



Indonesia Media Law Review, Volume 5 Issue 1 (Juni 2026), pp. 49-81

ISSN [2829-7628](#) (Print) [2829-7423](#) (Online)

<https://doi.org/10.15294/imrev.v5i1.36595>

Indonesia Media Law Review is Journal for Media, Press Law and Ethics in Journalism

Published biannually by the Faculty of Law, Universitas Negeri Semarang, Indonesia and managed by Law Student Press Community and Press and Journalism Law Studies Center, Faculty of Law Universitas Negeri Semarang, Indonesia

Freedom of Speech: Democracy or a Threat to the Country?

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ABSTRACT: Freedom of speech is a fundamental human right protected by Indonesia's Constitution and is an essential component of democratic life. However, its implementation faces serious challenges due to ambiguous laws, such as the Electronic Information and Transactions Law (ITE Law), and the low level of political and digital literacy among citizens. This study employs a descriptive qualitative method using literature review to examine how freedom of speech is practiced in Indonesia and the factors that hinder it within the Pancasila democratic framework. The findings reveal that freedom of speech remains caught between the protection of individual rights and the pursuit of state stability. Misinterpretations of criticism as threats, coupled with repressive legal

actions, have limited public expression. In the digital era, social media provides space for public participation but also raises issues of misinformation and hate speech. Therefore, reforms in regulation, improved digital literacy, and stronger civic education are necessary to align freedom of expression with Pancasila values—ensuring that it is exercised ethically, responsibly, and constructively for the advancement of Indonesian democracy.

KEYWORDS: Freedom of speech, Democracy, ITE Law, Human rights, Pancasila, Digital literacy.

I. INTRODUCTION

Freedom of speech is a fundamental right of every individual to express their opinions, ideas, and thoughts freely without pressure or intervention from other parties. This right is recognized internationally, including in Article 19 of the Universal Declaration of Human Rights (UDHR), which affirms that everyone has the right to hold opinions, seek, receive, and impart information and ideas through various media without geographical restrictions. The right to freedom of speech is also enshrined in Article 28E paragraphs (2) and (3) of the 1945 Constitution, which states that the state grants every citizen the right to express their opinions freely, both verbally and in writing. However, this freedom is not absolute and is regulated in accordance with applicable laws to maintain public order and protect the rights of others¹. Freedom of speech is a constitutional right guaranteed by the 1945 Constitution. However, this right is not absolute. Every citizen is free to express their thoughts, but must still comply with legal norms, ethics, and maintain public order. This means that freedom of speech comes with responsibility. In practice, freedom of speech faces challenges in the form of a narrowing public space and the potential for abuse, thereby posing a risk to social stability and national security². The National Human Rights Commission, as an official institution, emphasizes that freedom of expression must be upheld and protected as part of human rights, but

¹ Imam Asmarudin Wiranata, Moh.Khamim, “Kebebasan Berekspresi Melalui Media Digital Dan Penerapannya Di Indonesia,” *Pancasakti Law Journal* 1, no. 1 (2023), <https://doi.org/https://doi.org/10.24905/plj.v1i1.21>.

² Aris Prio Agus Santoso Ersu Kusuma, Septya Wahyu, Tutik Yuniani, Firza Zaenatin, Putra Gilang, “Kebebasan Berpendapat Dan Kaitannya Dengan Hak Asasi Manusia (HAM),” *Sanskara Hukum Dan HAM* 01, no. 03 (2023): 97–101, <https://doi.org/https://doi.org/10.58812/shh.v1i03.63>.

it must be balanced with responsibility and appropriate rules so as not to cause harmful social conflict.

In the context of Indonesian democracy based on Pancasila, freedom of speech must be understood proportionally so as not to conflict with the moral values of the nation. Democracy is a system of government in which political power and decision-making are carried out by the people or citizens directly or through representatives they elect. According to the Big Indonesian Dictionary (KBBI), democracy is a system of government in which all citizens are involved in decision making through their representatives, known as people's government. Democracy is a system of government that involves active public participation in political decision-making and state administration. Miriam Budiardjo³ defines democracy as a system of government that places supreme power in the hands of the people through political participation and representation. She emphasizes that democracy must guarantee freedom of expression, equal rights, and mechanisms for controlling the government. In the context of community democracy, the relationship between individuals, the state, and education is very important because individuals as actors of democracy need political education to increase their awareness and active participation in the system of government⁴.

In this era of digitalization, there are many ways to express freedom of speech. There are many applications or platforms that have a large connection to convey the aspirations of the people in demanding their rights, such as the recent case that went viral on the social media platform TikTok, namely the case of Bima Yudho, which is a clear example of the dynamics of freedom of expression in Indonesia, especially in the context of using digital platforms. Quoted from the website⁵, Bima, a young man from East Lampung who currently lives in Australia, uploaded a video criticizing the progress in Lampung

³ Miriam Budiardjo, *Dasar Dasar Ilmu Politik* (Jakarta: Penerbit PT Gramedia Pustaka Utama, 2007).

