

# LEGALFOXES LAW TIMES

## THE RIGHT TO FREEDOM OF EXPRESSION IN THE DIGITAL AGE

By Gaurikashri

**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: digital era, human rights, and freedom of expression

### 1 Introduction

Human rights are fundamental in nature, and one essential human right that each person possesses from the moment of birth is connected to that person's gift and dignity as the Almighty's creation, making it necessary for that person to exist in an inviolable manner. Because life itself is based on respect for human rights. Additionally, there is natural human life, which is an integral part of human existence. Today's millennial generation is a part of a time of extremely rapid technological advancement. Almost all of the activities are connected to technology and have incorporated into daily life. Human rights are intended to safeguard fellow citizens in order to prevent discrimination against the weak and promote equality (egalitarianism) before the law. In particular, the rights of its citizens to physical and mental health, education, housing, and a secure environment are guaranteed and protected by the Indonesian state. It is in such circumstances that a peaceful, prosperous, and

just nation can be born. As the ultimate objective of the Indonesian nation, it still requires a particularly difficult fight. Human Rights Requirements The 1945 Constitution established the basic law as the highest standard that the state must uphold. As a result of this, the articles pertaining to human rights must be respected and given governmental guarantee of implementation. During its creation and execution the influence of the younger generation as a deciding factor in the application of human rights is also influenced.

The younger generation is now accustomed to digital technology at a young age and even has a tendency to get dependent on it. Only watching television, playing video games online or off, listening to music from an internet-connected digital music player, browsing on a smartphone or computer, encouraging social isolation through social media, and having conversations with individuals or a group over video calls regarding freedom of expression are acceptable uses of the time.

His viewpoint on online media. The growth of information and technology in Indonesia started a new phase in the early to mid-2000s. This pattern kept experiencing a big boom. Results There are 210.03 million domestic internet users in 2021–2022, according to the Indonesian Internet Service Providers Association (APJII) survey. In comparison to the preceding period, which had 196.7 million individuals, that number climbed by 6.78%. Millions of people in the nation use the internet and engage in social media in one way or another. The large number of young people who use technology now undoubtedly supports attempts to uphold the right to freedom of speech and association in the digital age.

Four reasons are given as to why freedom of opinion and expression is important: (1) for ensuring one's self-fulfillment and achieving one's full potential; (2) for the pursuit of knowledge and the advancement of truth, or, to put it another way, one who seeks knowledge and truth must hear all sides of the issue, weigh all alternatives, and test their judgement by confronting these judgements; and (3) for the advancement of science. With challenges these conclusions with contrarian viewpoints and makes the most use of divergent ideas. (4) Freedom of expression enables people and nations to attain stability and adaptation. 3) Freedom of expression to allow people to engage in decision-making, particularly in the political sphere. There is little doubt that the substantial increase in internet usage contributes to individuals' increased desire to express their ideas. But during it, it was discovered that there were issues,

such as disputes on the internet and on social media, clashes, and unpleasant acts.

## 2 Discussion

### Concern for the Right to Freedom of Expression and Opinion

This freedom of expression was haphazard in nature during the Athenian Polis in Greece, which lasted for nearly 2400 years. The word “parrhesia,” which denotes freedom of speech or honest speaking, was invented by the ancient Greeks. The freedom of speech at that time, meanwhile, was still severely constrained and only applied to a tiny number of powerful individuals. Later, the Athenians grew to care about everyone’s right to free speech. Freedom of expression was employed by thinkers, creators, labourers, and numerous other citizen groups to advance knowledge and critique the Polis government. This idea is expanded further till it reaches the modern understanding of freedom of expression. Indeed, since the Dutch colonial era, freedom of expression has been encouraged in Indonesia. In the journal *De Express*, Soewardi Soerjaningrat published an essay titled “Als ik een Nederlander” (if I were a Dutchman). The article criticises the Dutch government’s decision to force the inhabitants of the Indies to pay for the celebration of their country’s 100<sup>th</sup> anniversary of freedom from French rule in 1931. It was believed that Soewardi’s work inspired the Dutch to imprison and muzzle Soewardi in order to quiet his opinion. He was sent to the Netherlands for a year a few months later. Indonesians continue to battle for the right to free speech, which extends to discussions about independence from oppressive and exploitative colonialism. When writing his *All people have an intrinsic right to life and liberty, which is theirs and cannot be taken away by the state*, according to the author of “The Second Treaties of Civil Government and Letter Concerning Toleration”.

