


Analysis of Criminal ACTS That Obstruct the Rights of Citizens Who Express Opinions Reviewed From Law Number 9 of 1998

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Article Info	ABSTRACT
<p>Keywords: Freedom of Opinion, Democracy, Human Rights Violations</p>	<p>This study analyzes criminal acts that hinder the right of citizens to express their opinions in public, with a focus on the application of Law Number 9 of 1998 concerning Freedom of Expression of Opinions in Public. Freedom of opinion is a human right guaranteed by the constitution and regulated in Article 28E of the 1945 Constitution and Law No. 9 of 1998. However, the practice often faces challenges in the form of violence, threats, or intimidation from certain parties, including law enforcement officials. This research aims to identify forms of violations, law enforcement mechanisms, and solutions to prevent further violations. The methodology used is a normative juridical approach with an analysis of relevant laws and regulations, such as Article 18 of Law No. 9 of 1998 which provides a maximum of one year of criminal threat for perpetrators of obstruction of freedom of opinion, as well as case studies from empirical data collected by YLBHI and other institutions. The results of the study show that violations of freedom of expression occur in various forms, such as restrictions on demonstrations, criminalization through the ITE Law, and digital attacks on activists. Law enforcement for these violations is often inconsistent and tends to be repressive. The conclusion of this study emphasizes the importance of firm and consistent law enforcement to protect the rights of citizens in expressing their opinions. In addition, collaboration between law enforcement officials and the community is needed to create an environment conducive to freedom of expression without threats or violence. Revisions to regulations such as the ITE Law are also needed to avoid multiple interpretations and abuse of the law. This research makes an important contribution in understanding the challenges of freedom of expression implementation in Indonesia and offers policy recommendations to ensure the protection of human rights.</p>
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INTRODUCTION

Article 1 paragraph (1) of Law No. 9/1998 states that freedom of expression is the right of every citizen to express his or her thoughts orally, in writing, and so on freely and responsibly in accordance with the provisions of the applicable laws and regulations. In addition, Article 5 guarantees legal protection for all citizens in expressing their opinions freely in public (Miptahul, 2020).

The right to opinion is also guaranteed by Article 28F of the 1945 Constitution which

emphasizes that everyone has the right to communicate and obtain information. This shows that freedom of expression is one of the fundamental human rights in democratic life (Zahra et al., 2024).

Criminal acts that hinder the right of citizens to express their opinions can be in the form of threats of violence or other physical actions. Articles in the Criminal Code and Law No. 9 of 1998 provide a legal basis for the prosecution of perpetrators who commit these acts. Criminal Acts that Hinder the Right of Citizens to Express Opinions in the Review of Law Number 9 of 1998 Freedom of opinion is one of the fundamental human rights in a democratic country.(Tjahjani, 2016)

In practice, there are many cases where the right of citizens to have an opinion is hampered. For example, in some demonstrations, security forces often use violence or intimidation to disperse crowds. This not only violates Law No. 9 of 1998 but also the principles of human rights stipulated in the constitution (Wajdi & Imran, 2022), freedom of expression often faces various challenges. One form of violation of this freedom is a criminal act committed by certain parties to prevent citizens from expressing their opinions. Such actions can be in the form of threats, intimidation, physical violence, and restrictions that are not in accordance with legal procedures. This phenomenon not only violates the constitutional rights of citizens but also hurts the democratic principles that are the basis of the Indonesian state.

In 2008-2011 there was a controversial case, namely the case of Prita Mulyasari, a patient who complained about the services of Omni International Hospital Alam Sutra Tangerang through an e-mail entitled "Omni International Hospital Alam Sutera Tangerang Scam" with the content of the email "If you are seeking treatment, be careful of the luxury of the hospital and the international title, because the more luxurious the hospital and the smarter the doctor, so more and more patient tests, drug sales and injections, I don't say all international hospitals are like this but I experienced this incident at OMNI International hospitals."(Elma Seventiani, 2020). The hospital felt defamed and reported Prita Mulyasari to the Court, on May 11, 2009 Prita was legally and convincingly proven guilty of committing a criminal act charged with Law Number 11 Article 27 Paragraph 3 of 2008 concerning the Information and Electronic Transactions Law (ITE) which states "intentionally and without the right to distribute and/or electronic documents that have insulting and/or defamatory content" with Decision Number No. 22PK/Pid. sus/2011.

Various cases show that repressive actions against freedom of opinion are still frequent. For example, the forced dispersal of demonstrations without clear reasons or the use of force by security forces against peaceful protest participants. This condition raises concerns because it is contrary to the spirit of reform that emphasizes the importance of respect for human rights, including freedom of opinion.

However, in practice, this right is often hampered by various actions that hinder the process of expressing opinions, both by individuals and by state officials. Criminal acts that impede a citizen's right to express their opinions can be intimidation, threats, or even physical violence against individuals who try to express their opinions. This not only violates democratic principles but also goes against the country's commitment to protect human

rights. Law enforcement against these measures is essential to ensure that every citizen can exercise his or her rights without fear of retaliation or pressure. (Nafiatul Munawaroh, 2024)

Therefore, the analysis of criminal acts that hinder the right of citizens to express their opinions is very important. This study aims to examine this phenomenon from a legal perspective, especially based on Law Number 9 of 1998. Thus, it is hoped that it can provide a deeper understanding of the legal protection of freedom of opinion and encourage better law enforcement to prevent future violations.

