



Analysis of Freedom of Speech and Human Rights

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***Abstract.** Indonesia's written constitution in the 1945 Constitution regulates the human rights of its citizens. One form of human right is the right to speak and express opinions. This article discusses the implementation of the right to freedom of speech and expression in national legal practice. This article was written using normative legal research methods with a conceptual approach and a statutory approach. The result of this research is that freedom of opinion is regulated and guaranteed by the constitution. The implementation of the right to freedom of expression is guaranteed by law and statute.*

***Keywords:** freedom of expression; human rights; constitution.*

Abstrak. Konstitusi tertulis Indonesia di dalam Undang-Undang Dasar Tahun 1945 telah mengatur mengenai Hak Asasi Manusia warga negaranya. Salah satu bentuk dari hak asasi adalah berupa hak untuk berbicara dan mengeluarkan pendapat. Artikel ini membahas terkait implementasi dari hak kebebasan berbicara dan mengeluarkan pendapat tersebut di dalam praktik hukum nasional. Penulisan artikel ini menggunakan metode penelitian hukum normatif dengan pendekatan konseptual dan pendekatan perundang-undangan. Hasil dari penelitian ini adalah kebebasan berpendapat diatur dan dijamin oleh konstitusi. Implementasi dari hak kebebasan berpendapat ini dijamin dengan hukum dan undang-undang.

***Kata Kunci:** kebebasan berpendapat; hak asasi manusia; konstitusi.*

INTRODUCTION

Human Rights are rights inherent in a person that have existed since birth and cannot be contested by anyone because they have become personal property rights and are guaranteed by the state to protect every citizen. Their validity is very strong in the laws and regulations in Indonesia even before the Declaration of Rights. UN Human Rights in 1948 Indonesia has made a statement on human rights which has raised human rights and protected them in the life of the country as stated in the 1945 Constitution, the declaration of the Indonesian nation is in principle contained in the preamble to the 1945 Constitution and this preamble is the normative source For Indonesian positive law, in the preamble to the 1945 Constitution, paragraph I, it is stated that "independence is the right of all nations", this statement contains a juridical recognition of human rights (Hadi, 2022).

In principle, the aim of human rights is to protect fellow human beings so that there is no discrimination from the strong to the weak, to prioritize equality (egalitarianism) before the law, so the Indonesian state guarantees and protects the human rights of its citizens, especially in relation to welfare. life, both physically and spiritually, the basic rights to enjoy education, health, housing, a decent environment, in conditions like these to give birth to a peaceful, prosperous and just country as the final goal of the Indonesian nation still needs extra hard struggle (Alvin Hamidah et al., 2023)

The basic rights above are stated in the articles of the 1945 Constitution in chapter and develop and have the right to protection from violence and discrimination, and there is already a separate law regulating human rights Law no. 39 of 1999, one of the rationales for the formation of this law is that human rights must not be eliminated by anyone under any circumstances, humans are endowed with a soul, structure, abilities and various abilities by their Creator to ensure their survival. because humans are always attached to three things, namely; Life, freedom and happiness are three basic things that humans have. Without these things, humans will live without direction, and will not even be complete. The human rights provisions in the 1945 Constitution which are the basic law are the highest norms that must be obeyed by the state because they are located in the constitution, so the provisions regarding human rights must be respected and their implementation guaranteed by the state.

One of article 28 E in chapter and constructive suggestions, starting from persuasive approaches such as dialogue, discussion, friendship, consolidation, to massive approaches, for example through demonstrations or demonstrations, which are on behalf of the people and extend the people's hand, but in reality this right to freedom is often heard in disagreement among the bearers of aspirations. with the recipient of the aspiration, where is the mistake and the procedures for the carrier of the aspiration? These honest and holy voices are often silenced. From the background of the problem above, the formulation of this research is as follows: 1) How do human rights regulate freedom of opinion?, 2) How is freedom of opinion in the constitution?

RESEARCH METHOD

The research method used is library research (library study), in legal research the normative juridical approach method or library law research, which means an approach based on legal rules as provisions and also basic laws, tracing from related and relevant books with the discussion in this article, apart from books about human rights, data is also sourced from related research journals, as well as from websites related to the title of this research.

RESEARCH RESULT AND DISCUSSION

Freedom of opinion is a fundamental right in life that is guaranteed and protected by the state. The implementation of freedom of expression can be in the form of writing, books, discussions, or in press activities, every citizen can legally express what is on his mind, so that it is often included in his social media stories. express various opinions including state, legal and political issues, whether in the form of public policies made by the government and other state institutions, opinions or criticism of each public policy is a form of control over the running of the government (Riska et al., 2021).

Critical voices that are at odds with the government are often attacked in the digital realm, the narrowing of space for civil liberties cannot be separated from the policies of developmentism, not only does it prioritize power that kills the deliberative process and public participation, this approach is also supported by state repression tools, as a result, disputes and violence often occur in infrastructure projects, viewing agrarian and natural resources as development assets, the development process is accelerated for the benefit of business people even though it means displacing residents and destroying nature (Safitri et al., 2022)

The discourse on revising the ITE Law shows that there is space for society to be more active in providing input and criticism, President Jokowi initiated a discourse to revise the ITE Law, a discourse which was certainly welcomed by the majority of society, the issue of the ITE Law and environmental issues was certainly interesting, on the other hand, of course many

rebuked UUIE by calling it a political weapon to throw government critics behind bars, this phenomenon could happen and it might be difficult to refute

The existence of this discourse has a common goal so that hate speech is not so popular on social media, one of which is that the plan to revise the ITE Law is related to freedom of opinion, because freedom of opinion is actually highly protected by the state, besides this freedom, sometimes things that are not normal are said to end up being said. by harming other people and the country, it could be that here the importance of the ITE Law needs to be tightened to monitor the running of democracy, freedom of opinion, on the other hand, the public thinks that in the ITE Law there are many rubber articles that harm other people, now the discussion is hotter about rubber articles. As stated in the ITE Law, the rubber article is an article in the law whose benchmarks are not clear, the rubber article as a political weapon inherited from colonialism has multiple interpretations and was deliberately created to ensnare Indonesian independence activists (Rizky Pratama Putra Karo Karo, 2023).

