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The Right to Freedom of Express Opinions in Public Based on Pancasila

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ABSTRACT

Freedom to express opinions in public is a human right guaranteed by the 1945 Indonesian Constitution and the Universal Declaration of Human Rights. The concept of human rights originating from the West resulted in its application often causing problems. This problem arises because the values of freedom that are generally upheld in the West are different from the specific values based on the philosophy and way of life in each country. The purpose of this study is to describe how the freedom to express opinions in public is in accordance with the values of Pancasila ideology. This research is normative legal research with a statute approach and a conceptual approach. Using primary and secondary legal materials also analyzed qualitatively descriptively. The results of the study conclude that the right to express freedom in public must be in accordance with the values of Pancasila, which is to fulfill the principle of balance between the rights and obligations of every citizen with the goal of responsible freedom being realized. Rights should not be understood only as claims on others, but also contain an obligation to respect the rights of others. Rights always have implications for obligations. All obligations, like all rights, derive from law, because all obligations are moral imperatives and all moral imperatives arise from law. Its application always upholds the values of divinity, humanity, unity, democracy and aims to realize social justice for all Indonesian people.

Keywords: *right of freedom, express opinion, Pancasila*

INTRODUCTION

The life of human civilization has undergone many developments and one of the things born from the process of human civilization is human rights (Marwadianto, 2020). In the context of human rights, the state is the main legal subject, because the state is the main entity responsible for protecting, upholding, and advancing human rights. In human rights law, the rights holder is an individual, while the duty bearer is the state. The state has three generic obligations related to human rights, namely to respect (obligation to respect), protect (obligation to protect), and fulfill (obligation to fulfill). Individuals on the other hand are bound by an obligation not to interfere with the human rights of other individuals (ibid). The implementation of the rights and obligations of citizens is one indicator of the success of the growth of democratic life. The democratic government system guarantees human rights as well as the rights and obligations of citizens as one of the important elements of democracy in addition to the rule of law.

Yudi Latif in his writings in *Harian Kompas* said that in an authoritarian political system, the main threat to freedom arises from the state. Whereas in a democratic system, threats come from the forces of society in the form of communalistic fanaticism. Fanaticism is the opponent or enemy of civil society because it rejects rationality, equality of citizenship, and constitutional government as the foundation of democracy. Established groups that experience setbacks and a new middle class whose vertical mobility is hampered often also promote fanaticism by showing an attitude of "hatred" towards freedom, difference and modernization. (Latif, 2020)

The results of the Kompas poll showed that the majority of respondents thought that efforts to protect human rights had not improved. The aspect of expressing freedom was responded positively by respondents, half of the respondents agreed that the freedom of civilians to voice their opinions was guaranteed and protected by the state. However, the issue of freedom of expression still faces challenges during the pandemic. The case of demonstrations completed by chaos and violence

related to the rejection of the Job Creation Act is a concrete example. The opinion of respondents is 68.2% that the party trusted to fulfill human rights, especially freedom of opinion, is the government entirely. ("Perlindungan HAM Jalan Di Tempat," 2020)

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Meanwhile, a survey conducted by National Commission of Human Rights on Public Views on the Right to Freedom of Opinion and Expression in Indonesia concluded that the majority of respondents felt that there was still room for freedom to criticize the government, at least 29.4% of the public considered criticizing the government to have the highest level of freedom. There are 52% who think that the freedom to criticize the government is reasonable, while those who think that it is too free are 18.6% ("Sebagian Warga Tak Bebas Kritik Pemerintah," 2020). *Kontras* revealed that there were several forms of violence by the apparatus in demonstrations against the Omnibus Law of October 8, 2020 and arbitrary actions by the police in disbanding demonstrations, such as arresting demonstrators who were not involved in the attack, violence against medical volunteers, unarmed protesters and non-resistance protesters when arrested, the police attacked PMKRI (Indonesian Catholic Student Association) secretariat in Surabaya (Faizal, 2020). Based on the data above, the question arises *how is the freedom to express opinions in public based on the values of Pancasila?*

4 RESEARCH METHOD

This research is a normative legal research with a statute approach and a conceptual approach by first seeking the views of scholars and legal experts (Marzuki, 2017), the concept was then linked to law no. 9 of 1998 concerning freedom of expression in public and Law no. 39 of 1999 concerning Human Rights. Using primary and secondary legal materials. The descriptive qualitative analysis was compiled in detail, systematically, and continuously, through steps, data reduction, data classification, data interpretation, data display and conclusions.

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