

## FREEDOM OF SPEECH AND HUMAN RIGHTS: WHAT CAN CIVIC EDUCATION DO?

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### ABSTRACT

Pancasila and Citizenship Education can be considered as a way to improve citizens' opinions. This research is a critical literature review of 40 articles from 2017 to 2022 and focuses on research progress on freedom of expression. The formulation and findings of this study indicated that the practice of freedom of expression in Indonesia has been regulated by law, but in some aspects, it is subject to restrictions. People are often act uncontrollably and abuse their freedom of speech. The impact of the existence of freedom of expression is that people can express themselves but must remain in the corridor of respecting the rights of others and actively participate in providing constructive suggestions for the state. Thus, this study concludes that freedom of expression must be balanced with good delivery procedures, citizenship and civility in expressing opinions is a cultural challenge that must be resolved to build healthy freedom of speech. Citizens' civility for opinion and expression is recommended as one of the crucial issues that should be discussed and developed in Pancasila and Citizenship Education and as well as for inclusive education program.

**Keywords: human rights; freedom of speech; civic education.**

### INTRODUCTION

One of the human rights inherent in every citizen and a constitutional right guaranteed by the state is freedom of speech. As a state that bases on law and democracy, the implementation of human rights in Indonesia needs to be regulated and protected by the state. Regulations related to freedom of speech and expression in Indonesia are regulated in Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia, which states that "everyone has the right to freedom of association, assembly and expression." This explains that freedom of speech and expression is a basic right inherent for everyone, and the state guarantees and protects its implementation. Freedom of speech and expression can take the form of freedom of speech, opinion, discussions, and press activities.

A democratic state guarantees a person's right to freedom of speech, so that people can express their thoughts and contribute to the development of the country. The public can express their opinion and provide constructive suggestions on

policies issued by the government or other state institutions. The contribution of the community in providing comments and suggestions for each policy is a form of control over the running government. The control exercised over the running of the government is an attempt to ensure that any policies or rules enforced are appropriate and beneficial to society in general and do not violate human rights.

International legal instruments contain rules and guarantees regarding the right to freedom of speech and expression. Several international rules governing freedom of expression include Article 19 of the Universal Declaration of Human Rights (UDHR) 1948. Article 19 of the Universal Declaration of Human Rights (UDHR) states that everyone has the right to hold opinions, express them, and share their opinion to other parties in various ways and formats, including by conveying opinions to people from other countries.<sup>1</sup> In

<sup>1</sup> UNESCO, *Toolkit Kebebasan Berpendapat Dan Berekspresi Bagi Aktivis Informasi* (Paris: UNESCO, 2003), p.16.

addition, the rules in Article 19 of the International Covenant on Civil and Political Rights (ICCPR) regulate the guarantee of the right to freedom of speech and expression, which was later ratified by the Indonesian government through Law No. 12 of 2005 concerning Ratification of the International Covenant on Civil and Political Rights (ICCPR). International principles recognize the rights and freedoms of speech and expression which are human rights and are regulated in the 1945 Constitution of the Republic of Indonesia.

Freedom of speech and expression is inherent aspect of human beings. Rights contain elements of protection and interests. In practice, someone with rights also has obligations as part of the balance of life in society. Freedom of speech and expression owned by a person is very important for the sustainability of the development of a democratic country. This is because, with freedom of speech and expression, the community can carry out a control function for the administration of the state. In the implementation of the government, community and community organizations can control it so that it is in the interests of the general public and human rights.<sup>2</sup>

A person has the rights and obligations that complement each other and balance their lives. It is everyone's responsibility to form a rigorous society. Recognition of the existence of human rights is one of the characteristics of a democratic country.<sup>3</sup> It is possible to conclude that a democratic country is one in which the people are sovereign over the state, control the government system, and exercise power.<sup>4</sup> A democratic state gives its citizens the right to freely express their aspirations,

opinions, and constructive suggestions in various forms, using a variety of media, both oral and written. The Constitution guarantees freedom of expression and speech.

When someone criticizes the government, it is not a violation of the law, freedom of expression is guaranteed in the Indonesian Constitution. However, expression of opinion must be conveyed in a civilized and constructive manner. Restrictions on freedom of expression and speech are aimed to create security and welfare among fellow citizens.<sup>5</sup> In practice, freedom of expression can also be limited by considering social harmony and respecting all community groups.<sup>6</sup>

Human rights that are owned by everyone in the form of freedom of expression and speech are always related to the rule of law. Indonesia has regulated the freedom of speech and expression as stated in Article 28E paragraph (3) and Article 28F which contain rules related to freedom of association, assembly, opinion, communication, and obtaining information, as well as conveying information using all types of channels. A democratic state also has the characteristics of recognizing and maintaining the freedom and independence of its citizens' rights, such as freedom of speech, the right to be elected and to vote, freedom of the press, religion, and freedom of assembly and association. In the realm of democracy, ensuring human rights is an important form of government. However, in its implementation, restrictions on freedom of expression are important to respect the rights of others, protect public security and order, protect health and morals, and pay attention to the impartiality of the judiciary.<sup>7</sup>

Human rights are guaranteed and given

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2 Muhammad Rochim, Abdul, & Andri, "Peran Organisasi Masyarakat Sebagai Mitra Dan Kontrol Pemerintah Terhadap Hak-Hak Demokrasi Berdasarkan UU NO 16 Tahun 2017 Tentang Organisasi Kemasyarakatan.," *Justicia Journal* 7, no. 1 (2018): 1–14; Eko Hidayat, "Perlindungan Hak Asasi Manusia Dalam Negara Hukum Indonesia," *ASAS* 8, no. 2 (2016): 80–87.

