



The Right to Freedom of Expression in the Digital Age

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Abstract. Human Rights have now been universally accepted as a moral, political, and legal framework and as a guideline for building a world that is peaceful and free from fear and oppression, and unfair treatment. Equality of rights and equal treatment for all Indonesian citizens. Freedom of expression is a right that is owned by every individual guaranteed by a constitution, which is contained in Article 28 E paragraph (3). At this time the Indonesian state has entered the era of digital democracy, where this democracy is a way able to implement a concept of democracy that is not confined by the time limit so that it can be done anywhere and whenever. Themselves do not have an established digital literacy ability.

Keywords: human rights · freedom of expression · digital era

1 Introduction

Human Rights are fundamental in nature, namely a basic human right that is carried by humans as they are born, which is related to the gift and dignity as a creation of the Almighty so that its existence is an inviolable exigency. Because human rights are the basic nature of life. And natural human life, which cannot be separated from and in human life. The millennial generation currently lives in an era of very rapid technological development. Almost all the activities carried out are attached to technology and become part of daily life. In principle, the purpose of human rights is to protect fellow human beings so that there is no discrimination from the strong to the weak, equality (egalitarian) before the law, the Indonesian state guarantees and protects the human rights of its citizens, especially in life, both physically and mentally spirituality, basic rights to enjoy education, health, housing, a safe environment worthy, under conditions like this to give birth to a peaceful, prosperous and just country. As the ultimate goal of the Indonesian nation, it still needs an extra hard struggle. [1] Human Rights Provisions In the 1945 Constitution, the basic law is the highest norm that must be obeyed by the state because it is located in the constitution, the provisions regarding human rights must be respected and guaranteed implementation by the state. [2] in its development, the implementation

of human rights is also influenced by the role of the younger generation as a determinant of the implementation of human rights.

The young generation is now familiar with digital technology at an early age and even tends to be dependent on technology. The time is only for watching television, playing video games online or offline, listening to music from a digital music player connected to the internet, browsing with a smartphone or computer, fostering social isolation through social media, discussing with people or a group with video calls to freedom of expression. His opinion on digital media. In the early-mid-2000s, the development of information and technology entered a new phase in Indonesia. This trend continued to experience a significant boom. Results Based on the Survey of the Indonesian Internet Service Providers Association (APJII), there are 210.03 million domestic internet users in the period 2021–2022. That number increased by 6.78% compared to the previous period of 196.7 million people. [3] Form of social media is followed by millions of internet users in the country. The high number of young people currently using technology certainly encourages efforts for the right to freedom of opinion and opinion in the digital era.

Freedom of opinion and expression is considered important because of four things, namely: (1) freedom of expression is important as a way to ensure one's self-fulfillment and also to reach one's maximum potential; (2) for the search for truth and the advancement of knowledge or in other words one who seeks knowledge and truth must hear all side of the question, considers all alternatives, tests its judgment with confronts these judgments with opposing views, and takes advantage of different thoughts as optimally as possible. (3) freedom of expression so that people can participate in the decision-making process, especially in the political arena, (4) freedom of expression enables people and countries to achieve stability and adaptation. [4] This large increase in internet use certainly causes an increase in the effort to convey opinions by users. But in the course of it, it was found that there were problems that occurred including conflicts on the internet and social media, fights, and unpleasant acts.

The abundance of social media users in Indonesia has a very significant impact. Between January 2019 and May 2022, Amnesty International recorded at least 328 physical and digital attacks and acts of intimidation directed against civil society, resulting in a total of at least 834 victims. The victims include human rights defenders, activists, journalists, environmental defenders, students, and protestors, while suspected perpetrators include both state and non-state actors. [5] This problem is often an important thing to be accommodated to protect fellow internet users and also as a form of shield for the existence of freedom of expression in the digital era.

In practice, social media has become a new force in political relations, social law, economy, and culture. Social media has become an important group in the process of social life in Indonesia. The exchange of information, including ideas and ideas between individuals and groups, can easily be transformed through social media. Attitudes to issues that develop in society are also very easily and quickly responded to by the public using social media. Thus, it is undeniable that the reality on social media also provides opportunities for negative impact as a result of abuse of its functions Like constitutional practice, selling narcotics to seed extremism, and spreading false information or what can be called hoaxes through social media networks. This fact has been taken seriously by the Indonesian government. In 2016, the Ministry of Communication and Information

blocked 800 sites that are considered to have negative content, such as the spread of radical ideas and the spread of false information [6].