⁴ Muhammad Firdaus Fery Auzatas Sa'di, Salahudin, "Tinjauan Terhadap Demokrasi Dalam Konteks Masyarakat: Literatur Rview Sistematis," *Jurnal Demokrasi Dan Politik Lokal* 6, no. 1 (2024): 13–28, <https://doi.org/https://doi.org/10.25077/jdpl.6.1.13-28.2024>.

⁵ CNN Indonesia, "Buntut Kritik Lampung, TikToker Bima Berhadapan Dengan Hukum," *CNN Indonesia*, April 16, 2023, <https://www.cnnindonesia.com/nasional/20230416090734-12-938339/buntut-kritik-lampung-tiktoker-bima-berhadapan-dengan-hukum>.

Province, ranging from poor infrastructure to alleged fraud in the education system. However, this criticism led to him being reported to the police on charges of violating the Electronic Information and Transactions (ITE) Law and spreading hoaxes. This case reflects the complex challenges of freedom of expression in Indonesia, where the guarantee of the right to express opinions still faces various restrictions and interventions, even in the digital era, which should support information openness and democracy. Santoso states that the existence of the ITE Law is very important in the digital age, but its implementation must be monitored⁶. Modern democracy requires a free but responsible digital space. The ITE Law should not be a “rubber clause” that frightens the people, but rather a legal instrument that protects against hoaxes, hate speech, and online fraud, without sacrificing the right to express opinions. Another example of the suppression of freedom of speech, which is considered a threat to the state, is the protests that swept across various regions in Indonesia from late August to early September 2025. These protests were triggered by opposition to the increase in allowances for members of the House of Representatives (DPR), which was considered inappropriate given the current economic conditions of the Indonesian people. The actions, which involved students, workers, online motorcycle taxi drivers, and other elements of society, developed into broader demands, such as the investigation of corruption, rejection of controversial revisions to laws, property tax increases, and government policies that were considered detrimental to the people. Although essentially a form of democracy in channeling aspirations, these demonstrations turned into clashes with security forces and riots that caused casualties, including an online motorcycle taxi driver who was crushed to death by a police vehicle. This incident highlights the complexity of upholding freedom of expression as a foundation of democracy when faced with challenges to national security and order⁷.

⁶ Ersa Kusuma, Septya Wahyu, Tutik Yuniani, Firza Zaenatin, Putra Gilang, “Kebebasan Berpendapat Dan Kaitannya Dengan Hak Asasi Manusia (HAM).”

⁷ Andi Adam Faturahman, “Rilis Indeks HAM 2025, SETARA Institute: Hak Kebebasan Berekspresi Jadi Indikator Paling Rendah,” *Tempo*, December 10, 2025, <https://www.tempo.co/politik/rilis-indeks-ham-2025-setara-institute-hak-kebebasan-berekspresi-jadi-indikator-paling-rendah-2097665>.

Freedom of expression is a fundamental right that is essential in a constitutional democracy; its absence increases social vulnerability and weakens the democratic system as a whole. The state has an obligation to protect this freedom for the common good and welfare of society, because freedom of speech accommodates plurality and inclusivity, which are at the heart of democracy. Restricting or removing freedom of expression in order to protect vulnerable groups can weaken the majority and democracy itself. The Decline of Freedom of Expression and Social Vulnerability in Western Democracy⁸.

Freedom of speech is a constitutional right that must be protected in a democratic society. Although freedom of speech is not an absolute right and can be restricted, such restrictions must meet strict and proportional conditions. Constitutional courts play an important role in maintaining state transparency and responsiveness to public criticism by upholding freedom of speech as the foundation of democracy. Freedom of speech and the role of constitutional courts"⁹. Social media has become an important space for freedom of speech and public participation in modern democracy. However, challenges arise in the form of hate speech, hoaxes, and disinformation that can threaten social stability and the quality of democracy. Balanced regulation is needed so that freedom of speech does not sacrifice public order and democracy itself. Freedom of Speech on Social Media: Between Regulation and Expression"¹⁰.

This article was written with the aim of examining why freedom of speech is often misinterpreted as a threat, disturbance, or form of resistance against the government, and to explain how freedom of speech should be understood and exercised in order to remain in line with the values of Pancasila, emphasizing that freedom of speech is a

⁸ Aniceto Masferrer, "The Decline of Freedom of Expression and Social Vulnerability in Western Democracy," *Int J Semiot Law* 36 (2023): 1443–1475, <https://doi.org/https://doi.org/10.1007/s11196-023-09990-1>.

⁹ M. Lutfi Chakim, "Freedom of Speech and the Role of Constitutional Courts: The Cases of Indonesia and South Korea," *Indonesia Law Review* 10, no. 2 (2020), <https://doi.org/10.15742/ilrev.v10n2.605>.