3 Ellya Rosana, "Negara Demokrasi Dan Hak Asasi Manusia," *Jurnal Tapis: Jurnal Teropong Aspirasi Politik Islam* 12, no. 1 (2016): 38–53.

4 Ali Mustofa Kamal, "Menimbang Signifikansi Demokrasi Dalam Perspektif AlQur'an," *ULUL ALBAB Jurnal Studi Islam* 16, no. 1 (2015): 45–61.

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5 Latipah Nasution, "Hak Kebebasan Berpendapat Dan Berekspresi Dalam Ruang Publik Di Era Digital," *Adalah* 4, no. 3 (2020): 37–48.

6 Howard-Hassmann, "Canadians Discuss Freedom of Speech: Individual Rights Versus Group Protection" *International Journal on Minority and Group Rights* 7, no. 2 (2000): 109–138.

7 Lucas Moreira Alcici, "The Protection of the Right to Freedom of Expression in International Human Rights Law : An Overview" 2, no. 2 (2020): 151–160.

to everyone, but in their implementation, they must pay attention to the rights of others and the obligations they have. Everyone must respect the human rights of others in carrying out social and state life. Restrictions on a person's rights and freedoms are imposed by enacting laws that are carried out to guarantee and recognize the rights of others. This is done through the consideration of values that live in a society such as morals, religious values, security, and public order. Freedom of speech and expression must be balanced and not excessive.<sup>8</sup>

Despite granting of rights and freedoms to the people being a characteristic of a democratic state, the state is given the authority to limit basic rights as well as perform its control function. In other words, a person's rights can limit and control the running of the government through human rights, but this limitation does not mean turning off the government's power. Democratic rights and freedoms belong to the people.<sup>9</sup>

Indonesian people have the right to think and express themselves, and with the development of information technology today, communication patterns have changed. The social media, and the emergence of the term "netizen", who can communicate on social media, resulted in a shift in the function and the internet community. Internet users in Indonesia as of 2020 are 65.3% of the total population or 175.5 million people.<sup>10</sup> A large number of internet users in Indonesia is a form of industrial revolution 4.0, which has resulted in people being able to access various interactive and dynamic information. The amount of information and ease of access they have makes it easy for people to express opinions, spread various news,

and provide responses to circulating content. This phenomenon is a form of participatory culture.

Various positive pieces of information can be found on the internet, but there is also information that contains negative things such as hoaxes, hate speeches, defamations, and radicalism. This needs to be addressed wisely so that the dissemination of information does not control and affect the civility of the community. The digital space should still have norms that are by the values of Pancasila. People should not feel free without rules even in the digital space because the right of citizens to express themselves in the digital space is regulated in Law Number 19 of 2016 (UU ITE). This rule becomes the legal basis, with the hope that the public will pay more attention to how to use social media properly, and the digital space becomes healthy, ethical, and more productive.

The extremely free and fast production of content and information on the Internet and social media spreads without being controlled and limited. This opens the possibility of spreading false news, hate speeches, and defamations, whether intentional or just for fun and the interests of a group. According to data from the Ministry of Communication and Information, there are 800,000 sites in Indonesia that are indicated to spread false news and hate speeches.<sup>11</sup> Robinopsnal Bareskrim Polri also indicated that from January to May 2022, the police took action on 55 cases of spreading false news or hoaxes.<sup>12</sup>

People need to pay attention to how to use their rights, namely freedom of speech and expression. Various problems such as defamation, the spread of hoaxes, and hate speeches are examples of the abuse of one's freedom of expression. Data from Emp Robinopsnal Pusiknas Bareskrim Polri showed an increase in the number

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8 Marwandianto and Hilmi Ardani Nasution, "Hak Atas Kebebasan Berpendapat Dan Berekspresi Dalam Koridor Penerapan Pasal 310 Dan 311 KUHP," *Jurnal HAM* 11, no. 1 (2020): 1–25.

9 Della Luysky Selian and Cairin Melina, "Kebebasan Berekspresi Di Era Demokrasi: Catatan Penegakan Hak Asasi Manusia," *Lex Scientia Law Review* 2, no. 2 (2018): 189–198.

10 Kementerian Komunikasi dan Informatika Republik Indonesia, "Data Statistik Hoaks Agustus 2018 - 31 Maret 2020," 2020.

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11 Ayu Yuliani, "Ada 800.000 Situs Penyebar Hoax Di Indonesia," *Kementerian Komunikasi Dan Informatika Republik Indonesia*, 2017, [https://www.kominfo.go.id/content/detail/12008/ada-800000-situs-penyebar-hoax-di-indonesia/0/sorotan\\_media](https://www.kominfo.go.id/content/detail/12008/ada-800000-situs-penyebar-hoax-di-indonesia/0/sorotan_media). p.1.