President Jokowi further reaffirmed the spirit of the previous government by making changes to Law No. 11 of 2008 concerning ITE. Several new norms were included in Law No. 19 of 2016 concerning amendments to Law No. 11 of 2008 concerning ITE, namely the authority to prevent the dissemination and use of electronic documents which were prohibited by law. In a statutory regulation, the government is also given the authority to terminate internet access that has content that violates the law. So that with this, it becomes a separate urgency for the government to know what the application of the relevant laws and regulations is and the problems.

2 Discussion

2.1 Conscience of the Right to Freedom of Expression and Opinion

The nature of this freedom of expression existed randomly during the Athenian Polis in Greece about 2400 years ago. The ancient Greeks pioneered the word “*parrhesia*” which means freedom of speech or frank speech. However, the type of freedom of expression at that time was still very limited and only applied to a small group of people in power. Later, the Athenians developed a concern for freedom of expression for all citizens. Philosophers, artists, workers, and various other citizen groups used freedom of expression to develop knowledge and criticize the Polis government. This concept continues to be developed until it becomes the concept of freedom of expression that we know today.

In Indonesia, freedom of expression has indeed been promoted since the Dutch colonial era. Soewardi Soerjaningrat wrote an article called “*Als ik een Nederlander*” which means if I were a Dutchman in the newspaper *De Express*. The article contains a criticism of the Dutch government’s plan in 1931 to celebrate the 100th independence from French territory, and the inhabitants of the Indies were forcibly charged for the celebration. Soewardi writing was thought to have incited the Dutch to silence Soewardi opinion by arresting him and putting him in a cell. A few months later, he was exiled to the Netherlands for a warm year. Indonesians continue to fight for freedom of expression, including when discussing liberation from repressive and exploitative colonialism. John Locke, in his work “*The Second Treaties of Civil Government and Letter Concerning Toleration*”, stated that all individuals are endowed with an inherent right to life, and liberty possessions, which are their own and cannot be revoked by the state [7].

Rights are an inseparable part of human rights. Rights contain an element of protection, will, and interests. Rights will always correlate with obligations as a form of balance in social life implanted. The power of a sense of responsibility implies prudence in carrying out an act. Freedom of expression is an inherent right of every individual. The recognition of human rights is one of the characteristics of a democratic country. In short, democracy itself comes from the Greek, namely *demos* which means the people, and creating or *cratos* which means power or sovereignty. Democracy is an alternative system that becomes the order of community and state activities. Almost all countries claim to be a country that puts their people first. Rights are one package in the creation

of man as a creature has a physical aspect and existential. Recognized or not by law, that right still exists as part of human existence itself [8].

However, this democracy can be different in each country depending on the historical, cultural, socio-economic, and ideological background. For example, the United States adheres to a liberal economy while Indonesia adheres to the Pancasila democratic system.

Freedom of expression and freedom of opinion is defined as something inherent in the human self to have. Freedom of expression is used to convey views and opinions, both between individuals and groups. The Indonesian state regulates the sea of freedom of opinion and expression in Article 28E paragraph (3) that everyone has the right to freedom of association. Gather and express opinions Article 28 F explains that everyone has the right to communicate and obtain information to develop their personal and social environment and has the right to seek, acquire, process, and convey information using all available channels. 1) and (2) Law Number 39 of 1999 concerning Human Rights also regulates the means to communicate and obtain the necessary information as well as to seek, possess, and retrieve. Manage, store, and convey information by using all types of facilities that are already available.

Recognition of the right to obtain and convey information is in line with the provisions of Article 19 paragraph (2) of the International Covenant on Civil and Political Rights which has been ratified by Indonesia based on Law Number 12 of 2005 concerning the Ratification of International Covenant on Civil and Political Rights which have been ratified by law. As for the national legal instruments that provide restrictions on the exercise of rights, regulated in Article 28J paragraph (2) of the 1945 Constitution of the Republic of Indonesia. This article has the same context restrictions on the right to freedom of expression and opinion contained in the instruments of international law. This article implies that someone to express his opinion must be subject to restrictions applicable in law. This is necessary to guarantee the rights and freedoms of others. Then set in KUHP related to law enforcement related to freedom argues article 15, article 310 paragraph (1). Article 45A of Law No.19 of 2016 concerning Information and Electronic Transactions. On October 8, 2015, the police issued a Circular Letter from the Chief of Police No. SE/6/X/2015 on Hate Speech where freedom of opinion is limited by certain elements [9].