¹⁰ Ihsan Bambang, Nadhratun Najwa, and Muhammad Risky Rahmadani, "Kebebasan Berbicara Di Media Sosial : Antara Regulasi Dan Ekspresi," *Student Research Journal* 3, no. 1 (2025): 87–96, <https://doi.org/https://doi.org/10.55606/srj-yappi.v3i1.1692>.

right of the people, where freedom of speech is not a threat, hate speech, hoaxes, or provocation, but rather a form of aspiration of the people's human rights to voice their opinions. This article is a recent analysis that shows the dynamics of freedom of speech in Indonesia in 2025, where freedom is at a critical point between democratic values and restrictions regulated by security and political regulations. The novelty of this article lies in its examination of the phenomenon of restrictions on freedom of expression driven by the use of vague articles in the Electronic Information and Transaction Law (ITE Law), as well as the impact of self-censorship among the public and journalists due to fear of repressive law enforcement. Thus, this article provides a relevant local perspective on the digital and political challenges affecting the quality of democracy in Indonesia today, which have not been comprehensively studied in previous literature.

II. METHODS

The research method used in this article is a qualitative descriptive method with a library research approach. This method was chosen because the study aims to describe and explain in depth the phenomenon of freedom of speech in Indonesia based on existing data, theories, and facts. Literature study itself is a research method conducted by searching and reviewing various written sources that are available and relevant to the research topic to provide a strong theoretical basis and comprehensive understanding of the issues being studied¹¹.

Using this method, the author did not collect data directly in the field but only reviewed various reliable and academic written sources. The research data sources consisted of two types, namely primary data and secondary data. Primary data was obtained from important laws and regulations that form the legal basis and guidelines for the implementation of freedom of speech in Indonesia. These documents include the 1945 Constitution of the Republic of Indonesia, Law Number 9 of 1998 concerning Freedom of Expression in Public, and

¹¹ Jonathan Sarwono, *Metode Penelitian Kuantitatif Dan Kualitatif* (Yogyakarta: Graha Ilmu, 2006).

Law Number 39 of 1999 concerning Human Rights. Meanwhile, secondary data was obtained from scientific books, journal articles, research reports, and online media reports such as CNN Indonesia, Tempo, and Kompas, which discussed actual cases related to freedom of speech, such as the case of Bima Yudho and the shooting of students at SMKN 7 Semarang. The combination of primary and secondary data provides a solid foundation for in-depth analysis.

The analytical technique used in this study is content analysis, which examines the content of various literary sources to find meanings, patterns, and connections between the concepts of freedom of speech, Pancasila values, and their application in the life of the nation and state. This analysis aims to answer two main questions: why freedom of speech is often misinterpreted as a threat or form of resistance against the state, and how freedom of speech should be understood so that it remains in line with Pancasila values and Indonesian democratic principles. Using this technique, the study is able to present a critical and objective mapping of the position of freedom of speech.

This research uses a literature study method and a descriptive qualitative approach to provide a comprehensive, critical, and constructive picture of freedom of speech in Indonesia's democratic system. The results of this research are expected to serve as material for reflection for the general public and the government in balancing the right to freedom of expression with social responsibility, thereby creating a civilized and just democracy. This approach allows for a context-rich study that integrates theory, law, and existing social realities. The use of the literature study method also has advantages, as it allows researchers to access a variety of reliable sources and examine phenomena in depth without having to conduct direct field research. However, this method is also limited by the availability and quality of existing sources, which must be carefully selected to ensure that the results of the study remain valid and useful. Thus, this research is expected to make a meaningful intellectual contribution to understanding and developing freedom of speech in accordance with the values of Pancasila and Indonesian democracy.

III. RESULT AND DISCUSSION

A. Freedom of Speech in the Real and Digital Worlds.

Indonesia is one of the largest democracies in the world that upholds the values of freedom, especially freedom of expression. This principle is one of the main pillars of national life, as reflected in the constitution, namely Article 28E paragraph (3) of the 1945 Constitution, which states that “every person shall have the right to freedom of association, assembly, and expression.” As a fundamental right, freedom of speech provides ample space for the people to express their ideas, criticisms, and aspirations regarding the government and existing social conditions. With this freedom, the public can play an active role in determining the direction of public policy and controlling power so that it does not become arbitrary.

In Alexander Meiklejohn's (1948) theory of freedom of expression, freedom of speech is a key prerequisite for the survival of democracy. He argues that without the freedom to speak and access information, citizens will not be able to make rational political decisions. Meiklejohn emphasizes that freedom of expression is not merely about individual freedom, but about collective responsibility to ensure that the political system is transparent and accountable. In this context, freedom of speech serves as a tool to strengthen public participation in government, not merely as a means of expressing personal opinions.

Furthermore, this theory is also related to John Stuart Mill's idea in *On Liberty* (1859), which states that freedom of speech is part of freedom of thought. According to Mill, a society cannot develop without debate and the exchange of ideas. Even opinions that are wrong are considered valuable because they can challenge the majority view and enrich public discourse. Thus, in a democratic system such as Indonesia's, freedom of speech is not only seen as a right, but also as an instrument for building collective awareness and social progress.

In practice, freedom of speech in Indonesia can be seen in two main dimensions: the real world and the digital world. In the real world, people have the opportunity to participate directly in expressing their

opinions. This form of participation can be found in various activities such as deliberations, demonstrations, public discussions, and community meetings. All of these are means for citizens to express their aspirations openly and democratically.