12 Pusiknas Bareskrim Polri, "Jumlah Warganet Meningkat, Penyebar Berita Hoaks Bertambah," *Pusiknas Bareskrim Polri*, 2022.

of criminal acts of defamation by 37% in 2022, as many as 162 cases were recorded, an increase from the previous year, with 118 cases in 2021.

The spread of hoaxes in Indonesia also needs to be considered. Freedom of speech and expression must be accompanied by media intelligence so as not to spread and consume fake news. According to data from the Ministry of Communication and Information (*Kominfo*), the spread of hoaxes is increasing from 2018-2020. The following diagram shows the findings of hoax issues from 2018-2020.<sup>13</sup>

**Figure 1. Findings of hoax issues in 2018-2020**



*Source: Ministry of Communication and Information*

Based on Diagram 1, the findings of hoax issues continue to increase and peaked in April 2019 at 501 cases. This shows that there is a structured effort and cooperation of all elements of society to increase public knowledge and awareness of the importance of filtering existing data and to be wiser in using their freedom of speech and expression. Freedom of speech and expression is also limited by the rights of others. Along with current technological developments, regulation on how to think and express well is needed, both in everyday life and in the social media space. This demonstrates the importance of paying attention to the laws and norms that apply, in this case, the norms that apply in Indonesia that are based on Pancasila's values.

The development of social media can become a bridge for the community to participate in the implementation of a democratic state. Social media as a public space can have a positive impact if used wisely to convey supportive and constructive public aspirations. However, in some

practices, people are less cautious and violate the others' boundaries and rights. Some cases, such as data on hoaxes and defamation, have been previously described. In addition, *Robinopsnal Bareskrim Polri*, Indonesian National Police's official investigation management application system, showed that the police had taken action on 33 cases of hate speech from January to May 2022.<sup>14</sup>

Freedom of expression is a human right inherent in an individual that remains in the corridor and consider the comfort and safety of others. Pancasila and Citizenship Education plays a vital role in increasing knowledge, skills, and attitudes through the values and norms prevailing in Indonesia on expressing opinions and expressions to form a good and intelligent citizen. This study will explain the role of Pancasila and Citizenship Education in appropriate practice of freedom of expression while respecting the rights of others.

Based on the description of freedom of speech and expression and its relation to Human Rights, and what Pancasila and Citizenship Education can do, some problems need to be studied to provide comprehension on appropriately expressing opinions based on norms and respect for others. Therefore, the questions raised on this study are:

1. How is the practice of freedom of expression as an implementation of human rights?
2. What is the impact of freedom of expression implemented in Indonesia?
3. What roles do Pancasila and Citizenship Education play in improving the way citizens express their opinion?

## METHOD

Content analysis was used to analyze 40 reference journal articles on freedom of expression and human rights published from 2017 to 2022. Content analysis is a research technique usually applied to the social sciences and humanities.<sup>15</sup> Content analysis is a method

13 Indonesia, "Data Statistik Hoaks Agustus 2018 - 31 Maret 2020."

14 Pusiknas Bareskrim Polri, "Berani Unggah Ujaran Kebencian, Siap-Siap Dihukum 6 Tahun Penjara," 2022.

15 J.H. McMillan, *Educational Research: Fundamentals*

that studies the content of written texts, artifacts, images, and recordings.<sup>16</sup> All articles were accessed from August 1, 2022, to August 15, 2022, through the databases contained in Google Scholar and Taylor & Francis. The terms used are ‘freedom of speech’, ‘human rights and freedom of speech’, and ‘civic education and freedom of speech’. During the document review, the articles containing the above keywords were downloaded and reviewed one by one by the researcher. One hundred and twenty-three articles were found in the Google Scholar database, and 55 from Taylor & Francis, (n = 178). The following articles were removed from the study: (1) duplicate studies (n = 50); (2) articles from conference proceedings, books, and book chapters were excluded (n = 28); (3) articles not related to human rights and freedom of expression (n = 60); Forty articles focusing on freedom of expression and Human Rights were thoroughly reviewed. This study used rigorous and extensive criteria and processes to ensure the generalizability of the findings and avoid bias in study selection. International and national journals are selected from Google Scholar to ensure the inclusion of high-quality scientific content. Research is included in the analysis only if it meets the following criteria: (1) research must be an empirical research paper published in a journal indexed by Scopus and Sinta; book chapters, conference proceedings, books, reviews, and theoretical articles are not considered; (2) empirical research (qualitative, quantitative and mixed methods) in the context of freedom of expression and human rights.

