

Shipping Opinions Through Demonstrations Which Cause Road Connections

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Info Articles	Abstract
Article History Received : 2019-09-04 Revised: 2019-09-10 Published: 2019-09-30 Keywords: <i>Expressing Opinions, 1945 Constitution, Demonstrations, Human Rights, Traffic Jams.</i>	Expressing opinions in public is an act that is permitted and legally protected by law. In general, everyone has the right to freedom of opinion, assembly, and expression as regulated in Article 28E Paragraph (3) of the 1945 Constitution of the Republic of Indonesia. Furthermore, these rights are also regulated under Law Number 9 of 1998 concerning Freedom of Expression in Public and Law Number 2 of 2002 concerning the Indonesian National Police. Freedom of expression is a fundamental human right owned by every citizen and serves as an important element in the implementation of democracy in Indonesia. However, in practice, the exercise of expressing opinions through demonstrations often creates problems that may undermine democratic values themselves. Demonstrations occasionally develop into anarchic actions, including acts of violence, destruction of public facilities, disruption of public order, and traffic congestion that negatively affect surrounding communities. Such conditions may cause material and immaterial losses and create social unrest. This study aims to analyze the legal regulations governing demonstrations in Indonesia and examine law enforcement efforts against demonstrators who engage in anarchic behavior. The research uses a normative legal research method with statutory and conceptual approaches by analyzing relevant laws and legal literature. The findings indicate that although freedom of expression is constitutionally guaranteed, its implementation must remain within the limits established by law and respect public order, security, morality, and the rights of others. Therefore, effective law enforcement and increased public legal awareness are necessary to ensure that demonstrations remain peaceful, orderly, and consistent with democratic principles and the rule of law.

I. INTRODUCTION

The Republic of Indonesia is a state of law with standards and regulations made by lawmakers to be followed and enforced only through police institutions or apparatuses which can be called the police as a conscious element of every person.

Demonstrations must also uphold ethics and be non-violent. Demonstrations have become a daily occurrence, and they are typically held to express opinions or oppose policies implemented by a particular party, or they can also be used as a means of political pressure by a vested interest group. Demonstrations are often held by students

who oppose government policies. (Badaruddin, dkk. 2020)

Freedom of speech is the embodiment of the values contained in Pancasila. Freedom of speech is part of human rights that are legally protected by law. Law No. 9 of 1998 concerning Freedom of Expression in Public Article 1 number 3 explains that "Demonstrations or also called demonstrations are activities carried out by one or several or many people to express their thoughts verbally, or in writing and so on through demonstrations in public." Demonstrations or demonstrations are also called mass protest movements in public places. Demonstrations are

usually carried out to express opinions or thoughts towards a group or to oppose the policies of a political party, and can also be carried out as a means of exerting political pressure on any interest group.

The police are one of the officers who play a role in organizing demonstrations, especially if the government or students hold demonstrations, where the duties and roles of the police at that time are to protect the community, maintain order, and smooth movement of the community, and stability of the community to keep it orderly.

In addition, we must understand that protesting or expressing opinions in front of the general public or society is essentially the freedom of assembly and opinion. So, basically, the State and all its apparatus respect, protect, uphold, and advance it. Expressing opinions in public is a form of human rights, in Law No. 39/1999 concerning Human Rights (HAM). Article 23 paragraph (1) states that every person can express, express, and disseminate their opinions according to their conscience.

Freedom of speech is often abused due to a lack of control. Without clear oversight, citizens will expect that any policy that does not benefit themselves or their organization will be opposed and considered as meaningless freedom of speech politics. (Badaruddin, dkk. 2020)

II. RESEARCH METHODS

The method used in this research is a normative legal research method, where the reference materials used are statutory regulations as the main material (primary legal material) and secondary legal materials such as literature, law books, scientific works, scientific articles that discuss legal regulations regarding demonstrations, and criminal law offenses and law enforcement against demonstrators who behave anarchically.

III. RESULTS AND DISCUSSION

A. Regulation of Law Number 9 of 1998 on Demonstrations.

Demonstrations involve the public expression of opinions. Meanwhile, Gabriel A. Almond categorizes demonstrations as a form of non-conventional participation. This differs from the opinion of Michael C. Hudson and Charles Lewis Taylor, who argue that "demonstrations and protests" are the mildest form of political conflict among all possible ones.