Freedom of speech in the real world is also regulated by Law No. 9 of 1998 on Freedom of Expression in Public. This law guarantees that every citizen has the right to express their opinions freely, but with the responsibility to respect social norms, public order, and the rights of others. This shows that freedom of speech is not unlimited freedom. It contains moral principles that require ethical awareness in expressing aspirations.

However, the implementation of freedom of speech in the real world still faces a number of obstacles. In some cases, this freedom is actually restricted by those in power. For example, peaceful demonstrations by the public often end in clashes with security forces or repressive actions. This phenomenon shows a gap between the principles of democracy that are upheld and practices in the field that do not fully support this freedom. In situations like this, democratic values such as openness and public participation are often eroded by political interests and power.

Technological developments have brought a new dimension to the practice of freedom of speech, namely the digital world. The emergence of social media such as X (Twitter), Instagram, TikTok, and WhatsApp has created an alternative space for people to freely express their thoughts and feelings. The digital world opens up vast opportunities because it allows individuals to express their opinions without being limited by space and time. Information can spread quickly around the world, creating a massive and interactive communication network.

Freedom of speech in the digital space has many positive impacts. First, it encourages public participation in political and social discourse. People can more easily access information, share opinions, and criticize government policies. Second, digital media enables the formation of social solidarity on various humanitarian and environmental issues. For example, the #ReformasiDikorupsi

movement and other social campaigns show how the power of digital voices can be a tool for real social change.

However, freedom of speech in cyberspace also faces major challenges. One of the main problems is the abuse of this freedom by irresponsible parties. Many users use anonymity as a shield to spread hate speech, hoaxes, and provocations. This not only causes disinformation but also threatens social integrity and national security.

To regulate this dynamic, the Indonesian government enacted Law Number 11 of 2008 concerning Electronic Information and Transactions (ITE Law), which was revised in 2016 and 2021. The initial purpose of the EIT Law was to provide legal protection for internet users against cybercrime, misuse of personal data, and the spread of negative content. The 2021 revision of the EIT Law is expected to clarify legal boundaries so that it does not become a tool for criminalizing public criticism. For example, criminal penalties for defamation have been reduced so as not to hinder freedom of expression.

However, in practice, the ITE Law often remains controversial. Many of its articles are considered ambiguous, potentially allowing them to be used to suppress freedom of expression. Some legal experts argue that these articles, especially those related to defamation and hate speech, can still be misused to silence criticism that should be protected by law. As a result, a phenomenon of self-censorship has emerged among the public, where individuals choose to remain silent for fear of being prosecuted even though what they have to say is constructive.

This situation creates a dilemma: on the one hand, freedom of speech is the foundation of democracy; on the other hand, uncontrolled freedom can cause social chaos. Therefore, there needs to be a balance between freedom and responsibility. As philosopher Isaiah Berlin said, true freedom is freedom accompanied by moral awareness, not unlimited freedom.

Ultimately, both in the real world and in the digital world, freedom of speech remains a right that must be upheld and respected. The

government has a responsibility to ensure that the regulations it creates not only regulate but also protect the rights of citizens to express themselves. Meanwhile, the public also needs to be aware that every word and action in the public sphere, including on social media, has a real impact. Freedom of expression will have its true meaning if it is exercised wisely, ethically, and responsibly.

Thus, freedom of speech is not only about speaking, but also about how that voice is used for the common good. Amid the challenges of the digital age and the complexities of modern politics, maintaining a balance between rights and responsibilities is key to keeping Indonesian democracy alive, dynamic, and civilized.

Freedom of speech is one of the basic rights of citizens, but in practice this right has limitations. This can be seen from several cases that have occurred in Indonesia. First, the case of Prita Mulyasari, who wrote a complaint about the service of Omni Hospital via email which then spread to the public, causing her to be charged with defamation and detained¹².

B. Freedom of Speech is Often Misunderstood

Within the liberal framework, freedom of speech is a fundamental right of every individual, and it is the responsibility of the state to fully guarantee and protect it. Liberal democracy places the individual at the center of the political process, providing ample space for each citizen to express criticism, opinions, and aspirations, especially towards the ruling government. This right is seen as a key pillar that maintains the balance of power, prevents tyranny, and ensures that the government is accountable to its people. Freedom of speech is an important instrument in maintaining government transparency and accountability. However, deliberative democracy emphasizes a different approach by highlighting deliberation and open dialogue among citizens in reaching a mutual agreement. In the context of deliberative democracy, freedom of speech is not limited to the right to express opinions, but also includes social and ethical

¹² M. Fajrin, "Penyimpangan Hukum Kasus Prita Mulyasari," *Jurnal Mahasiswa S2 Untan*, 2014, <https://www.neliti.com/publications/10596/penyimpangan-hukum-kasus-prita-mulyasari>.

responsibilities in communicating in the public sphere for the sake of common interests and social cohesion.

The theory of political participation asserts that active community involvement in the political process is an absolute requirement for the realization of a healthy democracy. Minimal participation will weaken democracy and open up opportunities for abuse of power and lack of transparency in the government system. Therefore, freedom of speech and public involvement cannot be separated; they complement each other as the foundation for good governance.