## FINDINGS AND DISCUSSION

### A. Freedom of expression and human rights

Humans have basic rights inherent in themselves that are given by God to everyone, are universal, must be respected, and cannot be revoked by anyone. These are known as human rights. In

the implementation and implementation of human rights in Indonesia, they protected and becomes an obligation and responsibility of the government, and also requires the role and participation of the community.<sup>17</sup> The rules and articles regarding the protection of human rights are adopted from the Universal Declaration of Human Rights (UDHR) article 19, which is further regulated in the International Covenant on Civil and Political Rights (ICCPR). A democracy is responsible for regulating and protecting one’s freedom of speech and expression. The Indonesian government has regulated and guaranteed freedom of speech, organization, and participation as stated in the 1945 Constitution of the Republic of Indonesia. Then completely and explicitly the rules related to human rights and the recognition of freedom of speech and expression are contained in article 28, paragraph 28A up to 28J of the 1945 Constitution, and the provisions of other articles. Freedom of expression is detailed in article 28F, which states that every citizen has the right to communicate, seek, obtain, and convey information using all types of media. It is also regulated in Law Number 39 of 1999 concerning Human Rights, article 4 paragraph (2), which discusses the right of a person to seek, obtain, process, and convey information using various media. From several rules, it can be concluded that the freedom of every individual is regulated and guaranteed by the state, both orally and written.

Freedom of expression can be limited and violations of the rights of others can result in a person being subject to criminal law. However, it is better if the community’s freedom of expression is used properly by taking preventive measures to prevent wrong freedom of speech and crossing the boundaries of values and norms that apply in Indonesia. In this case, regulation regarding freedom of expression is needed, especially regarding how to explain categories classified as

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*for the Consume.* (Pearson, 2012). p.239.

16 J. W. Creswell, *Riset Pendidikan: Perencanaan, Pelaksanaan, Dan Evaluasi Riset Kualitatif & Kuantitatif (Kelima)* (Yogyakarta: Pustaka Pelajar, 2015) p.53.

17 Tony Yuri Rahmanto, “Kebebasan Berekspresi Dalam Perspektif Hak Asasi Manusia: Perlindungan, Permasalahan Dan Implementasinya Di Provinsi Jawa Barat. Provinsi Jawa Barat,” *Jurnal Hak Asasi Manusia* 7, no. 1 (2016): 45–53.

human rights violations of others.<sup>18</sup> Freedom of expression is a right that every human being has, but it is necessary to understand that the freedom of others limited ours.<sup>19</sup> Restrictions on freedom of expression are important for respecting the rights of others, protecting public security and order, protecting health and morals, and focusing on the judiciary's impartiality.<sup>20</sup> Therefore, the implementation of freedom of speech and human rights are interrelated, focusing on inherent and self-owned right while paying attention to the rights of others.

Various efforts can be made to minimize the inappropriate use of freedom of speech and expression. Preventive efforts such as learning about civility in expressing ideas and mutual respect are needed. Freedom of expression is not the reason for the spread of hate speech.<sup>21</sup> Therefore, it is important to take another approach using preventive efforts, such as multicultural education, Pancasila, and civic education to build an ethical society.

In addition to preventive measures, it is crucial to enforce the law. Some existing legal rules can be used as a reference and considered by the public in expressing opinions. Establishing and clarifying internet content and content regulations based on human rights principles are essential.<sup>22</sup> This is because mass media and social

media are free for everyone to share, search, process information, and interact with users. This then needs to be widely disseminated by the government so that the public can understand the existing rules regarding freedom of expression, which is also limited by moral values, religious values, security, and public order in a democratic society.

The constitution guarantees freedom of expression and opinion. Criticism towards the government is not a violation of the law. The Indonesian Constitution guarantees freedom of expression. Restrictions on freedom of expression and opinion aim to creating security and welfare among fellow citizens.<sup>23</sup> In practice, freedom of expression has narrowed the space in verbal and written forms. Freedom of expression should be realized through constructive criticism and suggestions for state administrators or community groups.<sup>24</sup> Freedom of speech, especially in the digital space, influences public opinion on a case and its punishment. In some ways, freedom of speech remains limited, especially in the digital and online spaces.<sup>25</sup> Freedom of speech is important if it can contribute in development. Freedom of expression is the initial foundation of democracy. In some countries, rules that limit freedom of expressions, such as in the United States and Australia, restrict freedom of expression with anti-protest laws and rules on storing metadata that jeopardize the confidentiality of journalists.<sup>26</sup> Law still has the potential to suppress and limit

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18 Marwandianto and Nasution, "Hak Atas Kebebasan Berpendapat Dan Berekspresi Dalam Koridor Penerapan Pasal 310 Dan 311 KUHP"; Fadilah Raskasih, "Batasan Kebebasan Berpendapat Melalui Media Elektronik Dalam Perspektif Ham Dikaitkan Dengan Tindak Pidana Menurut Uu Ite," *Journal Equitable* 5, no. 2 (2021): 147–167.

19 Wafiyuddin Musyaffak and Moses Glorino Rumambo Pandin, "Historical Paradigm and Polemics In The Right To Freedom Of Speech In Public Space In The 21st Century," ... *Journal of Social Studies* 4, no. 2 (2021): 103–110.

20 Lucas Moreira Alcici, "The Protection of the Right to Freedom of Expression in International Human Rights Law : An Overview" 2, no. 2 (2020): 151–160"

21 Husni, "Moderate Muslims' Views on Multicultural Education, Freedom of Expression, and Social Media Hate Speech: An Empirical Study in West Java Indonesia," *Jurnal Penelitian Pendidikan Islam* 7, no. 2 (2019): 199-224.

22 Anak Agung Ayu Nanda Saraswati, "The Need to

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Protect Freedom of Expression on the Internet Through a Human Rights-Based in Indonesia," *ASEAN Journal of Legal Studies* 2, no. 1 (2019): 55–69.