METHOD

This research uses normative legal research, which focuses on the study of applicable legal norms, especially Law Number 9 of 1998 concerning Freedom of Public Expression. This method aims to analyze laws and regulations relevant to the issue of infringement of the right to freedom of opinion and provide legal arguments based on legal rules and principles. The research approach used is through a legal approach and a case approach. As well as in the collection of legal materials through legal issues as well as various journal references and articles related to the issues raised.

RESULTS AND DISCUSSION

Freedom of opinion is interpreted as a right to personal freedom that demands its fulfillment and protection, and is guaranteed in the constitution. Freedom of opinion is an indicator for a country of the sustainability of democracy in that country and can illustrate the protection and recognition of human rights in a country. As John W. Johnson said, "A country is considered truly democratic, it must be prepared to provide substantial protection for the ideas of the media opinion (Abdul Wahid, 2005).

The Constitution in Indonesia provides one of the basic rights, namely the Right of Citizens to Opinion. This right is not only listed in Article 28E paragraph (3) of the 1945 Constitution, but is also specifically regulated in Law Number 9 of 1998 concerning Freedom of Public Opinion. (Putri, 2022) This law provides a legal basis for every citizen to express his thoughts and opinions freely, both orally and in writing, as long as it is implemented in accordance with the applicable legal rules.

However, in practice, it is not uncommon for actions that hinder the right of citizens to express their opinions. This action can be categorized as a criminal act because it is contrary to democratic principles and violates human rights. These forms of obstruction can be in the form of physical violence, threats, intimidation, and abuse of power by certain parties. For example, the use of force to disperse peaceful demonstrations or threats against individuals who wish to voice their opinions are clear examples of violations of this right.

In 2023, Bima Yudho Saputro, a college student, was arrested by police after uploading memes criticizing government policies on social media (BBC Indonesia, 2023). This action is also considered a violation of the ITE Law, especially article 27 concerning defamation. This case shows how criticism of the government can lead to criminalization. Although freedom of opinion is guaranteed by the 1945 Constitution and Law No. 9 of 1998, Bima's actions were responded to with arrests and legal threats. This creates an atmosphere of fear among

students and the general public to express their opinions.

The period of the Protest against the Omnibus Law that occurred in various cities was a form of rejection of the Job Creation Law (Ombibus Law). Although the action was carried out peacefully, many demonstrators were forcibly dispersed by security forces. The dispersal of this protest violates the provisions of Law No. 9 of 1998 which guarantees the right of citizens to express their opinions in public. Many participants of the action experienced intimidation (BBC Indonesia, 2020), physical violence, and arbitrary arrests. This incident certainly raises distrust again for law enforcement officials in upholding the rights of citizens

Law Number 9 of 1998 itself emphasizes that every citizen has the right to express his or her opinion without fear or threat. Article 21 of this law also stipulates that any person who obstructs these rights may be subject to criminal sanctions in accordance with the provisions of the applicable law. This shows that the state has a responsibility to protect freedom of opinion and take strict action against anyone who tries to obstruct those rights. (Sari, 2020).

According to Philipus M. Hadjon, the basic state of law aims to provide legal protection for the people, that legal protection for the people against government actions is based on two principles, the principle of human rights and the principle of the state of law. (Nurul Qamar, 2022) The recognition and protection of human rights takes the main place and can be said to be the goal of the legal state that founded Pancasila, on the other hand, in a totalitarian state there is no place for human rights.

Law enforcement against this criminal act must be carried out fairly and transparently. The process involves investigations by law enforcement officials, prosecutions by public prosecutors, and judicial proceedings in court. With these steps, it is hoped that the perpetrators of obstruction can be given appropriate sanctions so as to provide a deterrent effect while maintaining public trust in the legal system.

The act of obstructing freedom of opinion not only harms individual rights, but also damages the democratic values that are the basis of state life in Indonesia. Therefore, it is important for all parties—both the government, the community, and law enforcement officials—to jointly safeguard and respect freedom of opinion as part of human rights.

Law Number 9 of 1998 concerning Freedom of Public Expression is an important legal basis in the context of human rights protection in Indonesia. This law was born during the transition to democracy after the New Order era, where freedom of expression and expression of opinions became very important for people who had previously experienced restraint. (Aulia, 2019) Through this law, the state is committed to guaranteeing the right of every citizen to express his or her opinion freely and responsibly, in accordance with applicable regulations.

Article 1 paragraph (1) of Law No. 9/1998 emphasizes that "freedom of expression of opinion is the right of every citizen to express his or her thoughts orally, in writing, and so on freely and responsibly". This shows that this law not only provides space for individual expression, but also emphasizes responsibility in expressing those opinions. In addition, this law serves as a technical regulator in the presentation of public opinion, with the aim of creating a safe, orderly, and peaceful atmosphere.