However, even though this idealism is strong in democratic theory, in practice in Indonesia and many other countries, freedom of speech is often seen as a threat. The aspirations and criticisms expressed by the public are often misinterpreted as actions that threaten the stability of the state. In fact, criticism is not a coup, and the voice of the people should not be seen as a bullet that must be silenced. The misunderstanding between the government and the public regarding dissenting voices has led to freedom of expression being often regarded as a form of resistance. In the 1945 Constitution and Law Number 9 of 1998 concerning Freedom of Expression in Public, freedom of expression is affirmed as a fundamental right that is guaranteed and protected by the state. However, this ideal has not been fully reflected in social and political practices in the field.

There are several factors that cause freedom of speech to often be seen as a threat or disturbance. First, the perception of the authorities or certain groups towards criticism and differences of opinion often leads to negative views. Criticism is seen as something that can undermine the political and social stability that has been built, thus becoming a threat to the ruling authorities. Cases of criticism regarding corruption, injustice, or policies that are considered wrong are often seen as undermining the legitimacy of the government and shaking political stability. As a result, freedom of speech is restricted and voices that oppose the government are seen as resistance that must be silenced.

Second, historical and cultural factors inherited from authoritarian regimes still leave a deep mark. For a long time, the state has implemented the ideologies of Pancasila Democracy and Guided

Democracy, which do not aim to provide broad participation for the people, but are used as tools to legitimize power and suppress the voices of the people. The political culture that grew out of that period is deeply rooted in a government that tends to reject and view criticism as something that is rude or dangerous to national unity and security. It is this culture that has prevented many voices from being freely expressed and often limited freedom of speech. The events of 1998, for example, are clear evidence of how activists, students, and journalists who voiced their aspirations were silenced, intimidated, and punished without a fair trial. This trauma still lingers in the minds of many people and has caused some members of society to choose to remain silent rather than speak up for fear of being misunderstood or intimidated. This indicates that the values of liberal democracy, which emphasize freedom of expression, have not been fully internalized and implemented in Indonesia.

In comparison, countries such as the United States, which adhere to strong liberal democracy, give the public complete freedom to criticize the president and public officials without fear of criminal sanctions or silencing. In contrast, in Indonesia, criticism of government officials can result in charges of defamation or other laws that can lead to criminal penalties, creating a chilling effect that limits freedom of expression and democracy.

The chilling effect is the most apt phrase to describe a phenomenon that has recently become widespread in Indonesia. The chilling effect can have negative effects that threaten freedom of expression. People become reluctant to express their opinions unless they know the truth behind them¹³.

Third, the emergence of ambiguous regulations and the potential for abuse of the law are another significant obstacle to freedom of expression. An example is Law No. 11 of 2008 on Electronic Information and Transactions (ITE Law), which is often used to prosecute people who express criticism or opinions in the digital realm. Although this law was created to regulate the use of

¹³ Ikhsan Fuady Putri Limilia, "Literasi Media, Chilling Effect , Dan Partisipasi Politik Remaja," *Jurnal Kajian Komunikasi* 9, no. 1 (2021): 40–52, <https://doi.org/https://doi.org/10.24198/jkk.v9i1.31939>.

information technology and electronic transactions, many of its articles are vague and can be interpreted in multiple ways, making the ITE Law susceptible to abuse as a tool for silencing dissent. According to a report by the Southeast Asia Freedom of Expression Network (SAFEnet), since the EIT Law came into effect until 2023, there have been more than 500 cases of violations of freedom of expression in the digital space in Indonesia, with the main victims coming from journalists, activists, students, and civil society. This situation illustrates that even though freedom of speech is guaranteed by the state, legal protection for the realization of this right is still not optimal and faces serious obstacles.

Online content regulation in Indonesia, as governed by the Electronic Information and Transactions (ITE) Law and related legal frameworks, represents a critical intersection between public security concerns and the protection of constitutional rights. While these regulations are necessary to address the challenges posed by harmful digital content, they also carry significant risks to the right to freedom of expression. The ITE Law's broad and often ambiguous provisions have been implemented in ways that prioritize state interests, sometimes at the expense of individual rights and open public discourse¹⁴.

Fourth, misunderstandings about freedom of speech also stem from low political and media literacy among the public. Many citizens are still unable to distinguish between constructive criticism, hate speech, slander, and hoaxes. As a result, when strong opinions are expressed in public spaces and social media, the responses can be extreme, ranging from full support to fierce rejection, which sometimes triggers social conflict and polarization. Many voices that should be raised for the common good are stifled by uncertainty and the spread of provocative hoaxes, which are considered a threat to national stability. In contrast, countries such as Canada and Finland have implemented digital literacy and citizenship education from an early age, enabling their citizens to express their opinions in a more

¹⁴ Andri Rabith Madah Khulaili Harsya, Filep Wamafma, Marius Supriyanto Sakmaf and Triyanto, "Regulasi Konten Online Dan Dampaknya Terhadap Hak Kebebasan Berbicara Di Platform Digital Di Indonesia," *Sanskara Hukum Dan HAM* 3, no. 01 (2024): 43–52, <https://doi.org/10.58812/shh.v3.i01>.

rational, critical, and polite manner. In Indonesia, a culture of deliberative democracy and open dialogue has not yet been fully established, so that debates in the public sphere often end in emotional conflict rather than constructive problem solving.