23 Nasution, Latipah. "Hak Kebebasan Berpendapat Dan Berekspresi Dalam Ruang Publik Di Era Digital." *Adalah* 4, no. 3 (2020): 37–48.

24 Ongku, Mara. "HAM Dan Kebebasan Berpendapat Dalam UUD 1945." *Al WASATH Jurnal Ilmu Hukum* 2, no. 1 (2021): 29–40.

25 Yuru Shen, "On the Legal Regulation of Freedom of Internet Speech," *Academic Journal of Humanities & Social Sciences* 3, no. 7 (2020): 73–79.

26 Emily Howie, "Protecting the Human Right to Freedom of Expression in International Law," *International Journal of Speech-Language Pathology* 20, no. 1 (2018): 12–15, <https://doi.org/10.1080/17549507.2018.1392612>.

freedom of expression, especially those that are critical. This causes people to prefer silence and not comment on sociopolitical issues for fear of being considered insulting and defaming.

The protection of freedom of speech and expression has been regulated in Indonesia. In practice, the government's freedom of speech and expression is difficult to enforce and protect community organizations, due to the formulation and legal limits of freedom of speech that have not been comprehensively regulated, and the relevant agencies have not yet maximally carried out law enforcement functions.<sup>27</sup> Freedom of expression is not absolute, and in some circumstances can be very limited. Freedom of expression is limited to a certain portion with the aim of taking responsibility and giving a deeper meaning to freedom of expression.

Violence perpetrated by police officers in rallies, which is a form of freedom of expression, is regarded as human rights violation because the police ethic codes prohibited them from committing violence outside of procedures to masses of action. For this reason, the repressive measures taken are that the police must comply with procedures and adhere to the Code of Professional Ethics, follow implementation instructions, and applicable regulations to avoid violations in the excessive and arbitrary use of force.<sup>28</sup>

The Siracusa Principle allows for limitations on derogable rights, and freedom of speech and expression is indeed a right that can be limited. However, law enforcers need to encourage and application other than using punishment to prevent disruption of the rights to freedom of speech and expression in Indonesia.<sup>29</sup> Freedom

of expression consists of three components: first, freedom to examine and research information to build opinions; second, freedom of speech and third the declaration or dissemination of opinions through various available means.<sup>30</sup> Freedom of speech and expression must be supported by three communication steps: taking the time to acknowledge everyone's rights, adapting communication styles, listening. Adjusting the communication style means that communication social media ethics must be built.<sup>31</sup> This shows that it is important to create a society that is intelligent and capable of expressing opinions without interfering with the rights of others. Pancasila and Citizenship Education play a role in improving public civility, especially in expressing opinions. Generally, people become good and intelligent citizens.

The practice of freedom of expression in Indonesia has been regulated by law, but in some aspects, it is subject to space restrictions. People are often uncontrolled and abuse their freedom of speech. In addition, several violations and narrowing of freedom of expression were carried out by the government to maintain comfort and guarantee the rights of others. Freedom of expression on social media also faces several problems, such as spreading fake news and hates. Therefore, it is important to provide clear rules regarding boundaries that should not be violated opinion and expressions.

## **B. The Impact of Freedom of Expression**

The International Covenant on Civil and Political Rights (ICCPR) explicitly explains that it is possible to limit or reduce various categories

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27 Kristian Megahputra Warong, Caecilia J. J. Waha, and Cornelius Tangkere, "Kajian Hukum Hak Asasi Manusia Terhadap Kebebasan Berpendapat Oleh Organisasi Kemasyarakatan Di Media Sosial SOSIAL," *Lex Administratum*, viii, no. 5 (2020): 44–53.

28 Sarah Safira Aulianisa and Athira Hana Aprilia, "Tindakan Represif Aparat Kepolisian Terhadap Massa Demonstrasi: Pengamanan Atau Pengekangan Kebebasan Berpendapat?," *Padjadjaran Law Review* 7, no. 2 (2019): 26–37.

29 Marwandianto, and Hilmi Ardani Nasution. "Hak

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Atas Kebebasan Berpendapat Dan Berekspres Di Dalam Koridor Penerapan Pasal 310 Dan 311 KUHP." *Jurnal HAM* 11, no. 1 (2020): 1–25.

30 Bora Erdem, "The Elements of Freedom of Expression in the Light of the European Convention on Human Rights," *European Journal of Interdisciplinary Studies* 4, no. 2 (2018): 181–187.

31 Sharynne McLeod, "Communication Rights: Fundamental Human Rights for All," *International Journal of Speech-Language Pathology* 20, no. 1 (2018): 3–11, <https://doi.org/10.1080/17549507.2018.1428687>.

of human rights, even if it is done conditionally. This shows that a human rights perspective or instrument allows the fulfillment of human rights to be compromised with other matters, such as the occurrence of large-scale security disturbances, public security threat, natural disasters, and so on. As long as these prerequisites are implemented, they still uphold democracy and are carried out solely for the realization of social welfare.