In Indonesia, this right is regulated in Law Number 9 of 1998 concerning Freedom of

Public Expression, which affirms that every citizen has the right to express his or her thoughts freely, both orally and in writing, while still paying attention to the provisions of applicable laws and regulations.

This law was born during Indonesia's transition to democracy after the New Order era, with the aim of providing space for people to express their opinions freely. This law is expected to guarantee human rights, as stipulated in Article 28 of the 1945 Constitution and the Universal Declaration of Human Rights. Although Law No. 9/1998 contains the basic principles of freedom of opinion, there are some significant weaknesses in its implementation:

1. Several articles in this law contain provisions that are considered to limit freedom of expression. For example, Article 10 requires reporting to the police before taking action, which can be seen as a barrier for the public to express their opinions spontaneously (Bakhtiar et al., 2020).
2. Law enforcement practices often use articles that are multi-interpreted (rubber articles) to follow up on demonstrations. This creates legal uncertainty for protesters and could lead to repressive actions by the authorities.
3. Research shows that while these laws are meant to protect the right to expression, there are many cases where protesters have experienced acts of violence or arrest without clear legal process.

Based on this analysis, several recommendations can be put forward to increase the effectiveness of Law No. 9 of 1998:(Purnomo, 2016)

1. Revision of articles that are considered to restrict freedom of expression to be more in line with the principles of democracy and human rights.
2. Conduct training for security forces on handling demonstrations to better respect human rights and not use violence.
3. Encourage public education about the right to expression so that the public better understands and can use these rights responsibly.

However, despite providing freedom of speech, Law No. 9 of 1998 also includes restrictions aimed at protecting the rights of others and maintaining public order. Article 6 stipulates that citizens who express opinions must respect the rights and freedoms of others and comply with applicable laws. These restrictions are important to prevent the abuse of freedom of expression that could lead to anarchic actions or harm others. Although Law No. 9/1998 is expected to open up space for public participation in democracy, in practice there are significant challenges.

Many criticisms have arisen regarding the implementation of this law, with some arguing that it is often used as a tool to restrict freedom of expression rather than protect it. Thus, the effectiveness of Law No. 9 of 1998 in protecting the right of citizens to express their opinions is still a debate that requires further attention. Further research and evaluation of the implementation of this law is urgently needed to ensure that citizens' rights are optimally protected within the framework of a healthy democracy.

The results of this study show that although Law Number 9 of 1998 has the potential to protect the right of citizens to express their opinions, its implementation still faces various significant challenges.

One of the main findings is the gap between legal provisions and practice on the ground. Although Law No. 9/1998 provides a strong legal basis for freedom of expression, many individuals still feel threatened when they want to express their opinions openly. This creates an atmosphere of uncertainty that can hinder public participation in the democratic process. Political factors play a big role in the implementation of this law. In a dynamic political context, freedom of expression is often seen as a threat by certain parties, especially if those opinions are contrary to government policy.

Repressive measures against demonstrations are often carried out under the pretext of maintaining security and public order, even though this is contrary to the spirit of freedom of opinion. Based on these findings, there is an urgent need for reform in the implementation of Law No. 9/1998 to be more in line with the principles of democracy and human rights. This includes training for law enforcement officials on human rights and the importance of protecting freedom of expression, as well as raising public awareness of their rights.

Overall, although Law No. 9 of 1998 provides a legal framework to protect citizens' right to express their opinions, its effectiveness is still hampered by a variety of factors, including repressive measures and gaps between law and practice. To achieve the goal of optimal human rights protection, a concerted effort from the government, civil society, and all stakeholders is needed to ensure that freedom of expression is respected and protected in Indonesia.

CONCLUSION

Law Number 9 of 1998 concerning Freedom of Opinion in Public is an important legal basis in guaranteeing the right of citizens to express their opinions freely. However, the effectiveness of this law in practice still faces various challenges. Although it has provided a clear legal framework, its implementation has often been hampered by repressive measures, such as the forced dispersal of demonstrations, intimidation, and violence against protesters. In addition, the use of rubber goods in the Criminal Code to crack down on individuals who express opinions creates legal uncertainty and limits the space for freedom of opinion. Legal protections for individuals who experience violations of their right to opinion are also weak, with many cases not being followed up seriously. To increase the effectiveness of these laws, reforms in law enforcement, increased public and security apparatus awareness of the importance of freedom of expression, and independent oversight of the implementation of these rights are needed. With these steps, it is hoped that freedom of opinion as one of the pillars of democracy can be optimally realized in Indonesia. Based on the analysis of actions that hinder the right of citizens to express their opinions, some suggestions given by the author to consider: Revision of the Law related to Freedom of Opinion, Building an Effective Complaint Mechanism, Public Education on Freedom of Opinion, Support for Activists or Journalists. With the advice given by the author, it is hoped that the follow-up to the right of state officials to express their opinions can be an important thing to pay attention to.

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