Fifth, increasingly complex social and political dynamics add to the challenges of managing freedom of speech in Indonesia. In the digital and social media era, information spreads very quickly and is no longer strictly controlled by any party. This adds to the challenge for the government and society to maintain a balance between freedom of expression and social responsibility. The government must be able to manage policies that protect freedom of speech while preventing abuse that can harm society, such as the spread of hate speech, triggers of conflict, and hoaxes. Meanwhile, the public must be equipped with the awareness and ability to filter information and understand the context of democracy so that freedom of speech can be practiced in a constructive and dignified manner.

Overall, misinterpretation and abuse of freedom of speech occur due to a lack of awareness of the function of this right, which is to maintain a balance between individual and collective interests. Although freedom of speech is guaranteed by the constitution and legislation, in practice this freedom is often hindered by an old authoritarian political culture and citizens' fear of speaking freely. This is not only a cause of misinterpretation in the realization of freedom of expression, but also a reflection that democracy in Indonesia has not yet reached a stage of true maturity. Freedom of speech should be a bridge for constructive dialogue that enables the public to actively participate in the management of the state and oversight of the government, not a threat that must be excessively restricted.

To strengthen democracy in Indonesia, strategic steps are urgently needed, including legal reforms that guarantee legal protection for freedom of expression, improving the political and digital literacy of the public, and strengthening a culture of deliberative democracy. The government and elements of society must work together to build a political climate that respects differences of opinion and embraces diversity of voices as a treasure of democracy. Thus, freedom of

speech will become a solid pillar for a dignified and just democracy in Indonesia.

One case that has attracted public attention is that of Baiq Nuril Maknun, a temporary teacher from Mataram, West Nusa Tenggara. This case began when Baiq Nuril recorded a conversation with the school principal who allegedly verbally abused her. The recording was then leaked to the public, and ironically, Baiq Nuril was reported to the police for allegedly violating the Electronic Information and Transactions Law (ITE Law) with accusations of distributing and transmitting content that violated public decency. She was found guilty by the Supreme Court in 2018 and sentenced to six months in prison and a fine of Rp500 million¹⁵.

Baiq Nuril's case shows how freedom of speech and the right to defend oneself are often misinterpreted, especially when women try to expose harassment or injustice. In a legal context, what Baiq did was actually an act of self-defense and a search for justice. However, due to a lack of understanding of the limitations of digital law and weak protection for victims of gender-based violence, she became a victim of legal criminalization.

C. Freedom of Speech in Line with Pancasila

Freedom of speech is one of the main pillars of democracy in Indonesia. As a country based on Pancasila, this freedom is not only understood as an individual's right to speak, but also as a form of moral responsibility towards fellow citizens. In this context, freedom of speech is not merely a means of criticism, but also part of the effort to build a harmonious and civilized nation. Therefore, freedom of speech should not be understood as a form of resistance against authority, but as an integral part of democratic practices based on the values of Pancasila.

Pancasila as the foundation of the state is not only an ideological guideline, but also an ethical guide in society and statehood. Each principle contains values that regulate how freedom must be

¹⁵ Iqbal Kamalludin Ayon Diniyanto, "Menyelamatkan Korban Dari Jerat UU ITE: Studi Kasus Baiq Nuril Maknun Dan Relevansinya Bagi Penguatan Peran Pemerintah Melindungi Pelapor Tindak Asusila," *Supremasi Hukum: Jurnal Kajian Ilmu Hukum*, 10, no. 1 (2021): 1–18, <https://doi.org/10.14421/sh.v10i1.2341>.

exercised responsibly. In practice, freedom of speech in Indonesia is guaranteed by law, but that does not mean that freedom is unlimited. There are rules that regulate this freedom so that it is exercised in an orderly and ethical manner and does not harm others.

One of the legal bases that explicitly guarantees this right is Law No. 9 of 1998 on Freedom of Expression in Public. This law affirms that every citizen has the right to express their thoughts freely and responsibly in public. This can take the form of demonstrations, parades, public meetings, or open forums. This law is a concrete manifestation of the implementation of civilized democracy in Indonesia. However, its implementation must still take into account security, public order, and respect for the rights of others in accordance with the provisions of applicable laws and regulations. Thus, freedom of speech is not only a constitutional right, but also a moral obligation to maintain a balance between individual rights and the common interest.

When viewed from the perspective of liberal democratic theory, freedom of speech is a fundamental right possessed by every individual and guaranteed by the state as long as it does not harm others. This view is in line with the principle proposed by philosopher John Stuart Mill in *On Liberty*, which emphasizes that freedom of expression is an important element in finding the truth and correcting mistakes in society. However, this freedom should not be used to oppress, insult, or harm others. In Indonesia, ideal freedom of speech must be in line with the second principle of Pancasila, "Just and Civilized Humanity." This means that in expressing their opinions, people need to pay attention to humanity, morality, and politeness.