Rules related to civil rights are drafted to find a balance between the country's 'pure' interests in dealing with power abuse by an authoritarian regime and legitimizing its domestic emergency. In this rule, the provisions for limiting certain human rights and applying emergency conditions are explicitly regulated in Article 4 and the general principles are supplemented by Article 5. Article 4 states that there are seven non-derogable rights. This does not mean that in an emergency, one can ignore other human rights and continue to fulfill obligations to comply with and comply with other provisions of international law.

Following the previous explanation, it can be said that freedom of expression, expression of opinion as stated in Article 19 of the ICCPR, and the right to organize/associate (Article 21 of the ICCPR) can be subject to derogation (limitation or reduction). Article 19, Article 20, and sub-articles 19 and 2 contain the subject of derogation itself. The provisions in Article 20 serve as barriers to freedom of expression. This is very relevant to preventing freedom of expression in writing, images, or audio that contains calls or propaganda for war. In addition, restrictions on freedom of expression are also limited to voicing hatred based on nationality, race, or religion which is an act of incitement to discrimination.

Freedom of speech is a human right and is the fundamental right as the principal guardian of human rights. In practice, freedom of speech and expression is misused to spread hate and incitement issues.<sup>32</sup> Freedom of speech, especially

in the digital space, stirs public opinion and influence a case and its punishment. In some ways, freedom of speech is still limited, especially in the digital and online space.<sup>33</sup> What has happened to freedom, speech, teaching, and learning, across various subject positions and higher education cultures, remains largely unexplored, such as the alt-right movement, neoliberalism and liberalism, and post-truth values and orientations evolve. The idea of freedom of expression can be used as a mean for emotional warfare and the politicization of expression and opinion.<sup>34</sup> Several countries impose laws and impose sanctions on digital platforms to deal with the spread of fake news. However, this deprives and limits people's right to freedom of expression. Therefore, it is necessary to review regulations related to the limitation of freedom of expression by international human rights standards.<sup>35</sup>

Expressing opinions is a human right. Regarding the right to express opinions, it is classified as treason, and it is necessary to see if it is proven that in its implementation there are indications of those who intend to overthrow the government with the intention of killing, or seizing independence.<sup>36</sup>

Freedom of expression is not absolute, and in some circumstances can be very limited. Freedom of expression is limited to certain areas with the aim that people can take responsibility and give a deeper meaning to freedom of expression.<sup>37</sup> The

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32 Selian, Della Luysky, and Cairin Melina. "Kebebasan Berekspresi Di Era Demokrasi: Catatan Penegakan Hak Asasi Manusia." *Lex Scientia Law Review* 2, no.

2 (2018): 189–198."

33 Shen, Yuru. "On the Legal Regulation of Freedom of Internet Speech." *Academic Journal of Humanities & Social Sciences* 3, no. 7 (2020): 73–79.

34 Anatoly V. Oleksiyenko and Liz Jackson, "Freedom of Speech, Freedom to Teach, Freedom to Learn: The Crisis of Higher Education in the Post-Truth Era," *Educational Philosophy and Theory* 53, no. 11 (2021): 1057–1062.

35 Selman Özdan, "The Right to Freedom of Expression Versus Legal Actions Against Fake News: A Case Study of Singapore," in *The Epistemology of Deceit in a Postdigital Era* (Springer, Cham, 2021), 77–94.

36 Paidjo, Hufron, and Erny Herlin Setyorini, "Hak Asasi Manusia Dalam Kebebasan Berpendapat Berkaitan Dengan Makar," *Jurnal AKRAB JUARA* 4, no. 5 (2019): 146–152.

37 Zico Junius Fernando et al., "The Freedom of Expression in Indonesia," *Cogent Social Sciences* 8,

law still has the potential to suppress and limit freedom of expression, especially those that are critical. This causes people to prefer silence and not have any comments on sociopolitical issues for fearing of considered insulting and defaming. It is important to establish and clarify internet content and content regulations based on human rights principles.<sup>38</sup>

Freedom of expression has been regulated, but there are still shortcomings such as unclear restrictions on what should not be violated. In addition, if in expressing an opinion you become an anarchist (in a demonstration), then the police can take action because it cannot be categorized as a violation of human rights.<sup>39</sup> This shows that in practice, freedom of speech and expression must be conveyed in a good and civilized manner.

Regarding the rights of opinion and expression, Indonesia and Singapore occupy weak positions as democracies. When examined further, there are differences in the recognition of freedom of expression. Singapore's weakness is that freedom of expression is not a human right, but a citizen's right and can be easily restricted by the Singapore parliament. This has led to many substantial restrictions at the regulatory level. Meanwhile, in Indonesia, restrictions on freedom of expression are more at the level of field practice and are deviate from the applicable laws and regulations. Indonesia recognizes human rights, and so far only the ITE Law has substantively caused problems because it limits people's freedom of expression.<sup>40</sup>

At this time, Indonesia has entered a new era, the era of digital democracy, where digital democracy is a way or strategy to implement the concept of democracy that is not confined within a time limit, so that the practice of democracy can be carried out anywhere, anytime, and quickly. One way to implement this is through social media platforms that are easily accessible to various groups. However, in practice, users commit several violations. Citizens can legally express their criticisms of every public policy formulated by the government and its institutions that they can control the policy if it does not meet the objectives. Indonesia has not yet contained specific regulations regarding online petitions. The online petition platform can facilitate citizen participation in public management.<sup>41</sup>

