

LEGAL PROTECTION OF FREEDOM OF OPINION THROUGH SOCIAL MEDIA VIEWED FROM A LEGAL PERSPECTIVE

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Abstract

This research is based on the basic rights of human rights, namely the right to freedom of opinion. Preventive legal protection, namely the existence of the 1945 NRI Constitution, Law No. 9 of 1998, Law No. 39 of 1999. The arrival of the Reformation era approaching the millennium seems to be a "good day" for the further development of democratization in Indonesia. The development of information technology, especially internet technology, is experiencing very rapid growth. Along with this progress, new alternative media based on Information Technology have also emerged. The media supports the realization of the democratization process, especially in terms of conveying opinions and aspirations. The problem that will be studied is how legal protection is for the regulation of expressing opinions in public according to Law No. 9 of 1998. The research results according to the Law only contain obligations that must be fulfilled by social media users and tend to be restrictive because their rights are not clearly stated. owned on social media. Then we need people who have appropriate expertise in their fields to develop policies for running a country's government. The right to freedom of expression in public has been guaranteed and protected by international covenants and is a right guaranteed and protected by the 1945 Constitution of the Republic of Indonesia.

Keywords: Legal Protection, Freedom of Opinion, Social Media, Information

1. INTRODUCTION

The presence of such sophisticated information technology has provided a new nuance by touching almost all aspects of life. Technology has made it easier for people to carry out daily activities to fulfill their needs, as well as making it easier to interact between people wherever they are. This certainly has a relatively large positive impact on improving human welfare. However, technological developments do not only have a positive impact, because this technology has also been used to commit crimes. Technological developments have made it easier for crimes to be committed, making them more common, where the modus operandi is also becoming more sophisticated, making it increasingly difficult to control.

Freedom of opinion is often discussed recently, post-reformation, as if it has brought a breath of fresh air for people to express their thoughts and ideas, and even criticize the government. Freedom of opinion has its own place in the process of democracy and reform that is currently underway in Indonesia. One of the characteristics of a democratic country is that by guaranteeing the protection of freedom of opinion, it is appropriate for the government, in this case, to be the holder of executive rights and the House of Representatives as the bearer of the people's mandate. encourage and strive for respect for freedom of opinion. A country considered to be truly democratic must be prepared to provide substantial protection for media ideas [Krishna Harahap, Human Rights and Enforcement Efforts in Indonesia. (Bandung: Graffiti, 2003),].

Crime can arise due to several factors, namely internal factors which are divided into two, namely: Specific internal factors which include a person's psychology General internal factors which are categorized into several types, namely age, gender, position in society, education and entertainment. Apart from internal factors, there are also external factors that influence those that are related to the emergence of crime, namely: Economic factors, supported by free competition which stimulates consumer interest which has an impact in cyberspace.

2. DISCUSION

One of the characteristics of a democratic country is that it guarantees the protection of freedom of opinion, so it is appropriate for the government, in this case the holder of executive rights and the House of Representatives as the bearer of the people's

mandate, to encourage and strive for respect for this freedom of opinion. A country considered to be truly democratic must be prepared to provide substantial protection for the ideas expressed by the media.[Krisna Harahap, Human Rights and Efforts to Enforce It in Indonesia. (Bandung: Graffiti, 2003),]

Every individual in general and Indonesian citizens in particular, have rights protected by statutory regulations on information, namely as regulated in the 1945 Constitution in article 28, namely: "Freedom of association and assembly, expressing opinions verbally or in writing and etc. are stipulated by law"⁴, and in Article 13 and Article 14 of Republic of Indonesia Law Number 39 of 1999 concerning Human Rights, in Article 13 which states that "Everyone has the right to develop and obtain benefits from science and technology, arts and culture in accordance with human dignity for the welfare of the individual, the nation and humanity" and Article 14 paragraph 1 states "Everyone has the right to communicate and obtain information necessary to develop their personality and

Basically, freedom to express opinions is part of human rights. Because rights are an inseparable part of being human. Rights contain elements of protection, interests and desires. Rights always correlate with obligations and responsibilities as a form of balance in life.[Latipah Nasution, The Right to Freedom of Opinion and Expression in Public Spaces in the Digital Era, Is: Bulletin of Law and Justice, 4, No. 3 (2020): p. 40] Regulations regarding freedom of expression have been regulated in several human rights instruments.

