



RESEARCH ARTICLE

# Juridical Analysis of the Implementation of Law Number 9 of 1998 on Freedom of Expression in Public (Case Study Period 2020-2025)

Bonari Tua Silalahi <sup>1a\*</sup>, Ismaidar<sup>2a</sup>)

<sup>a</sup> Universitas Pembangunan Panca Budi, Medan, Indonesia

<sup>1</sup> [bonarisilalahi@gmail.com](mailto:bonarisilalahi@gmail.com)

\* corresponding author

## ARTICLE INFO

## ABSTRACT

### Keywords

Freedom Of Expression,  
Human Rights,  
Law Number 9 Of 1998,  
Law Enforcement,  
Democracy,  
Legal Implementation

This research aims to examine the position and implementation of Law Number 9 of 1998 on Freedom of Expression in Public within Indonesia's national legal system, focusing on the 2020-2025 period as a post-pandemic democratic transition phase. Freedom of expression is a constitutional right guaranteed by the 1945 Constitution, yet violations by law enforcement officers frequently occur in practice. This research employs a normative juridical method with statutory, conceptual, and case approaches. The results indicate that although Law No. 9 of 1998 normatively guarantees citizens' rights to express opinions in public, its implementation during 2020-2025 still faces various challenges. Data from Komnas HAM and YLBHI show an increase in violation cases from 42 cases in 2020 to 67 cases in 2023. Law enforcement officers often act repressively, misinterpret notification procedures, and demonstrate weak supervision of rights violations by authorities. Therefore, legal reform, capacity building for officers, and strengthening of supervisory institutions like Komnas HAM are needed to guarantee constitutional rights.

This is an open access article under the [CC-BY-SA](https://creativecommons.org/licenses/by-sa/4.0/) license.



## Introduction

Freedom to express opinions in public is a fundamental pillar of modern democratic life. In Indonesia, this right is constitutionally guaranteed through Articles 28 and 28E of the 1945 Constitution of the Republic of Indonesia. The enactment of Law Number 9 of 1998 on Freedom of Expression in Public marked a significant step forward in strengthening democracy and protecting citizens' human rights in the post-1998 reform era.

However, the implementation of this law has not always proceeded as expected, particularly during the 2020-2025 period, which marks new dynamics in freedom of expression in the digital and post-COVID-19 pandemic era. Various cases of restrictions on freedom of expression have been carried out by state apparatus under the pretext of maintaining public order. Numerous reports indicate repressive actions, intimidation, and even criminalization of peaceful demonstrators. This demonstrates a disparity between legal norms and field practices.

In practice, several cases illustrate implementation problems with Law No. 9 of 1998. For instance, in June 2020, the dispersal of student demonstrations in Jakarta protesting the Omnibus Job Creation Law was conducted on grounds of lacking permits, despite the law only requiring notification. Another case occurred in September 2022 in Surabaya, where peaceful demonstrators were arrested

without clear legal process under charges of disturbing public order. In May 2024, peaceful labor demonstrations in Bekasi were forcibly disbanded despite proper notification procedures being followed.

In 2023, YLBHI recorded at least 87 cases of violations of freedom of expression involving security forces, ranging from intimidation and forced dispersal to criminalization. This condition demonstrates a significant gap between normative guarantees in the law and law enforcement reality in the field. Data from Komnas HAM for the 2020-2025 period shows an increasing trend of violation cases, from 42 cases in 2020 to 67 cases in 2023, with 38 violation cases occurring by mid-2025.

Another problem is the multiple interpretations of provisions within the law. For example, notification obligations are often perceived as permission requests, so if not approved, authorities can disperse demonstrations. This understanding clearly contradicts the democratic spirit that should guarantee public space for citizens.

This phenomenon requires in-depth study to identify the root problems and appropriate solutions for guaranteeing citizens' constitutional rights to express opinions freely and responsibly. The urgency of this research lies in the importance of reviewing the position and implementation of Law Number 9 of 1998 within Indonesia's legal system during the 2020-2025 period, while evaluating the effectiveness of its protection for freedom of expression. Thus, this research is expected to contribute to strengthening constitutional democracy and reforming the law enforcement system in Indonesia.