Article 1 paragraph (3) of Law Number 9 of 1998 concerning Freedom of Expression in Public defines a demonstration as "an action carried out by one or more persons to express their ideas verbally, in writing, and so on in a demonstrative manner in a public place." Meanwhile, paragraph (4) states that the method of conveying opinions through a procession on a public road is called a convoy or parade. (Cahyadi Adha. 2022)

Thus, demonstrations can be conducted individually or in groups to express opinions openly in public. Demonstrations are usually conducted as follows:

1. A form of reaction to uncertainty regarding demands for change.
2. There is disappointment regarding an aspiration that is not immediately followed up or fulfilled by the authorized party or institution.
3. There is a breakdown in dialogue or a closure of communication channels between the interested parties.
4. As a form of open statement in conveying criticism, corrections and demands. (Effendi Orien, 2021)

Furthermore, freedom of expression is a human right recognized by all peoples worldwide. However, the recognition of human rights in Indonesia is enshrined in the 1945 Constitution, which actually predates the United Nations General Declaration, which was enacted on December 10, 1948. Specifically, amendments were made to the 1945 Constitution. The

Indonesian Constitution, the 1945 Constitution, with its special chapter on Human Rights, represents a significant step forward for the Indonesian people to live in a democratic state governed by the rule of law.

In Article 28 of the 1945 Constitution which regulates freedom of opinion before the reformation, it states: "Freedom of association and assembly, expressing thoughts orally and in writing and so on is determined by law." However, after the reformation in 2000, the second amendment to the 1945 Constitution expressly stated that the constitutional guarantee for "freedom of opinion" was clearly and firmly stated, namely in Article 28E paragraph (3) of the 1945 Constitution which states, "Everyone has the right to freedom of association, assembly, and expression of opinion." Thus, the 1945 Constitution directly and firmly guarantees freedom of association or organization (freedom of association), freedom of assembly (freedom of assembly), and freedom of expression, not only for every Indonesian citizen, but also for every person in Indonesia, in this case foreigners as residents or non-residents. (Hsb MO. 2021)

Freedom of expression can only be limited by very limited criteria and must be made carefully and in accordance with Article 19 paragraph (3) of the International Covenant on Civil and Political Rights (ICCPR) which has been in force since 1976, and ratified by Indonesia through Law Number 12 of 2005 concerning the Ratification of the International Covenant on Civil and Political Rights. In the life of the Indonesian state, every person who expresses his opinion or expresses his thoughts is constitutionally guaranteed. As stated in the results of the Amendment to the 1945 Constitution, Article 28 E paragraph (3) states that freedom of expression is also part of human rights.

In the early days of reform, before the amendment of Article 28 of the 1945 Constitution, it was stated that the Freedom of association and

assembly, expressing thoughts verbally and in writing and so on were stipulated by law. So that one of them was born, Law Number 9 of 1998 concerning Freedom of Expression of Opinions in Public. As one of the rights of citizens in the freedom and independence of expressing opinions, clearly in Article 1 point (1) of Law No. 9 of 1998 concerning freedom of expression in public is the right of every citizen to express thoughts verbally, in writing, and so on freely and responsibly in accordance with the provisions of applicable laws and regulations. The freedom for each person to express opinions also needs regulation in terms of "expressing opinions in public" so as not to cause disturbances or conflicts between members of society.

Article 6 of Law No. 9 of 1998 states that citizens who express their opinions in public are obliged and responsible for:

- 1) Respect the rights and freedoms of others,
- 2) Respecting generally recognized moral rules,
- 3) Comply with applicable laws and regulations,
- 4) Maintain and respect security and legal order, and
- 5) Maintaining the integrity and integrity of the nation.

The state, in this case the state apparatus, is obliged to provide guarantees of protection and access to services for the realization of freedom of expression in public in accordance with the provisions of the procedures of the law. The obligations and responsibilities of government apparatus are regulated in Article 7 of Law No. 9 of 1998 to (1) protect human rights, (2) respect the principle of legality, (3) respect the principle of presumption of guilt, and (4) provide security. It is stated firmly in Article 5 that: Citizens who express opinions in public have the right to: (a) express their thoughts freely; (b) obtain legal protection.

Furthermore, Article 8 of Law Number 9 of 1999 states that the public has the right to participate responsibly so that public expression

of opinion can occur safely, orderly, and peacefully. Public expression of opinion can take place through demonstrations, parades, public meetings, or open forums.

Expressing opinions in public as above, is carried out in places open to the public, except for the following places in accordance with Article 9 paragraph (2), namely:

- 1) In the presidential palace area, places of worship, military installations, hospitals, airports or seaports, train stations, land transportation terminals, and national vital objects
- 2) On national holidays. (Irawan Dodi. 2022)

B. How to enforce the law against anarchic demonstrators

A demonstration or protest is a public movement carried out by a group of people. Demonstrations are usually held to express a group's opinion or oppose a policy implemented by another party. Demonstrations are usually carried out by community groups opposing government policies or laborers or workers dissatisfied with the treatment given by their employers. However, demonstrations are also carried out by other groups with other goals. Demonstrations can sometimes result in the destruction of property. This can occur due to the excessive desire of demonstrators to express their opinions.

