security of the state, especially in the province
Papua and West Papua and is carried out only on cellular data services,
then the Assembly considers because most of the people
take advantage of the internet by using cellular data services and even
there is almost a dependence of people on the internet through cellular data
in carrying out every activity in his life while the object
the dispute by Defendant I was not preceded by the Defendant's Decision
II states the state of danger in accordance with the Government Regulation in place of the Law
Law No. 23/1959/Law No. 23 Prp/1959
about the State of Danger, until the object of the dispute is committed by Defendant I
in a situation that has not been legally declared a state of danger,
According to the Assembly, it has resulted in the rights of other parties who are not perpetrators
Internet abuse is being neglected and even reduced among them
press freedom as stated by witness Joni Aswita Putra who
stated that they had difficulty broadcasting news live
as a result of internet service interruption, witness Ika Ningtyas Unggraini who experienced

difficulties in verifying the truth of the facts in the provinces of Papua and Papua West, including the disruption of some government activities and economic rights society that depends on the internet, therefore the Assembly is of the opinion that the object of the dispute which was done by the Defendant I in the circumstances the law has not been declared as a state of danger from the substance aspect not in accordance with the needs and disproportionate in the atmosphere of the country democratic as the third condition of human rights limitation;

Considering, that based on the considerations above, it turns out that there is a law that regulates and gives authority to Defendant I to slow down and disconnect the internet, namely Regulations Government in Lieu of Law Number 23 of 1959/Law Number 23 Prp of 1959 concerning Dangerous Conditions, so that according to the Assembly, there is no void in the law that governs the object of the dispute by Defendant I;

Considering, that in line with that, it turns out that the object of the dispute carried out by Defendant I in terms of procedural aspects contrary to the law namely Government Regulation in Lieu of Law Number 23 Year 1959/Law Number 23 Prp of 1959 concerning Dangerous Conditions while from the aspect of substance it does not meet the requirements for restrictions on rights to internet, which is needed proportionally in a country that is democratic, so that it is substantively contrary to the regulations legislation that regulates the requirements for human rights restrictions as regulated in Article 28J paragraph (2) of the 1945 Constitution, Article 73 Law Number 39 of 1999 concerning Human Rights, and Article 19 paragraph (3) of the International Covenant on Civil and Political Rights which has been ratified based on Law Number 12 of 2005;

Considering, that because there is no legal vacuum that regulate the object of the dispute carried out by Defendant I, while filling in the

Legal vacuum is one of the goals of discretion
as determined in Article 22 paragraph (2) letter b of the Law
Government Administration, then from a discretionary perspective, the object of dispute is not
meet cumulatively the discretionary objectives as specified in
Article 22 paragraph (2) of the Government Administration Act. Apart from
aspects of procedure and substance, the object of the dispute is contrary to the regulations
laws and regulations as already considered
previously, so that by not meeting the cumulative goals
discretion and the use of such discretion is against the regulations
legislation, then the discretionary requirements as regulated in
Article 24 letter a and letter b of the Government Administration Act as well
become unfulfilled in the object of dispute;

Considering, that based on the above considerations,
object of dispute carried out by Defendant I from the aspect of procedure and
substance has been in conflict with the laws and regulations which
occurs, so that the Assembly no longer needs to consider basic fulfillment
general principles of good governance in disputed objects;

Considering, that due to the Regulation of the Supreme Court Number 2
The year 2019 in the section Considering letter b states that the actions of
against the law by government bodies and/or offices (*onrechtmatige
overheidsdaad*) is an Act of the Government, then the Assembly is of the opinion
that the Governmental Action of Defendant I in the object of dispute constitutes a
illegal acts by Government Offices;

Considering that the Assembly further considers that:
The internet is a neutral vehicle. What makes the internet not
neutral is the user and his use. Internet use can
done negatively when misused unlawfully for
the interests of one party and the detriment of many other parties. But with

noting the tremendous benefits of the convenience that technology provides internet, the use of the internet can also be positive to advance and glorify human life and build human civilization towards better. In the event of misuse of the internet via dissemination of content or content that violates the law, it is an accurate and proportional action when the restriction (*restriction*) of rights over the internet is only aimed at perpetrators and content/content that violates the law through the termination of internet access to the content/content that is deemed to have violated the law and legal proceedings were carried out against the perpetrators. because if there is a complete disconnection of the network internet, will have a greater negative impact in the form of the neglect of other human rights that can be realized positively Through the internet. Therefore, like other human rights, Internet rights can only be *derogated* through disconnection of the internet network when in a state of danger/emergency country in accordance with applicable laws;