Civil society organizations freedom of expression on social media is fully regulated. However, there has been a shift in its implementation since then. In the enforcement and protection of community organizations, there are no clear boundaries and formulations related to freedom of expression, and the agency that controls and enforces the law is not maximal.<sup>42</sup> Democratic countries have the characteristics of recognizing freedom of speech and expression which are human rights. However, its implementation is limited by human rights and the legal interests of others. Some inappropriate implementations of freedom of expression can cause problems such as defamation, insult, slander, and blasphemy.<sup>43</sup>

Police officers can take preventive measures to reduce hate speeches on social media. If this effort is unsuccessful, the Indonesian National Police can carry out law enforcement in the form

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no. 1 (2022): 1–11, <https://doi.org/10.1080/23311886.2022.2103944>.

38 Anak Agung Ayu Nanda Saraswati, "The Need to Protect Freedom of Expression on the Internet Through a Human Rights-Based in Indonesia," *ASEAN Journal of Legal Studies* 2, no. 1 (2019): 55–69.

39 Nur Yusrriyah Bakhtiar and Muhammad Rinaldy Bima La Ode Husen, "Pemenuhan Hak Kebebasan Berpendapat Berdasarkan UndangUndang Nomor 9 Tahun 1999 Tentang Kemerdekaan Berpendapat Di Muka Umum," *Journal of Lex Theory (JLT)* 1, no. 1 (2020): 41–58.

40 Yassar Aulia, "Aktualisasi Kebebasan Berpendapat Di Negara Demokrasi Yang Lemah: Perbandingan Indonesia Dan Singapura," *Padjadjaran Law Review* 7, no. 2 (2019): 1–14.

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41 Nurul Safitri et al., "Pengaturan Hukum Petisi Online Sebagai Kebebasan Berpendapat Terhadap Penyelenggaraan Pemerintahan" 2, no. 6 (2022): 631–640.

42 Warong, Waha, and Tangkere, "Kajian Hukum Hak Asasi Manusia Terhadap Kebebasan Berpendapat Oleh Organisasi Kemasyarakatan Di Media Sosial SOSIAL." *Lex Administratum*, viii, no. 5 (2020): 44–53.

43 Cokorde Istri Dian Laksmi Dewi, "Aspek Hukum Kebebasan Berpendapat Dan Berekspresi," *YUSTITIA* 15, no. 1 (2021): 26–34.

of repressive actions and refer to the rules that apply in Indonesia.<sup>44</sup>

The impact of freedom of expression is that people can express themselves but must remain in the corridor of respecting the rights of others, and actively participate in providing constructive suggestions for the country. Thus, this study concludes that freedom of expression must be balanced with reasonable delivery procedures. Civility of citizenship in expressing opinions is a cultural challenge that must be resolved to build a considerable freedom of speech.

### C. The role of civic education in improving the citizenship of opinion

Civic education plays a very important role in building a civilized society of opinion. The purpose of civic education is to create advanced society. Therefore, civic education can be used in the social lives of the communities to build a civilized society. This can be done through the structured and joint efforts of all components of the country, including families, schools, and communities. For example, if it is linked to the school curriculum, learning can be combined with technological developments and social media and focus on how to think, comment, produce content, and share good information. Some have happened to freedom, speech, teaching, and learning, across various subject positions and higher education cultures, much of it remains unexplored, such as the neo-liberalism and liberalism movements, and post-truth values and orientations are evolving.<sup>45</sup>

Several studies have stated that apart from making laws and punishments, preventative measures are very important.<sup>46</sup> This is so that

people can use their freedom of expression well and not seem afraid to express criticism, which causes people to prefer silence and not give any comments on socio-political issues for fear of being considered insulting and defaming. It is important to establish and clarify internet content and content regulations that are by human rights principles.

Freedom of expression can be exercised in the real world and on social media platforms. Freedom of expression refers to the implementation of Pancasila values in its five precepts. The limitations and application of freedom of expression must be addressed properly.<sup>47</sup> Freedom of expression owned by the community is limited by a mechanism that maintain the fundamental values of Indonesian nation. The application of progressive law is used as a tool to harmonization legal law between rigid written legal rules and a dynamic and ever-evolving society.<sup>48</sup>

Several countries impose laws and impose sanctions on digital platforms to deal with the spread of fake news. However, this deprives and limits people's right to freedom of expression. Therefore, it is necessary to review the rules related to the limitation of freedom of expression in international human rights standards.<sup>49</sup>

Restrictions related to freedom of expression are important for respecting the rights of others, protecting public security and order, health and

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44 Heri Gunawan, "Tinjauan Yuridis Terhadap Ujaran Kebencian (Hate Speech) Di Media Sosial Dikaitkan Dengan Kebebasan Berpendapat Dan Undang-Undang Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik," *Res Nullius Law Journal* 2, no. 1 (2020): 76–86.

45 Oleksiyenko and Jackson, "Freedom of Speech, Freedom to Teach, Freedom to Learn: The Crisis of Higher Education in the Post-Truth Era." *Educational Philosophy and Theory* 53, no. 11 (2021): 1057–1062.