Freedom of expression is a consequence of the implementation of a democratic system in a country. In Indonesia, as previously explained, freedom of expression is a legal product of the Habibie era, considered strategic for creating a more democratic state. The implementation of a democratic system, in the context of "expressing opinions in public," has had a significant impact on social life. (Mandang Olivia Adelwais. 2023)

Publicly expressing opinions through demonstrations is one way to convey desires to the government. However, sometimes these opinions are not heard or do not meet

expectations. This situation, combined with other factors, such as encouragement from certain parties to commit anarchic acts, or the resulting frustration, gives rise to anarchy. (Pajow Mercy Gladys. 2016)

The freedom of the public to express their aspirations or opinions in public is essentially reflected in Article 28 of the 1945 Constitution, Article 2 of Law Number 9 of 1998, and other regulations governing the Freedom of Expression in Public. Therefore, according to the constitution and the principles of state administration in Indonesia, this is legitimate. However, over time, as explained above, the freedom to express opinions in public often leads to conflict or friction between communities, so that such incidents actually erode the meaning of freedom of expression itself. Anarchy is closely related to the term violence. The term violence is used to describe behavior, whether overt or covert, and whether offensive or defensive, accompanied by the use of force against others. Anarchy is physical chaos that affects civil society in the form of clashes between humans, mass brawls, murder, looting, and destruction of public facilities and infrastructure, as well as private facilities, or other criminal acts. Therefore, anarchy does not bring positive changes in the social order of society, but only causes physical damage and social trauma (fear that grips society). (Selian DL and Melina C. 2018)

Not everything in these demonstrations goes according to plan, whether it's the police overseeing the demonstrations, the protesters, or the public around the demonstrations. These demonstrations often end in chaos and anarchy, caused by various factors on the ground, resulting in traffic jams, roadblocks, tire burning, clashes, and the destruction of public facilities.

If this is the case, the intended message will not be conveyed effectively. Instead, many people will suffer losses, both material, non-material, and physical. Furthermore, those responsible for the

demonstration and those participating in the destruction and provocation will be subject to appropriate legal sanctions.

As stated in Chapter V of Law Number 9 of 1998 concerning Freedom of Expression in Public, it states that "if the perpetrator or participant in the expression of opinion in public commits an unlawful act, they may be subject to legal sanctions in accordance with the provisions of applicable laws. And if the person responsible for implementing the expression of opinion in public commits a criminal act, they may be subject to sanctions in accordance with applicable laws and increased by 1/3 (one third) of the principal penalty.

Some demonstrations that ended in anarchy, one of which was the demonstration in 1998 by students from various parts of Indonesia who demanded that President Soeharto step down from his position and there was also a demonstration that rejected the increase in fuel prices on March 30, 2012, thousands of people took part in the demonstration which involved students and people from various parts of the city. (Ramandey Nurlia Ayu. 2019)

IV. CONCLUSION AND SUGGESTIONS

A. Conclusion

Freedom of expression is regulated by Law No. 9 of 1998 concerning Freedom of Expression in Public. Demonstrations must uphold ethics and must not be anarchic. However, these demonstrations often do not go as planned. They often end in chaos, resulting in road blockages, tire burning, clashes, destruction of public facilities, and traffic jams.

As stated in Law Number 9 of 1998, in Chapter V Concerning Freedom of Expression in Public, it states "if the perpetrator or participant in the expression of opinion in public commits an unlawful act, he/she may be subject to legal sanctions in accordance with the provisions of applicable laws. And if the person responsible for

implementing the expression of opinion in public commits a criminal act, he/she may be subject to sanctions in accordance with applicable laws and increased by 1/3 (one third) of the principal penalty.

B. Suggestions

Based on the discussion regarding the regulation of demonstrations under Law Number 9 of 1998 concerning Freedom of Expression in Public and law enforcement against anarchic demonstrators, it can be concluded that freedom of expression is a constitutional right guaranteed by the 1945 Constitution and recognized as part of human rights in Indonesia. However, the exercise of this right must remain within the limits of applicable laws and regulations and respect public order, security, and the rights of others.

Therefore, the government and law enforcement agencies, particularly the police, are expected to improve preventive measures through education, socialization, and public awareness programs regarding the procedures, rights, and obligations in expressing opinions in public. Such efforts are important to ensure that demonstrations remain peaceful, orderly, and in accordance with democratic principles without leading to anarchic behavior or acts of violence.

In addition, law enforcement agencies should strengthen professionalism, neutrality, and consistency in handling demonstrations, particularly when dealing with demonstrators who engage in unlawful acts, destruction of public facilities, violence, or other criminal offenses. Legal sanctions against anarchic demonstrators should be implemented firmly, fairly, and in accordance with applicable laws to create legal certainty while maintaining public trust in democratic and legal institutions.

Furthermore, effective communication channels between the government and society should be improved to accommodate public aspirations and reduce dissatisfaction that may trigger demonstrations ending in anarchy.

Constructive dialogue between authorities and community groups can serve as an alternative mechanism for conflict resolution and policy criticism within a democratic framework.

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