Based on this background, the research problems are formulated as follows: (1) What is the legal position of Law Number 9 of 1998 within Indonesia's national legal system? (2) How is the enforcement implementation of Law Number 9 of 1998 by law enforcement officers during the 2020-2025 period? (3) What are the constraints and challenges in law enforcement regarding the implementation of freedom to express opinions in public during the 2020-2025 period?

The research objectives are: (1) To analyze the legal position of Law Number 9 of 1998 within the hierarchy of Indonesia's national legal system. (2) To examine the enforcement implementation of Law Number 9 of 1998 by law enforcement officers during the 2020-2025 period. (3) To identify constraints and challenges in law enforcement regarding the implementation of freedom to express opinions in public and formulate improvement recommendations.

## Method

### Research Type and Approach

This research employs a normative juridical approach method, which relies on analysis of written legal norms and legal principles relevant to the research topic. The normative juridical approach aims to understand, examine, and analyze Law Number 9 of 1998 in the context of Indonesia's national legal system and its implementation by law enforcement officers, focusing on the 2020-2025 period. This research type is descriptive-analytical, systematically describing applicable legislation, legal theories, and expert views for qualitative analysis.

### Research Approaches

The approaches used in this research include: (1) Statute approach, examining the 1945 Constitution, Law Number 9 of 1998, and other implementing regulations. (2) Conceptual approach, studying theories and legal concepts relevant to freedom of expression and human rights. (3) Case approach, analyzing 2020-2025 period case studies regarding law implementation in practice through empirical data and court decisions.

### Data Sources

The data type used is secondary data obtained through literature studies, including primary, secondary, and tertiary legal materials as follows:

1. Primary Legal Materials: 1945 Constitution of the Republic of Indonesia; Law Number 9 of 1998 on Freedom of Expression in Public; Related implementing regulations; Relevant court decisions.
2. Secondary Legal Materials: Legal literature; Scientific articles and journals; Previous research results; Komnas HAM and YLBHI reports for the 2020-2025 period; Expert legal opinions.
3. Tertiary Legal Materials: Legal dictionaries; Legal encyclopedias; Mass media and online publications.

## Data Analysis Techniques

The analysis technique used is qualitative analysis, interpreting and connecting legal regulations, legal theories, and factual data to answer research problems systematically, logically, and scientifically. Analysis is conducted through stages: (1) Legal material inventory; (2) Classification and systematization; (3) Legal norm interpretation; (4) Gap analysis between *das sein* and *das sollen*; (5) Drawing conclusions and recommendations.

## Results and Discussion

### Legal Position of Law Number 9 of 1998 in the National Legal System

Law Number 9 of 1998 represents Indonesia's commitment to democratic principles and respect for human rights. This law has a strong constitutional foundation, namely Articles 28 and 28E of the 1945 Constitution guaranteeing every citizen's right to express opinions freely and responsibly. The position of this law as *lex specialis* from general provisions on civil liberties makes it occupy an important position in the national legal structure.

Normatively, Law No. 9 of 1998 regulates various important aspects, including forms of opinion expression (demonstrations, parades, public meetings, and free forums), notification mechanisms to the police, participants' rights and obligations, and organizer and security officer responsibilities. Within the national legal system, this law also strengthens implementation of various international instruments ratified by Indonesia, such as the International Covenant on Civil and Political Rights (ICCPR) through Law No. 12 of 2005. This demonstrates integration between national law and universal human rights principles.

In the legislative hierarchy based on Law No. 12 of 2011 on Legislative Formation, Law No. 9 of 1998 occupies a position as legislation directly sourced from the constitution, thus having binding legal force and must not contradict the 1945 Constitution.