46 Anak Agung Ayu Nanda Saraswati, "The Need to

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Protect Freedom of Expression on the Internet Through a Human Rights-Based in Indonesia"; Marwandianto and Nasution, "Hak Atas Kebebasan Berpendapat Dan Berekspresi Dalam Koridor Penerapan Pasal 310 Dan 311 KUHP."

47 Amalya Salsa Saparina and Dinie Anggraeni Dewi, "Implementasi Nilai-Nilai Pancasila Melalui Praktik Kebebasan Berpendapat Di Indonesia" 18, no. 1 (n.): 49–62.

48 Khotbatul Laila, "Hukum Progresif Sebagai Solusi Kebebasan Berpendapat Dengan Asas Demokrasi Pancasila" (2019): 177–186.

49 Özdan, Selman. "The Right to Freedom of Expression Versus Legal Actions Against Fake News: A Case Study of Singapore." In *The Epistemology of Deceit in a Postdigital Era*, 77–94. Springer, Cham, 2021; Lucas Moreira Alcici, "The Protection of the Right to Freedom of Expression in International Human Rights Law : An Overview" 2, no. 2 (2020): 151–160.

morals, and focusing on the impartiality of the judiciary. If a person's freedom is used to spread hate speeches and false news, then this is contrary to the rights of others. Thus, law enforcement is needed to combat hate speech and an educational approach is. Therefore, multicultural education can be used to build an ethical society.<sup>50</sup>

Freedom of speech and expression must be supported by three communication steps: taking the time to acknowledge everyone's rights, adapting communication styles, listening. Adjusting the communication style means being able to build communication and social media ethics. Indonesia has regulated freedom of expression in law, namely freedom of speech, expression of thoughts, and association. In practice, freedom of expression is specified in verbal and written forms. Freedom of expression should be realized in the form of constructive criticism and suggestions for state administrators or community groups. Therefore, civility of citizens in opinion and expression is recommended to be one of the crucial issues that should be discussed and developed in Pancasila and Citizenship Education and recommended for inclusive education plans.

## CONCLUSION

Freedom of speech and expression in Indonesia have been regulated. The implementation shows that people must pay attention to civility in opinion and expression. The impacts of freedom of expression are people can express themselves while maintaining respect on others people's rights, and actively participate in providing constructive suggestions for the state. Therefore, this study shows that freedom of expression must be balanced with an effective delivery process, and that civic politeness in expressing views is a cultural problem that must be overcome to realize

considerable freedom of thought. Citizens' civility in opinion is indicated as one of the critical topics to be considered and developed in Pancasila and Citizenship Education, as well as in the design of inclusive education programs.

The government as a policymaker and regulator, plays a role in preparing curriculum policies that accommodate various things or materials that contain global perspectives, global education, and multicultural education. It is hoped that by including such material will encourage students to have a perspective or insight that is good or well informed and thoughtful, which is characterized by the ability to seek and utilize the latest global information to develop their competence.

Lecturers and teachers, as parties who directly interact with students, are required to have adequate insight related to various global issues (well-informed) as material for study or discussion with students. Adequate material from various media will be stimulate students to be actively and critically involved in the learning process. In addition, the application of an interesting learning model that can stimulate the active participation of students must be considered by teachers and lecturers in choosing a learning model that will be applied in learning. The brainstorming learning model, for example, if properly implemented, encourages students to convey ideas or opinions related to the problems studied.

Another learning model is an action learning model, emphasizing concrete actions that can be taken by students to solve problems together. With this model, students can be motivated to always be involved in the learning process by having the courage to express opinions that are appropriate to the material being discussed and oriented towards problem solving. Experts suggest the importance of learning that invites students' critical thinking skills with interactive learning models, reflective inquiry, and problem solving.

Furthermore, students also play an important role in actualizing Civics learning to prepare civic competence in the following opinion: follow the

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50 Husni, "Moderate Muslims' Views on Multicultural Education, Freedom of Expression, and Social Media Hate Speech: An Empirical Study in West Java Indonesia" *Jurnal Penelitian Pendidikan Islam* 7, no. 2 (2019): 199–224; Marwandianto, and Hilmi Ardani Nasution. "Hak Atas Kebebasan Berpendapat Dan Berekspresi Dalam Koridor Penerapan Pasal 310 Dan 311 KUHP." *Jurnal HAM* 11, no. 1 (2020): 1–25.

learning process well and be disciplined as an effort to realize a democratic learning atmosphere. This is none other than because the Civics class is a democracy laboratory, meaning that in Civics lessons it is hoped that democratic values will be fostered, for example mutual respect, mutual respect, cooperation, acting ethically, being honest, responsible, competing in a healthy manner, and so on. Growing awareness to accept differences of opinion among students as well as differences in the views of other people in this world, especially in Indonesia. In addition, it is also important to develop awareness in understanding the current global dynamics with interdependence among countries.

## ACKNOWLEDGMENT

Thanks are conveyed to parties who assist during implementation of research and writing of this article Head of Legal Research and Development Agency and Human Rights Ministry of Justice and Human Rights of the Republic of Indonesia, as well the editors of the Human Rights Journal who have helped complete and complete this article. Hopefully, this article adds insight neglect of scientific responsibility in the country of Indonesia that we love

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