Human rights cannot exist without rights. Protection, will, and interests are all parts of rights. In order to maintain a sense of balance in social interactions, rights and obligations will always be correlated. The strength of a sense of responsibility implies caution when acting. Every person has the freedom to express themselves freely.

One of the traits of a democratic nation is the respect for human rights. Simply put, the word “democracy” is derived from the Greek word *demos*, which means “the people” and “making or It denotes authority or control. Democracy is a substitute system that establishes the

hierarchy of societal and governmental affairs. Almost every nation makes the assertion that its citizens come first. In the creation, rights are bundled together. A. F. Karin et al. both a physical and existential aspect to the organism that is man. That right is a part of human existence whether it is acknowledged by law or not.

However, depending on the historical, cultural, socioeconomic, and ideological context of each nation, this democracy may differ. For instance, whereas Indonesia upholds the Pancasila democratic system, the United States upholds a liberal economy.

The right to freedom of speech and freedom of opinion is something that all people possess by nature. Views and opinions are communicated through freedom of expression between individuals and groups. Article 28E paragraph (3) of the Indonesian Constitution, which states that everyone has the right to freedom of association, governs the sea of free speech and thought. assemble and voice your ideas Everyone has the right to seek out, acquire, process, and transmit information using all accessible channels, according to Article 28 F, in order to build their personal and social environments. 1) and (2), as well as the ways to seek, possess, and retrieve information, are likewise governed by Law Number 39 of 1999 respecting Human Rights. Utilise the many sorts of already-existing infrastructure to manage, store, and transmit information.



The most pressing of all the political rights and human rights rules that have been assessed is the right to freedom of expression and opinion. The accountable government has the right to freedom of expression and opinion so that the general public may always monitor and control how the government is managed. The participation of citizens in all political decision-making is the core trait of a nation with a democratic system. Solely through representatives or directly. Everyone has the right to speak up on any state policy on behalf of the people, according to the description. Every citizen has a sense of responsibility for governmental policy since democracy entails citizen participation in all political decision-making. Democracy, according to Robert Dahl (1998), is the government's ongoing responsiveness to the choices or aspirations of its people. Two political dimensions, namely: a) the level of contest, competition, or opposition feasible; and b) the number of persons who have the opportunity to participate in that political competition, can be used to describe such a political regime.

## Democracy and the Right to Free Expression in the Digital Age

A person has the right to communicate, ask for, receive, and exchange different types of information in order to develop and express their opinions, particularly in a way that they see suitable. This right is both personal and collective. The right to access, transmit, and receive information, as well as the desire to express oneself in whatever way, are two ways that freedom of expression can be seen. One of the criteria for democracy that has emerged, at least since the Assembly's issuance of the MPR RI Decree Number XVII/MPR/1998 on Human Rights (Human Rights), is freedom of expression. The Republic of Indonesia's People's Consultative Assembly (MPR RI) This order represents a change in how people view power control communication and information, which were at first tightly restricted by the state and are now considered citizens' rights that the state must defend.

The post-amendment constitution, specifically Article 28 E Paragraphs (2) and (3) as well as Article 28 F of the 1945 Constitution, also includes this freedom of expression. It includes the following topics. In accordance with Article 28 E Paragraphs 2 and 3, citizens have the freedom to believe what they want and to express that belief in a way that is consistent with their conscience. Additionally, citizens have the freedom to assemble, associate, and express their opinions, as well as the freedom to seek, obtain, store, and use information in order to improve their personal and social environments.

According to Article 19 of the UN Declaration on Human Rights, "People also have the right to freedom of speech. This includes the freedom to hold beliefs without hindrance and the ability to gather, explore, and share knowledge and ideas via any media, regardless of national or geographic limits. There are various factors that make freedom of expression such a crucial problem, according to Toby Mendel. Because it is a cornerstone of democracy and because it contributes to the fight against corruption.

3. Expression rights encourage responsibility.

4. In society, the right to free speech is seen as the finest means of discovering the truth. The UDHR stipulates that there are restrictions on the exercise of freedom of expression.