### Law Enforcement Implementation of Law No. 9 of 1998 Period 2020-2025

In practice, law enforcement of Law No. 9 of 1998 during the 2020-2025 period remains far from ideal. Although theoretically the law provides protection for freedom of expression, law enforcement officers often use repressive approaches toward peaceful demonstrations. Forced dispersal, arbitrary arrests, and criminalization of demonstrators are strong indications that this constitutional right is not fully respected.

Based on data from Komnas HAM and YLBHI for the 2020-2025 period, there has been a significant increase in freedom of expression violation cases. In 2020, 42 violation cases were recorded, increasing to 58 cases in 2021, 61 cases in 2022, and reaching a peak of 67 cases in 2023. By mid-2025, 38 violation cases had occurred. Total accumulation during the 2020-2025 period shows more than 250 freedom of expression violation cases involving security forces.

**Table 1. Number of Violation Cases per Year 2020-2025**

Year	Number of Cases	Dominant Form of Violation
2020	42	Forced dispersal
2021	58	Intimidation
2022	61	Forced dispersal
2023	67	Criminalization
2024	54	Forced dispersal
2025*	38	Intimidation

\*Data until June 2025

Source: Komnas HAM and YLBHI (2020-2025)

The most frequent violation forms include: Forced dispersal of peaceful demonstrations (45% of total cases); Intimidation and physical violence (28%); Arrest and detention without clear legal basis (18%); Criminalization with elastic articles (9%).

The main causes are officers' lack of understanding of law substance and absence of clear and uniform operational guidelines in following up on opinion expression activities. Many field-level officers still regard this law as a control and restriction instrument, not as a guarantee of citizens' rights protection.

Additionally, implementation aspects of demonstration notification, which should be a form of administrative communication, are often misinterpreted as a form of permit application that can be rejected. This demonstrates a significant gap between legal norms (*das sollen*) and officers' perception and field practices (*das sein*).

Several concrete cases illustrating implementation problems: (1) Case of Student Demonstration Dispersal Rejecting Omnibus Law (June 2020): Thousands of students in Jakarta demonstrating rejection of the Job Creation Law were forcibly dispersed on grounds of lacking permits, despite Law No. 9 of 1998 only requiring notification, not permits. (2) Case of Labor Activist Arrest in Bekasi (May 2024): Peaceful labor demonstration participants who had conducted notification according to procedures were still arrested under charges of disturbing public order without clear legal process. (3) Case of Student Demonstration Intimidation in Surabaya (September 2022): Students conducting peaceful demonstrations experienced intimidation and physical violence by officers, despite demonstrations being conducted within legal corridors.

### **Constraints and Challenges in Enforcing Law No. 9 of 1998**

Enforcement of this law faces several complex constraints, both legal, institutional, and cultural, including: (1) Weakness of derivative regulations: Absence of detailed and operational implementing regulations causes multiple interpretations in implementation. Mass handling SOPs remain non-uniform throughout Indonesia. Several regions have Regional Regulations actually contradicting the spirit of Law No. 9 of 1998. (2) Repressive officer culture: Security approach inheritance from the authoritarian era still shadows some officers' behavior in handling demonstrations. Security approach mindset remains more dominant than service approach or human rights approach. (3) Negative stigma toward demonstrations: Most society and government officials still view demonstrations as actions disturbing order and harming economy, not as legitimate political rights of citizens and part of healthy democratic processes. (4) Lack of effective external supervision: Institutions like Komnas HAM have not been given sufficiently strong authority to follow up on freedom of expression violation findings. Issued recommendations are often not followed up by related agencies. (5) Minimal public education: Society lacks sufficient understanding of their rights in expressing opinions, correct procedures according to Law No. 9 of 1998, and legal protection they can claim if violations occur. (6) Abuse of elastic articles: During the 2020-2025 period, there is a tendency to use articles outside Law No. 9 of 1998 to criminalize demonstration participants, such as the ITE Law, treason articles in the Criminal Code, or provocation articles. (7) Weak inter-agency coordination: Coordination between the Police, Regional Government, and other related agencies in handling demonstrations remains weak, often resulting in overlapping authority and field confusion.