The 1945 Constitution, the 1945 Constitution, guarantees the right to freedom of expression, namely in article 28E paragraph 2 and emphasized in paragraph 3: "everyone has the right to freedom of association, assembly and expression of opinion." And continued in article 28F. Regarding this freedom, there are limitations as in Article 28J.

Indonesian Government Legal Policy regarding the protection of the Right to Freedom of Opinion on Social Media for civil servants; Basically, every citizen, without exception, civil servants constitutionally has the right to freedom of opinion and can legally express what is on their mind. Implementation of freedom of opinion can take the form of writing, books, discussions, or in press activities, and the dissemination of ideas electronically, including social media. Based on its definition, social media is a communication tool used by users in social processes. In essence, with social media

various two-way activities can be carried out in various forms of exchange, collaboration and getting to know each other in written, visual and audiovisual form.

Conclusion The protection of freedom of opinion via internet media in Law Number 11 of 2008 is seen from a human rights perspective. From several cases that occurred via electronic media, it can be said that expressing opinions on social media or electronic media does not receive strict protection from the law.

Law Number 11 of 2008 and Law Number 19 of 2016 concerning Information and Electronic Transactions. Therefore, people do not have freedom of opinion through social and electronic media because it is not protected by law. Apart from that, there are also no clear criteria regarding defamation conveyed via social media and electronic transactions.

Forms of freedom of opinion via internet media in Law Number 11 of 2008, that the law does not mention forms of freedom of opinion. However, from the provisions of the articles contained in the law, it can be understood that the use of social media and the internet as a medium for information and electronic transactions is not permitted to violate the law and statute, but there is no detailed form of freedom of opinion that can be exercised by a person or group of people. .

In efforts to protect and enforce Human Rights, Indonesia as a legal state has the duty to respect, protect, uphold and promote them.[Dede Rosyada, Democracy, Human Rights and Civil Society. Jakarta: Revised edition of ICCE UIN Syarif Hidayatullah, (2003), p. 199.] The Indonesian government through Law Number 11 of 2008 concerning Information and Electronic Transactions has provided prevention and protection for the use of social media from acts against the law such as insults and defamation good, blasphemy, provoking, inciting, fake news, as well as unpleasant actions that have the impact of violence, social conflict, and discrimination, and so on. enforced by sanctions if the exercise of freedom of opinion is not in accordance with the law. Freedom of expression of opinion on social media which is classified as a criminal offense is regulated in articles 27, article 28 and article 29. If someone violates the specified restrictions on freedom of opinion on social media, they will be subject to criminal sanctions as stated in article 45, Article 45A, and Article 45B.

3. CONCLUSION

On the other hand, acts of hate speech on social media still occur frequently and there are several obstacles in law enforcement regarding hate speech on social media, especially the lack of standard rules that can be used as a reference, making it theoretically difficult to determine whether speech can be categorized as hate speech. This has an impact on suboptimal law enforcement regarding hate speech. Furthermore, in its implementation there are several other obstacles such as: Lack of public understanding and awareness regarding the limitations of using social media, limited knowledge of law enforcement in measuring hate speech on social media, and lack of education to the public regarding social media ethics.

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This implementation there are several other obstacles such as: Lack of public understanding and awareness regarding the limitations of using social media, limited knowledge of law enforcement in measuring hate speech on social media, and lack of education to the public regarding social media ethics. This article was written independently for the purposes of an international seminar organized by Palembang University.

REFERENCES

- Dede Rosyada, Democracy, Human Rights and Civil Society. Jakarta: Revised edition of ICCE UIN Syarif Hidayatullah, (2003), p. 199.
- Ernes.Y. 2020. <https://new.detik.com/berita/d-5308010/polda-metro-tangani-443-kas-cyber-lama2020-1448-akun-di-take-down> Accessed at 15:50 WIB. December 29, 2020
- Krisna Harahap, Human Rights and Enforcement Efforts in Indonesia. (Bandung: Graffiti, 2003)
- Latipah Nasution, The Right to Freedom of Opinion and Expression in Public Spaces in the Digital Era, Is: Law and Justice Bulletin, 4, No. 3 (2020): p. 40
- Articles 13 and 14 of Republic of Indonesia Law Number 39 of the Year concerning Human Rights Republic of Indonesia Constitution of 1945
- Law Number 11 of 2008 concerning Information and Transactions Electronic
- Law Number 39 of 1999 concerning Human Rights

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