Considering, that in relation to the responsibility of Defendant II, the Tribunal consider that based on the evidence of letter P.1.33 which is the same as proof of letter P.2.32 and linked to letter evidence TI-29 shows that Defendant II approved the object of dispute carried out by Defendant I;

Considering, that the definition of Government Administration Act according to Article 1 point 8 or Government Actions according to Article 1 point 1 Regulation of the Supreme Court Number 2 of 2019 is the act of an official Government or other state administrators to carry out and/or does not take concrete actions in the context of implementing government. Article 1 point (1) Government Regulation in Lieu of Law Law No. 23/1959/Law No. 23 Prp/1959 on the State of Danger stated in essence that Defendant II

has the authority to declare all or part of the territory of the State

The Republic of Indonesia is in a state of danger with a state of civil emergency

or a state of martial law or a state of war. Furthermore, in Article 3 paragraph

(1), (2) and (3) stipulate that the supreme mastery is in danger

carried out by Defendant II who in exercising control can be assisted

by the Body consisting of the parties as mentioned in paragraph (2)

The article and can appoint other Ministers/Officers other than those

in paragraph (2) of the said article when deemed necessary as stated

in paragraph (3) of the said Article;

Considering that in the *a quo* dispute, Defendant II agreed

Defendant I's action which is the object of the dispute, but not

exercise its authority to first declare all or

part of the territory of the Republic of Indonesia is in the following danger conditions:

the level of emergency and does not establish/elevate a Board that

assist Defendant II as specified in Article 1 point 1 and Article

3 paragraphs (1), (2), and (3) Government Regulation in Lieu of Law Number

23 of 1959/Law Number 23 Prp of 1959 concerning the Circumstances of

Danger, so that as a legal consequence of the Defendant I's action that becomes

the object of the dispute is procedurally and substantively contrary to the

legal regulations, on the other hand when Defendant II implements

legal authority and obligations in accordance with Government Regulation

Substitute for Law No. 23/1959/Law No. 23

Prp Year 1959 on State of Danger, Government Actions which

Defendant I who is the object of the dispute will not be assessed

contrary to statutory regulations. Therefore the Assembly

is of the opinion that Defendant II's actions which do not exercise their authority

and the obligation (*omission*) is a form of not doing

acts in the framework of government administration that are included in

the category of Government Actions that are contrary to the authority and Defendant II's legal obligations before agreeing to the Action of Defendant I, so that as the Council considers the procedural and substance aspects in Government Actions carried out by Defendant I, then against Actions by the Government of Defendant II, both procedurally and substantively contrary to the laws and regulations;

Considering, that due to the Regulation of the Supreme Court Number 2 The year 2019 in the section Considering letter b states that the actions of against the law by government bodies and/or offices (*onrechtmatige overheidssdaad*) is Government Action, until Action The government of Defendant II is also an unlawful act by Government Officials, therefore related to Government Actions in the form of: object of dispute, then Defendant I and Defendant II are declared to have committed illegal acts by Government Agencies and/or Offices;

Considering, that because it has been proven that the object of dispute is carried out, by Defendant I and Defendant II in violation of the law, but the lawsuit The Plaintiffs were filed through the organization's litigation mechanism (*legal standing*), so that there is no claim for damages, then the claim of Para Plaintiffs request that the Court declare Governmental Actions that are carried out by Defendant I and Defendant II in the form of:

1. Government Action *Throttling* or throttling of access/*bandwidth* in some areas of West Papua Province and Papua Province in 19 August 2019 from 13.00 WIT (East Indonesia Time) until at 20.30 WIT;
2. Government action, namely blocking of data services and/or complete severance of internet access in Papua Province (29 City/Regency) and West Papua Province (13 Cities/Regencies) dated

August 21, 2019 until at least September 4, 2019

puck 23.00 WIT;

- 3. The Government's action is to extend the blocking of data services and/or disconnection of internet access in 4 Cities/Regencies in Papua Province (i.e. Jayapura City, Jayapura Regency, Mimika Regency, and Jayawijaya Regency) and 2 Cities/Regencies in West Papua Province (i.e. City of Manokwari and City of Sorong) since September 4, 2019 at 23.00 WIT until September 9, 2019 at 18.00 WIB / 20.00 WIT;**