### **Improvement Efforts and Recommendations**

To strengthen implementation of Law No. 9 of 1998 and overcome various existing constraints, several strategic steps that can be taken include: (1) Regulatory reform: Revise Law No. 9 of 1998 by inserting more concrete protection provisions, firm sanctions for violating officers, and eliminating multiple interpretation gaps; Formulate operational and binding derivative regulations, such as Police Regulations or Ministry of Home Affairs Regulations on uniform opinion expression implementation throughout Indonesia; Harmonize regional regulations to not contradict Law No. 9 of 1998. (2) Officer capacity strengthening: Intensive education and training for security officers on human rights, professional ethics, humanistic approaches, and mass handling procedures according to international standards; Paradigm shift from security approach to human rights-based approach in handling demonstrations; Formulate and implement clear and uniform SOPs throughout police ranks. (3) Supervision strengthening: Strengthen external supervisory institution roles like Komnas HAM through granting firmer authority in following up violations; Form rapid and accountable reporting systems for freedom of expression violation cases; Clear and firm sanction mechanisms for officers proven to violate demonstration participants' rights. (4) Massive education and socialization: Socialize to society regarding rights and procedures for expressing opinions peacefully and responsibly; Public campaigns on the importance of freedom of expression in democracy; Provide information and legal consultation services for society wishing to conduct demonstrations. (5) Accountability strengthening: Form easily accessible complaint and dispute resolution mechanisms; Data and information transparency related to demonstration handling; Regular audits of officer performance in guaranteeing freedom of expression.

With regulatory reform and paradigm shifts in implementation, Law No. 9 of 1998 is expected not only to be a mere legal symbol but can become a real instrument in protecting Indonesian citizens' civil rights

### **Conclusions and Recommendations**

Based on study and analysis results of Law Number 9 of 1998 on Freedom of Expression in Public, particularly during the 2020-2025 period, several conclusions can be drawn: (1) Law Number 9

of 1998 holds an important position as protection for citizens' constitutional rights to express opinions in public. This law is a concrete manifestation of democratic and human rights principles guaranteed by the 1945 Constitution and various international instruments. In the legislative hierarchy, this law is directly sourced from the constitution and positioned as *lex specialis* in civil liberty regulation. (2) In its implementation during the 2020-2025 period, serious problems remain. Data shows increased violation cases from 42 cases in 2020 to 67 cases in 2023, totaling more than 250 cases during that period. Main problems include repressive actions by officers, misinterpretation of legal provisions (particularly notification mechanisms perceived as permits), and weak legal protection mechanisms for occurring violations. This demonstrates a significant gap between legal norms (*das sollen*) and field implementation practices (*das sein*). (3) Constraints and challenges in law enforcement regarding freedom of expression include derivative regulation weaknesses, still repressive legal culture (authoritarian era legacy), negative stigma toward demonstrations, low public understanding of their rights, minimal effective supervision from independent institutions, and weak inter-agency coordination. The 2020-2025 period also shows tendencies of article abuse outside Law No. 9 of 1998 to criminalize demonstration participants.