Freedom of speech should not be used as a tool to attack individuals, spread hatred, or cause social conflict. Instead, the voices that are raised should be constructive criticism, delivered in a polite manner and aimed at improving social conditions and public policy. In this case, the language used also plays an important role. The choice of polite and wise words shows maturity of thought and reflects the manners of a cultured society. True freedom is freedom accompanied by moral responsibility and social awareness.

Furthermore, freedom of speech is also closely related to the third principle of Pancasila, “Indonesian Unity.” True freedom should not divide, but rather strengthen the sense of unity. Democracy is not about who speaks the loudest, but about who is able to listen and understand. In a pluralistic society such as Indonesia, differences of opinion are natural and even healthy. However, what is more important is how these differences are managed through constructive dialogue and communication. When each individual is able to speak with an awareness of maintaining unity, freedom of speech will become a force that unites, rather than divides.

The implementation of the values of freedom of speech in accordance with the fourth principle of Pancasila, “Democracy guided by the wisdom of deliberation among representatives,” is also very important. This principle emphasizes that in Indonesia's democratic system, every citizen has the right to express their aspirations and opinions in order to achieve the common good. In practice, freedom of speech should be a space for dialogue between the people and the government—a deliberative process based on wisdom and a sense of responsibility. This principle of deliberation is in line with the concept of deliberative democracy proposed by Jürgen Habermas. In Habermas' view, rational and open public communication is at the heart of a healthy democracy. In other words, freedom of speech should encourage honest and meaningful dialogue between the government and the people.

In addition, the values of freedom of speech are also deeply rooted in the principles of universally recognized human rights. This is emphasized in Law No. 39 of 1999 on Human Rights, specifically in the “Considering” section (b), which states that human rights are basic rights inherent to human beings from birth, are universal and eternal, and cannot be ignored or taken away by anyone. The state has an obligation to protect and guarantee their implementation. Therefore, freedom of speech is part of human rights that are not only guaranteed by law but also upheld through the moral values contained in Pancasila.

However, the reality on the ground is not always as ideal as the concept. In some cases, freedom of speech is often met with repressive actions. One example that caught the public's attention was the shooting of a student at SMKN 7 Semarang in November 2024 by a member of the police force. The action, which was initially intended to disperse a crowd suspected of fighting, ended in tragedy, killing a student. The family and school emphasized that the victim was not involved in the brawl, but was an outstanding student who was active in the flag-raising ceremony. This case then became the subject of public attention because it was considered a violation of human rights and an abuse of authority by the authorities. The National Human Rights Commission (Komnas HAM) then intervened to investigate the case. This institution emphasized the importance of law enforcement officials carrying out their duties with caution, upholding human values, and respecting the rights of citizens to express their opinions. This incident reflects that freedom of speech and the right to participate in public spaces are still often misunderstood as threats, rather than as part of a healthy democracy.

Incidents like this show that freedom of speech in Indonesia still faces significant challenges, especially in terms of upholding human values and legal protection. Within the framework of Pancasila, freedom of speech should serve as a bridge between the people and the government – not as a source of conflict. The state has a responsibility to ensure that all its citizens can express their opinions safely, without fear, and with full responsibility.

When every citizen, official, and government is able to uphold the values of humanity, justice, deliberation, and mutual respect, freedom of speech will become a means to strengthen Indonesian democracy, not weaken it. Pancasila is not just a symbol, but a moral guide to ensure freedom of speech is exercised in a civilized manner. Thus, freedom of expression and human values can coexist to create a just, open, and socially equitable society for all Indonesian people.

To overcome the various challenges surrounding freedom of speech in Indonesia, a comprehensive effort from various parties is needed. First, the government must strengthen regulations by ensuring that laws like the ITE Law are revised fairly and transparently so they are

not misused as a tool to criminalize constructive criticism. Transparent law enforcement and the presence of independent oversight bodies will maintain public trust in the protection of freedom of expression. Additionally, improving political and digital literacy education is crucial so that society can distinguish between constructive criticism and hate speech or hoaxes. This education needs to start early in schools to instill a healthy democratic culture and awareness of using public space responsibly.

Public trust is a crucial element in maintaining the sustainability of the democratic system, as it serves as the basis for legitimacy for every policy adopted by the government¹⁶. Human rights institutions such as Komnas HAM must also receive adequate support to enable them to carry out their monitoring and protection functions optimally. Legal assistance for those who are victims of repression or criminalization is an important part of this effort. In the social sphere, dialog and consultation should be the primary approaches to resolving conflicts arising from differences of opinion. An inclusive and well-facilitated communication forum can foster polite and productive public discussions.

The public must also be continuously educated to understand that freedom of speech comes with moral and social responsibility. Campaigns on communication ethics and respect for diversity are essential to prevent this freedom from being misused to spread hatred or provocation. Mass media and digital platforms also need to play an active role by implementing fair content moderation policies to reduce the spread of negative information. Protection and empowerment for activists, journalists, and democracy advocates are crucial so they can perform their social control function without fear of intimidation or unfair punishment.