**is an act that violates the law by a Government Agency and/or Office
legal grounds to be granted;**

**Considering, that by referring to the internal proof system,
the procedural law of the State Administrative Court that leads to proof
limited free (*vrije bewijs*) as contained in the provisions
Article 100 and Article 107 of Law Number 5 of 1986 concerning Judiciary
State Administration as amended by Law Number 9
of 2004 and Law Number 51 of 2009 which outlines
the provision that the judge is free to determine what must be proven/extensive
the scope of evidence, the burden of proof and the assessment of evidence, then in
examine and adjudicate this dispute, the Assembly studies and provides
legal assessment of the evidence submitted by the Parties, however
to consider the arguments of the Parties, the Tribunal only uses
the most relevant and most appropriate evidence for this dispute, while
against other evidence and the rest remain attached and become one
unity with the bundle of things;**

**Considering, whereas since the Plaintiffs' claim was granted,
then based on the provisions of Article 110 jo. Article 112 of Law Number 5
1986 concerning State Administrative Court, to Defendant I and**

Defendant II is ordered to pay the costs of the matter arising in this matter jointly and severally, the amount of which will be determined in the order of this Decision;

In view of the provisions of Law Number 5 of 1986 concerning State Administrative Court as amended by Law Number 9 of 2004 and Law Number 51 of 2009, Law No Law Number 30 of 2014 concerning Government Administration and regulations other relevant legislation;

----- JURISDICTION: -----

In Exception:

To declare that the exceptions of Defendant I and Defendant II are not accepted;

In Main Subject:

1. **Granted the Plaintiffs' claim;**
2. **Stating Government Actions carried out by Defendant I and Defendant II are:**
 1. *Throttling* government action or *access/bandwidth throttling* in some areas of West Papua Province and Papua Province in 19 August 2019 from 13.00 WIT (East Indonesia Time) until at 20.30 WIT;
 2. Government action, namely blocking of data services and/or complete severance of internet access in Papua Province (29 City/Regency) and West Papua Province (13 Cities/Regencies) dated August 21, 2019 until at least 4 September 2019 at 23.00 WIT;
 3. Government action, namely extending service blocking data and/or disconnection of internet access in 4 Cities/Regencies in Papua Province (i.e. Jayapura City, Jayapura Regency, Mimika, and Jayawijaya Regency) and 2 Cities/Regencies in the Province West Papua (ie City of Manokwari and City of Sorong) since 4

**September 2019 at 23.00 WIT until September 9, 2019
at 18.00 WIB / 20.00 WIT;**

**It is an act that violates the law by the Agency and/or Office
Government;**

**3. Punish Defendant I and Defendant II to pay the costs of the case
jointly and severally in the amount of Rp.457,000, - (four hundred and fifty
seven thousand rupiah);**

**This was decided in the Deliberative Meeting of the Panel of Judges
Jakarta State Administrative Court on Thursday, May 28, 2020,
by us NELVY CHRISTIN, SH, MH, as Chief Justice of the Tribunal, BAIQ
YULIANI, SH and INDAH MAYASARI, SH, MH, respectively as
Member Judge. The decision was pronounced in a trial which was open to
public on Wednesday, June 3, 2020, by the Panel of Judges with
assisted by Hj. YENI YEANIWILDA, SE, SH, MH, Substitute Registrar at
Jakarta State Administrative Court, in the presence of the Attorney of Para
Plaintiff, Counsel for Defendant I and Attorney for Defendant II.**

Chief Justice of the Tribunal,

NELVY CHRISTIN, S.H., M.H.

Member Judge I,

Member Judge II,

BAIQ YULIANI, SH

INDAH MAYASARI, SH, MH

Substitute Registrar

Hj. YENI YEANIWILDA, SE,SH,MH

Details of Case Fees:

- Registration Rp. 30.000,- -
ATK Rp . 125.000,- - Call
..... Rp. 276.000,- - Stamp
Rp. 6.000,- - Editor Rp. 10,000,- -
Leges Rp. 10,000,-

.....
Rp. 457,000, -
(four hundred and fifty seven thousand rupiah).