The existence of the Information and Electronic Transactions Law (UU ITE) which allows coercive measures to be taken against perpetrators of defamation on social media. Such punishment is seen as contrary to human rights values, especially the right to freedom of opinion and expression (Herawati, 2016).

If we refer to the Covenant on Civil and Political Rights itself, especially Article 19 paragraph (3), the right to express opinions is not absolute, in other words, although freedom of expression is a widely accepted right, its existence is not without restrictions. on the absolute right to think or express an opinion that cannot be excluded or limited, the UN Human Rights Committee emphasized that restrictions on the right to express opinions can be carried out to respect and protect the reputation of other people, namely someone who is individually part or member of a community.

Referring to the level of international rules, the guarantee of the right to freedom of opinion and expression is contained in several international legal instruments, firstly, the Universal Declaration of Human Rights or the 1948 Declaration of Human Rights in Article 19 states: "Everyone has the right to freedom to hold and express opinions, in the right This includes freedom to hold opinions without interference, and to seek, receive and convey information and opinions by any means and regardless of frontiers." It is clear that the guarantee to speak and express opinions universally is contained in the universal declaration of human rights. Everyone must be able to share their opinions with other parties through any means or format, including with other people and countries, because for democratic countries the issue of freedom of opinion is very important and significant for the development of the country.

The General Declaration of Human Rights is seen as a human rights guide in the world regarding freedom of opinion. It states, "everyone has the right to freedom to hold and express opinions and expression, in this case including freedom of opinion without interference, and to seek to receive and convey information and opinions freely. any way regardless of boundaries. However, even if freedom of expression is granted, the provisions of the General Declaration of Human Rights regarding freedom of opinion and expression above are limited by the provisions of Article 29 of the General Declaration of Human Rights, recognizing that there are restrictions on freedom guaranteed by the General Declaration of Human Rights itself with conditions that must be accommodated, restrictions on freedoms determined by law are aimed solely at ensuring proper recognition and respect for the rights and freedoms of others

In Indonesia, freedom of opinion in public is specifically regulated in Law no. 9 of 1998 concerning freedom to express opinions in public, law no. 9 of 1998 concerning the right to speak

in public, freedom to express opinions in public, meaning that if we feel conflicted about our aspirations, there is no harm in giving arguments either through writing or in public such as demonstrators (demonstrations), this activity is guaranteed by the government on condition that the demonstrators before holding a demonstration so that they can make a written notification letter to the National Police, but in the field it is often contradictory between students and the National Police. On the one hand, the police carry out their obligations to maintain state security. On the other hand, students fight for the aspirations of the people and this is one of the functions of students as agents of change. They often do what they do. It's a no-no to cross the line because otherwise their voices won't be heard because they'll be blocked by the police. In this case regarding the demonstration, Nahdlatu Ulama (NU) has provided teaching instructions for orderliness, namely with an opinion based on the results of the bahtsul masail, to enforce 'amar ma'ruf nahi munkar, to fight for the truth and to uphold justice, it can be done with the following conditions:

Firstly, it does not cause damage to other parties, secondly, it does not cause harm to other parties, thirdly, it is done as a last alternative because other methods such as deliberation and lobbying can no longer be done, fourthly, if it is shown to the government, demonstrations or expressing opinions can only be done with ta'rif (giving explanations) and al-wa'zhu (giving advice).

CONCLUSION

Human Rights are rights that are inherent in a person since birth and cannot be contested by anyone because they have become personal property rights and are guaranteed by the state to protect every citizen, including the right to freedom of opinion which is a legitimate activity before the law. Freedom of expression in human rights, the universal declaration of human rights or the 1948 declaration of human rights in article 19 states: "everyone has the right to freedom to hold and express opinions, this right includes freedom to hold opinions without interference, and to seek, receive and convey information and opinions in any way and regardless of boundaries. And it is also regulated in the 1945 Constitution. Freedom of opinion in the 1945 Constitution is regulated in the law is the right to have an opinion, express one's thoughts and form a certificate (1945 Constitution article 28 E,F) "Everyone has the right to freedom of association, assembly and expression. opinion." Then in Law Number 9 of 1998 concerning freedom to express opinions in public, article 1 paragraph (1) "freedom to express opinions orally, in writing and so on freely and responsibly in accordance with the provisions of the applicable laws." Freedom of opinion in the 1945 Constitution and Law No. 9 of 1998 emphasizes that freedom of opinion is a fundamental right in life which is guaranteed and protected by the state, in addition to Law number 39 of 1999 concerning human rights, in articles 14, 23, 24, and 25, which states the protection of freedom of expression and expression of opinions and conveying information. According to the author, it seems that the laws that protect freedom of opinion are strong, which is a guaranteed human right, but recently freedom of opinion is sometimes only acceptable for constructive criticism by the people, but often freedom of opinion experiences a narrowing of the public space, both verbal and written.

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