According to Article 19 of the Declaration of Human Rights, “(1) Everyone has duties to the community in which alone his personality can develop freely and fully. (2) Everyone’s rights and freedoms must be subject to any restrictions imposed by law, which exist solely to ensure that others’ rights and freedoms are recognised and respected and to ensure that democratic society’s moral standards, laws, and welfare are upheld. The Law on the Human Rights of the People, as well as social and political order in a democratic society, both place restrictions on freedom of expression in an effort to prevent excessive freedom of expression and thought. We can therefore draw the conclusion that the presence of freedom of expression will also influence how that freedom is used.

As the constitution is translated, regulations are required in terms of restrictions in countries with positive laws. Restrictions in the national book instrument are governed by Article 28J paragraph (2).

The article’s setting is the same as that of the international book instrument’s limitations on the freedoms of expression and thought. A person who expresses an opinion is required to adhere to any legal restrictions. Necessary for others to enjoy their liberties and rights. Following that, it is also governed by the Criminal Code’s article 310, paragraph (91) connected to law enforcement and freedom of expression. Law No. 19 of 2016 Concerning Information and Electronic Transactions, Article 45A.

The fact that there is a digital universe that needs to be governed in order to meet modern needs is, of course, directly tied to the presence of these laws and regulations. Making appropriate policies from the perspective of the digital realm in settings in the digital realm is a challenge for the government of each country independently due to the distinction between the analogue and digital realms. The settings made by the service provider make it simpler for the government to concentrate more on other policies linked to digital media regulation. Policies concerning internet freedom, for instance, go beyond only addressing hate speech-related material. Policies concern individual freedom and fundamental technological usage process and content.

### **Governmental Legal Politics and Human Rights Protection**

Through the issuance of various regulations, such as the Minister of Communication and

Informatics Regulation No. The Year 2016 Concerning Amendments to Law No. 11 of 2008 Concerning Information and Electronic Transactions, the government is able to respond legally to the rapid development of information and technology and the various derivatives that have emerged. The legal basis for the government's legal actions will be these numerous regulations, which will be used to block a number of websites that are thought to contain content that breaches the law. Currently, the nexus of law enforcement and freedom of expression

When it comes to enacting constitutional values, particularly Indonesia as a state of law, law enforcement becomes a crucial tool. The state can only do so much for its people.

Every limitation clause should be read explicitly and as supporting rights.

All restrictions must be understood plainly and in light of the particular rights to which they apply. According to this tenet, rights should not be restricted in arbitrary ways.

The Siracusa Principles emphasised formulation clarity, method, and avoiding the creation of different interpretations. The Syracuse Principle is in line with the goals of the ICCPR provisions and calls for a precise description of restrictions in the interest of safeguarded rights. Restrictions cannot be applied arbitrarily or without a good justification, and they must be compensated when they are applied incorrectly.

It's important to strike a balance between millennials' freedom of information and the availability of skilled professionals literacy. This covers the knowledge, abilities, and attitudes needed to comprehend and make use of information received by computer technology. Millennials are improving their digital literacy skills, thus it is important to balance its implementation with understanding of normatively linked legal and regulatory requirements.

## Conclusion

Free speech and the right to an opinion are both considered to be inalienable human rights. Individuals and groups can communicate their views and opinions freely by using the backrest. In Article 28E paragraph (3), which states that everyone has the right to freedom of

association, the Indonesian state limits freedom of thought and expression. Getting together and voicing opinions The right to freedom of expression and opinion is the most pressing human rights standard among all those under evaluation, including political issues. One of the tenets of democracy is the principle of the right to freedom of expression and opinion. Freedom of thought and speech is a fundamental human right. time a group that gives someone the chance to express, ask for, and share many types of knowledge that can help them grow and express their opinions, particularly in a way that they believe is suitable

There are various factors that make freedom of expression crucial, according to Toby Mendel. Freedom of expression plays a role in eradicating corruption because it is a cornerstone of democracy, it encourages accountability, and it is seen as the best means to discover the truth in society. The government intends to issue various regulations as a result of its legal politics in response to the information and technology industries' rapid development and the myriad derivatives that have emerged in response. One such regulation is the Minister of Communication and Informatics' Regulation No. 19 of 2016 concerning Amendments to Law No. 11 of 2008 about Information and Electronic Transactions.