The norm of the right to freedom of expression and opinion is the most urgent norm among all series of human rights norms, which are reviewed and political rights. The accountable government has the right to freedom of expression and opinion to always provide supervision and control by the general public to the running of the wheels of a government. The fundamental characteristic of a country with a democratic system is the involvement of citizens in every political decision-making. Either directly or through representatives only. The description provides the view that everyone has the right to discuss every state policy on behalf of the people. Citizen involvement in every political decision-making is a form of democracy, thus every citizen has a sense of responsibility for government policies. Robert Dahl (1998) states that democracy is the government's continuous response continuously to the preferences or desires of the citizens of his country. Such a political order can be described by two political dimensions, namely: a) How high is the contest, competition, or opposition possible; b) how many citizens have the opportunity to participate in that political competition? [10].

2.2 Democracy and Freedom of Expression and Opinion in the Digital Age

Freedom of opinion and expression is an individual and collective right that allows a person to have the opportunity to convey, seek, receive, and share various kinds of information, which can develop and express their views, namely in a way that they think is appropriate. Freedom of expression can be seen in two ways, namely the right to access, disseminate, and receive information, and like to express oneself through any medium. Freedom of expression is one of the benchmarks of democracy that has emerged at least since the issuance of the MPR RI Decree Number XVII/MPR/1998 on Human Rights (Human Rights) by the Assembly. The People's Consultative Assembly of the Republic of Indonesia (MPR RI) This decree marks a shift in the perspective on power over communication and information, which was initially strictly regulated by the state to become citizens' rights that must be protected by the state.

In addition, this freedom of expression has been contained in the post-amendment constitution, namely Article 28 E Paragraphs (2) and (3) as well as Article 28 F of the 1945 Constitution. It contains the following matters. Citizens have the right to freedom to believe and, express their thoughts and attitudes, according to their conscience (Article 28 E Paragraph 2), citizens have the right to freedom of association, assembly, and expression of opinion (Article 28 E Paragraph 3), and citizens are beta to communicate and obtain information to develop their personal and social environment and have the right to seek, acquire, store, process and convey information using all available channels (Article 28 F). Freedom of expression is also a right of all human beings.

As stated in Article 19 of the United Nations Charter on Human Rights: "In addition, people are entitled to freedom of opinion and expression. This includes freedom to hold opinions without interference and to receive, seek and impart information and ideas through any media and regardless of regional boundaries. Toby Mendel explains that there are several reasons why freedom of expression is such an important issue.

1. Because this is a foundation of democracy
 2. Freedom of expression plays a role in eradicating corruption
 3. Freedom of expression promotes accountability.
 4. Freedom of expression in society is believed to be the best way to find out the truth
- Freedom of expression is not absolute, in the UDHR states that freedom of expression has limitations.

Article 19 of the Declaration of Human Rights it states: " (1) Everyone has duties to the community in which alone the free and full development of his personality is possible. (2) In the exercise of his rights and freedom, everyone shall be subject to such limitations as are determined by: law solely to secure due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order, and the welfare in democratic society's.

As an effort to prevent excessive freedom of expression and opinion, freedom of expression is limited by the Law on the Human Rights of the People, and social and political order in a democratic society. Therefore, it is concluded that where freedom of expression exists, it will also contribute to how freedom of expression is applied. Regulations as translated from the constitution are needed in terms of limitations in

positivist law countries. In the national book instrument, restrictions are regulated in Article 28J paragraph (2).

The article has the same context as restrictions on the rights to freedom of expression and opinion contained in the international book instrument. A person expressing his opinion is obliged to comply with a limitation applicable to the law. Necessary for the enjoyment of the rights and freedoms of others. Then it is also regulated in the Criminal Code related to law enforcement relating to freedom of expression from 15, article 310 paragraph (91). Article 45A of Law No. 19 of 2016 concerning Information and Electronic Transactions.