Reforms in the security and law enforcement sectors are also an important solution, as the repressive attitude of the authorities is often a major obstacle to freedom of speech. Human rights education and strict accountability mechanisms must be implemented so that

¹⁶ Anis Defri Agustina et al., "Rekonstruksi Politik Untuk Menganalisis Polarisasi Dan Gangguan Demokrasi Di Media Sosial Indonesia," *Jurnal Ilmiah Ilmu Sosial Dan Pendidikan* 4, no. 2 (2026): 7–16, <https://jurnal.unusultra.ac.id/index.php/jisdik/article/view/847/274>.

officials respect citizens' right to speak and do not use power arbitrarily. Overall, maintaining a balance between the right to freedom and responsibility in expressing opinions, supported by clear regulations, adequate education, and strong legal protection, will strengthen a healthy and cultured democratic life in Indonesia.

A case that can be used as an example is a social media statement that touches on SARA issues (Ethnicity, Religion, Race, and Intergroup Relations). For example, the case of hate speech committed by Sugi Nur Raharja, or Gus Nur, in 2020, who criticized the Nahdlatul Ulama (NU) organization with words considered insulting and divisive. He was sentenced to 10 months in prison for violating Article 28 paragraph (2) of the ITE Law regarding hate speech. According to Herlambang, this case illustrates how freedom of speech can violate the value of Indonesian Unity (the Third Principle of Pancasila) when misused to spread hatred and divide society¹⁷.

Media, the fourth pillar of democracy in public discourse, has the responsibility to inform citizens. Its position as a pillar that forms the foundation and supports the larger edifice of democracy, automatically reflects the crucial role it plays in society¹⁸.

Applying the values of Pancasila in freedom of speech also means upholding just and civilized humanity. Criticism of the government or public institutions remains necessary in a democracy, but it must be delivered rationally, be data-driven, and not contain personal insults. The criticism based on Pancasila is constructive criticism, delivered to improve policies, not to demean others¹⁹.

IV. CONCLUSION

This phenomenon reveals a paradox in the practice of Indonesian democracy. On the one hand, the government affirms its commitment

¹⁷ Herlambang P. Wiratraman, "Indonesia's Press Freedom And Law at Twenty-Five: Achievements, Legal Changes And Continuing Challenges," *Jurnal IUS Kajian Hukum Dan Keadilan* 13, no. 2 (2025), <https://doi.org/10.4324/9780429326943-51.10>.

¹⁸ Shailesh Kumar, "Democratising The Fourth Pillar," n.d., <https://doi.org/https://dx.doi.org/10.2139/ssrn.3618592>.

¹⁹ Untung Sumarwan & Lita Tyesta Addy Listya Wardhani, "Perwujudan Nilai-Nilai Pancasila Dalam Kebebasan Pers Pasca Reformasi Di Indonesia," *Jurnal Pembangunan Hukum Indonesia* 5 (2023), <https://doi.org/https://doi.org/10.14710/jphi.v5i3.484-509>.

to democratic values and human rights, but on the other hand, legal instruments are often used to restrict public space for expression. For example, the ITE Law is often used to ensnare individuals with accusations of defamation or hate speech, which still have multiple interpretations. As a result, freedom of speech, which should be a means of social control, has the potential to create fear and silence public participation in the democratic process. This situation shows that freedom of speech in Indonesia is not yet fully balanced by fair legal awareness and protection of civil rights. Beside legal factors, another challenge lies in the social and political-cultural aspects of Indonesian society. Paternalistic culture, a tendency against criticism, and low digital literacy lead to freedom of expression often being misinterpreted. Criticism of the government or public figures is often seen as a form of resistance or a threat to national stability. In fact, within the framework of Pancasila democracy, differences of opinion are natural and even necessary to maintain balance and strengthen people's participation. Pancasila values such as humanity, deliberation, and social justice should serve as moral guidelines for channeling freedom of speech so that it remains ethical, polite, and responsible. Advances in information technology are also a double-edged sword for freedom of speech. Social media opens up a wide space for citizen participation to express political, social, and cultural views, but on the other hand, it gives rise to new challenges such as the spread of disinformation, hate speech, and polarization. Therefore, digital literacy is a crucial key for society to use freedom of expression productively and civilly, not as a tool for provocation or spreading hatred. The state needs to be present not by restricting, but by educating and strengthening citizens' capacity to understand their rights and responsibilities in the digital public space. Overall, freedom of speech in Indonesia must be balanced between individual rights and social responsibility. The state is obligated to guarantee protection for every citizen who expresses their opinions peacefully, but society is also required to utilize that freedom while upholding ethical values, truth, and unity. Reforms to still-repressive regulations, such as the revision of the ITE Law, are an important step toward a healthier democratic climate. Thus, freedom of speech is not only a symbol of democracy, but also a means of building a nation that is critical, just,

and civilized in accordance with the ideals of Pancasila and the Indonesian constitution.

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