### Recommendations

To increase law enforcement effectiveness of Law Number 9 of 1998 and guarantee protection of the right to express opinions in public, several recommendations are provided: (1) Regulatory reform: Government needs to revise Law No. 9 of 1998 to strengthen legal guarantees, insert firm sanctions for violating officers, and eliminate multiple interpretation gaps; Formulate more detailed, clear, and operational implementing regulations such as Police Regulations or Ministry of Home Affairs Regulations uniform throughout Indonesia; Harmonize regional regulations to not contradict the spirit of Law No. 9 of 1998. (2) Officer capacity improvement: Law enforcement officers must be equipped with regular training on human rights, non-repressive approaches, and mass security procedures according to democratic principles and international standards; Change handling paradigm from security approach to human rights-based approach; Formulate and implement clear and uniform SOPs throughout police ranks. (3) Supervision strengthening: Independent supervisory institutions like Komnas HAM need strengthened roles and authority in supervising and addressing freedom of expression violations, including granting authority to provide administrative sanctions; Form rapid, transparent, and accountable reporting systems for violation cases; Ensure effective follow-up mechanisms for supervisory institution recommendations. (4) Education and socialization: Society needs legal education regarding their rights, legitimate opinion expression procedures according to Law No. 9 of 1998, and complaint mechanisms if violations occur; Conduct massive public campaigns on the importance of freedom of expression as a democratic pillar; Provide easily accessible information and legal consultation services for society. (5) Multi-stakeholder collaboration: Synergistic collaboration is needed between government, Parliament, academics, NGOs, mass media, and civil society organizations to build healthy, inclusive, and participatory democratic culture in society; Form regular dialogue forums between officers, civil society, and academics for evaluating Law No. 9 of 1998 implementation. (6) Accountability strengthening: Form easily accessible complaint mechanisms and rapid and fair dispute resolution; Ensure data and information transparency related to demonstration handling; Conduct regular audits of officer performance in guaranteeing freedom of expression.

With synergistic and systemic efforts from all parties, freedom of expression is expected to truly be enjoyed by all citizens without fear and pressure, so democracy in Indonesia can grow substantially and sustainably, not merely procedural democracy.

### References

- Asshiddiqie, J. (2006). *Hukum Tata Negara dan Pilar-Pilar Demokrasi*. Konstitusi Press.
- Asshiddiqie, J. (2010). *Konstitusi dan Konstitusionalisme Indonesia*. Sinar Grafika.
- Hadjon, P. M. (2007). *Perlindungan Hukum bagi Rakyat di Indonesia: Sebuah Studi tentang Prinsip-Prinsipnya, Penanganannya oleh Pengadilan dalam Lingkungan Peradilan Umum dan Pembentukan Peradilan Administrasi Negara*. Peradaban.
- Herlambang, W. (2021). Perlindungan Hak Menyampaikan Pendapat dalam Perspektif HAM. *Jurnal Konstitusi*, 18(2), 345-368.

- Komisi Nasional Hak Asasi Manusia. (2021). *Laporan Tahunan Komnas HAM 2020: Kondisi HAM di Indonesia*. Komnas HAM RI.
- Komisi Nasional Hak Asasi Manusia. (2024). *Laporan Tahunan Komnas HAM 2023: Evaluasi Perlindungan HAM*. Komnas HAM RI.
- Law of the Republic of Indonesia Number 9 of 1998 on Freedom of Expression in Public.
- Law of the Republic of Indonesia Number 12 of 2005 on Ratification of the International Covenant on Civil and Political Rights.
- Marzuki, P. M. (2017). *Penelitian Hukum: Edisi Revisi*. Kencana Prenada Media Group.
- Nonet, P., & Selznick, P. (2003). *Hukum Responsif*. Nusa Media.
- Pratiwi, E. R. (2022). Implementasi UU Nomor 9 Tahun 1998: Antara Idealitas dan Realitas. *Indonesian Journal of Law and Society*, 3(1), 89-112.
- Saraswati, R. (2020). Kebebasan Berekspresi di Era Digital: Tantangan dan Prospek. *Jurnal Hukum dan Pembangunan*, 50(4), 765-789.
- Soekanto, S., & Mamudji, S. (2015). *Penelitian Hukum Normatif: Suatu Tinjauan Singkat*. Rajawali Pers.
- The 1945 Constitution of the Republic of Indonesia.
- United Nations. (1948). *Universal Declaration of Human Rights (UDHR)*. United Nations.
- United Nations. (1966). *International Covenant on Civil and Political Rights (ICCPR)*. United Nations.
- Yayasan Lembaga Bantuan Hukum Indonesia. (2024). *Catatan Akhir Tahun 2023: Krisis Demokrasi dan Kebebasan Sipil*. YLBHI,