The existence of these laws and regulations is of course directly related to the existence of a digital realm that must be regulated to accommodate current needs. The difference between the analog realm and digital is a challenge separately for the government of each country to make appropriate policies from the perspective of the digital realm in settings in the digital realm. [11] The settings that have been done by the service provider, make it easier government to focus more on other policies related to media policy in the digital realm. Policies related to independence in the use of the internet, for example, are not only related to content including hate speech just. Policies are related to independence and basic internet use related to technology, process, and content [12].

2.3 Government Legal Politics and Guarantee of Human Rights

The legal politics of government in responding to the rapid development of information and technology with its various derivatives that have emerged is realized by issuing various regulations, such as through the Minister of Communication and Informatics Regulation No. The year 2016 concerning Amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions These various regulations become the legal basis which will have an impact on legal action for the government by carrying out a series of blocking of various sites that are considered to have content that violates the law. At this point, the intersection between law enforcement and freedom of expression Law enforcement becomes a very important instrument in realizing constitutional ideals, namely Indonesia as a state of law. The state is limited in its actions toward its citizens.

Various regulations that arise cannot be separated from the government's efforts to achieve goals and cannot be separated from socio-political arrangements, The economy and culture of Kuuhan in internet media are recognized as having troubled the government. In Law No. 19 of 2016 concerning amendments to Law No. 11 of 2008 concerning Information and Electronic Transactions, especially in Article 40 paragraph (2a) which reads "The government is way to prevent the spread of and the use of Electronic Information and/or Electronic Documents that have prohibited contents by the provisions and Article 40 paragraph (2b) it has also been stated that the government has the authority to terminate access and/or instruct the Electronic System Operator to terminate access and/or instructs to cut off access to Electronic Information and/or Electronic Documents that have content that violates the laws and regulations of the Government as a legal basis for carrying out a restriction on internet access which is considered to contain content that violates the books.

In substantive terms, the authority this blocking has the potential to lead to abuse of authority by the government, because all of these powers are owned by the government.

Even though these two decades, the Indonesian nation needs to avoid using book products as only a tool to legitimize power to preserve the power of the rulers, even though book products must have an orientation of justice and truth. In addition to being related to the existence of laws and regulations that must be applied, the existence of restrictions or regulations on freedom of opinion is important. The right to freedom of opinion and expression is not included in non-derogable rights (rights that cannot be reduced under any circumstances). Therefore, the exercise of the right to freedom of opinion and expression can be restricted. In the Siracusa Principles, it is stated that the limitation of rights must not harm the essence of rights.

All limitation clauses should be interpreted expressly and intended to support rights. All restrictions must be interpreted clearly and in the context of the specific rights that are related. This principle asserts that restrictions on rights should not be enforced arbitrarily. [13] The principles of Siracusa put forward the principles of clarity of formulation, and procedure, and not giving rise to multiple interpretations. The Syracuse Principle requires a clear definition of restrictions in the interest of protected rights and is consistent with the objectives of the ICCPR provisions. Restrictions cannot be arbitrary and without a valid reason, and compensation must be given for the application of wrong restrictions. [14] The freedom of information among millennials needs to be balanced with the provision of competent digital literacy. This includes knowledge, skills, and attitudes to understand and use information accessed through computer devices. Along with efforts, millennials improve digital literacy competence, so its implementation must be balanced with knowledge normatively related to legal regulations and regulations.

3 Conclusion

Freedom of expression and freedom of opinion is defined as rights that are inherent in human faith to be owned. Freedom of backrest is used to express views and opinions both between individuals and groups. The Indonesian state regulates freedom of opinion and expression in Article 28E paragraph (3) that everyone has the right to freedom of association. Assembly and expression of opinion The norm of the right to freedom of expression and opinion is the most urgent norm, among all the series of human rights norms that are reviewed and like politics The norm of the right to freedom of expression and opinion is considered as one of the keys to democracy Freedom of opinion and expression is an individual right at the same time a collective that allows a person to have the opportunity to convey, seek to receive, and share various kinds of information that can develop and express their views, namely in a way that they think is appropriate. Toby Mendel explains that there are several reasons why freedom of expression is important. Because this is a foundation of democracy, Freedom of expression plays a role in eradicating corruption, Freedom of expression promotes accountability, and Freedom of expression in society is believed to be the best way to find out the truth. The government's legal politics in responding to the rapid development of information and technology with its various derivatives that have emerged has the intention of issuing various regulations, such as through the Minister of Communication and Informatics Regulation No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 about concerning Information and Electronic Transactions.

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