

Constitutional Review of Restrictions on Freedom of Expression and the Criminalization of Expression in Indonesia

Irmanjaya Thaher¹, Dzaki M. Ihsan², Hendry Noya³

¹Universitas Esa Unggul, Indonesia. E-mail: Irman.jaya@esaunggul.ac.id

²Universitas Gajah Mada, Indonesia. Email: dzakimuhammadihsan@mail.ugm.ac.id

³Universitas Salakanagara, Indonesia. Email: hendry.noya@unsaka.ac.id

Abstract: This article examines freedom of expression in public from the perspective of Indonesian constitutional law. The study covers the constitutional basis in the post-amendment 1945 Constitution, particularly Article 28E paragraph (3), which guarantees every person the right to freedom of association, assembly, and expression, as well as the supporting legal framework ranging from Law No. 9 of 1998 on Freedom of Expression in Public to the ITE Law in its various versions. This article analyzes various forms of legally protected public expression, the constitutional requirements for restrictions based on the three-part test adopted from Article 19 of the ICCPR, the issue of the criminalization of expression that frequently occurs in practice, a comparative analysis with other countries, and recommendations for strengthening the protection of freedom of expression in Indonesia. This study argues that freedom of opinion is a right that is non-derogable in substance, and any restrictions on it must meet very strict standards in a constitutional democracy.

Keywords: freedom of opinion; freedom of expression; Article 28E of the 1945 Constitution; Law No. 9 of 1998; ICCPR; human rights; demonstrations; ITE Law; constitutional law

1. Introduction

Freedom of opinion—including in public—is one of the most fundamental rights in a constitutional democracy. It is a prerequisite for all other political rights: without the freedom to express opinions, protest against bad policies, and criticize those in power, all other democratic rights lose their substantive meaning. It is no coincidence that freedom of expression has always been one of the earliest rights to be guaranteed—and one of the most frequently attacked—in the history of the struggle for democracy. In Indonesia, freedom of expression has had a long and winding constitutional journey. Article 28 of the 1945 Constitution, in its original formulation prior to amendments, already recognized the freedom of association, assembly, and expression. However, these guarantees were not immediately realized in practice during the more than three decades of the New Order, which systematically restricted the space for public expression through various legal and non-legal instruments.

The 1998 Reform era ushered in a new chapter: student and public demonstrations demanding change became the driving force that brought an end to authoritarianism. Shortly after the reform, Law No. 9 of 1998 on Freedom of Public Expression was enacted as a legal instrument regulating public expression within a democratic framework. Subsequent amendments to the 1945 Constitution further strengthened these constitutional guarantees through Article 28E, which explicitly enshrines the right to freedom of expression. However, more than two decades after the reform era, freedom of expression in Indonesia still faces serious threats, particularly through legal instruments that can—and are often—used to criminalize legitimate expression. The Law on Information and Electronic Transactions (ITE Law), in its various versions, has come under scrutiny for being used to prosecute citizens who express their opinions, criticize officials, or disseminate information.

This article aims to: first, examine the constitutional foundations of freedom of expression in Indonesia; second, analyze the legal framework governing public expression; third, to analyze the various forms of

protected public expression and their limits; fourth, to identify the conditions for constitutionally permissible restrictions based on international standards; fifth, to analyze the issue of the criminalization of expression; and sixth, to conduct a comparative analysis with other countries.

2. The Constitutional Basis for Freedom of Expression

A. The 1945 Constitution as the Primary Source of Protection

Constitutional guarantees of freedom of expression in Indonesia are spread across several complementary articles of the 1945 Constitution. Unlike the constitutions of some other countries, which concentrate all provisions on freedom of expression in a single clause, Indonesia's 1945 Constitution provides protection through a network of articles that collectively form a comprehensive framework of protection:

Articles of the 1945 Constitution	Wording of the Provision	Significance
Article 28 of the 1945 Constitution	Freedom of association and assembly, and the expression of thoughts through speech and writing, and so on, shall be regulated by law.	The first constitutional guarantee of freedom of expression in the original 1945 Constitution (prior to amendments).
Article 28E, paragraph (2) of the 1945 Constitution	Every person has the right to freedom of belief and to express thoughts and attitudes in accordance with their conscience.	Second Amendment of 2000; reinforces freedom of expression as an inherent fundamental right.
Article 28E, paragraph (3) of the 1945 Constitution	Every person has the right to freedom of association, assembly, and expression.	The triad of freedoms: association + assembly + expression; the main foundation of demonstrations and protests.
Article 28F of the 1945 Constitution	Every person has the right to communicate and obtain information to develop their personality and social environment, as well as the right to seek, obtain, possess, store, process, and convey information.	The digital dimension of freedom of expression; relevant to freedom of expression on social media.
Article 28J, paragraph (2) of the 1945 Constitution	In exercising their rights and freedoms, every person is obligated to comply with the restrictions established by law.	Clause on lawful restrictions on rights; restrictions must be based on law, proportional, and for legitimate purposes.

B. Constitutional Genealogy: From the Original Article 28 to Chapter XA

The guarantee of freedom of expression in the 1945 Constitution has undergone significant transformation through amendments. The original Article 28 of the 1945 Constitution (1945)—which was the sole human rights provision in the constitution—merely mentioned the freedom of association, assembly, and expression in a very concise manner, without adequate substantive provisions. The second amendment (2000) introduced a fundamental change: the addition of Chapter XA on Human Rights, which encompasses Articles 28A through 28J. In this chapter, freedom of expression is addressed far more comprehensively through Article 28E, paragraphs (2) and (3), as well as Article 28F. Most

importantly, the amendment also included a constitutional limitation clause through Article 28J, paragraph (2), which stipulates that restrictions may only be imposed by law, for legitimate purposes, and in a proportionate manner.

C. Freedom of Expression from a Human Rights Theory Perspective

In the tradition of international human rights law, freedom of opinion or freedom of expression falls under the category of civil and political rights protected by the International Covenant on Civil and Political Rights (ICCPR), which Indonesia has ratified through Law No. 12 of 2005. Article 19 of the ICCPR provides very comprehensive protection: *“Everyone has the right to hold opinions without interference. Everyone has the right to freedom of expression; this right includes freedom to seek, receive, and impart information and ideas of all kinds...”* (Article 19 of the International Covenant on Civil and Political Rights (ICCPR))

The protection under Article 19 of the ICCPR is two-tiered: protection of “opinion,” which is absolute and cannot be restricted at all, and protection of “expression,” which may be restricted but only under very strict standards. This distinction is important: no one may be punished for holding a particular opinion or belief in their mind, even though the expression of that opinion may be subject to limited and proportionate restrictions.

3. Legal Framework

A. Laws Governing Public Expression

Under constitutional guarantees, public expression in Indonesia is governed by a number of laws that form a complex regulatory landscape—some of which support freedom, while others have the potential to unduly restrict it:

No.	Law	Regarding	Relevance
Law No. 9 of 1998	Freedom of Public Expression	Regulates the right to express opinions in public; requires notification; establishes the responsibilities of participants; regulates the role of the police	
Law No. 39 of 1999	Human Rights	Articles 23–24: the right to freedom of expression; Article 23(2): the right to disseminate information; must be free from censorship and arbitrary restrictions	
Law No. 12 of 2005	Ratification of the ICCPR (International Covenant on Civil and Political Rights)	Incorporates Article 19 of the ICCPR into national law: the right to freedom of expression along with strict conditions for its restriction	
Law No. 17 of 2013	Civil Society Organizations	Regulates the rights to freedom of association and assembly; the dissolution of civil society organizations must be carried out through the courts (amended by Government Regulation in Lieu of Law No. 2 of 2017)	
Law No. 19 of 2016 (Electronic Information and Transactions Law)	Electronic Information and Transactions	Articles 27–29 contain provisions that could potentially restrict digital expression; the law is often criticized	

		for exceeding the bounds of lawful restrictions	
Law No. 1 of 2024 (New ITE Law)	Second Amendment to the ITE Law	Revises several provisions of the ITE Law; Article 27A on defamation is currently being reviewed by the Constitutional Court (Case No. 105/PUU-XXII/2024)	

B. Law No. 9 of 1998: Special Law on Freedom of Expression in Public

Law No. 9 of 1998 on Freedom of Expression in Public is a law that specifically regulates the right to express opinions in public. This law was enacted in response to massive restrictions on expression during the New Order era and is one of the most important legislative products of the reform era in the field of civil liberties. Several important provisions in Law No. 9 of 1998 that need to be understood:

- Notification mechanism (not a permit): Expressing opinions in public does not require a permit from the police. A written notification to the National Police must be submitted no later than 3x24 hours before the event takes place. This is very important: since it is a notification and not a permit, the police cannot deny or revoke the right to express opinions based on the content of the speech.
- Participants' responsibilities: Every protest participant is responsible for ensuring the event remains orderly and peaceful. The organizing committee is obligated to maintain order. The main prohibitions include disrupting public order, damaging public facilities, breaking the law, and insulting others' dignity.
- Duties of law enforcement: The National Police are obligated to provide protection to participants in the expression of opinions, prevent violence, and ensure order. Law enforcement may not unilaterally obstruct lawful expression.
- Time restrictions: Public expression of opinion must take place in open areas; it is prohibited near the presidential palace, places of worship, military installations, and airports/ports; and must be held between 6:00 a.m. and 6:00 p.m. WIB.

C. Challenges Posed by the ITE Law to Digital Freedom of Expression

The Information and Electronic Transactions Law (ITE Law), in its various versions, has been a source of serious concern for freedom of expression in Indonesia. The most controversial provisions are those governing defamation, insult, and hate speech in the digital sphere. Some of the most frequently criticized constitutional issues related to the ITE Law include:

- Vagueness of provisions: Some provisions in the UU ITE use ambiguous language and allow for overly broad interpretation by law enforcement, thereby violating the principles of legality and legal certainty.
- Criminalization of legitimate criticism: The ITE Law has been used to prosecute citizens who criticize officials, post opinions on social media, or disseminate information deemed harmful to certain parties—even though such expressions should be protected.
- Disproportionate criminal penalties: The threat of severe prison sentences for acts that in many countries are resolved solely through civil proceedings reflects a disproportionate response that violates human rights standards.

Use as a Tool for Silencing Dissent: Data from legal aid organizations and civil society groups show that the ITE Law is often used as a legal weapon (lawfare) by those in power to silence criticism

4. Protected Forms of Public Expression

A. The Spectrum of Public Expression

Freedom of expression in public encompasses various forms of expression, each with its own characteristics and regulations. It is important to understand that legal protection for expression is content-neutral: the law cannot differentiate protection based on whether the content of the expression is liked or disliked by those in power.

Forms of Expression	Description	Related Regulations	Constitutional Basis
Demonstrations / Protests	Collective expression of opinions in public	Law No. 9/1998; mandatory notification to the National Police 3x24 hours in advance; not a permit	Freedom of assembly (Article 28E, paragraph (3) of the 1945 Constitution)
Public Speeches	Oral expression of opinions to the public	Law No. 9/1998; prohibition against insulting the head of state (Criminal Code)	Freedom of expression (Article 28E, paragraph (3))
Writings & Articles	Opinion pieces, articles, journals, books, pamphlets	Press Law; Human Rights Law; caution is needed regarding the ITE Law	Freedom of the press and expression (Article 28F)
Digital Expression / Social Media	Posts, comments, memes, online livestreams	The ITE Law No. 19/2016 as amended by No. 1/2024; particularly regarding Articles 27A and 28	Freedom of Communication (Article 28F)
Art & Creativity	Paintings, songs, poems, and performances as expressions of opinion	No specific law; may be subject to the ITE Law if distributed digitally	Freedom of Expression (Article 28E)
Petitions & Open Letters	Signatures and gathering support for a position	No specific laws restricting them; protected as civil rights	Freedom of opinion and assembly
Boycotts & Civil Actions	Collective rejection of products or policies as a statement of opinion	General; no explicit prohibition unless it violates other laws	A civil right within the framework of freedom of expression

B. Demonstrations as the Most Visible Form of Collective Expression

Among all forms of public expression, demonstrations are the most visible and politically strategic. Demonstrations are a collective expression—a combination of the right to assemble and the right to freedom of expression—that has historically proven to be one of the most effective instruments of social and political change, including in the Indonesian context, where student demonstrations were the primary force that brought an end to the New Order in 1998. Under Indonesian constitutional law, demonstrations conducted by notifying the National Police (rather than seeking permission) are entirely legal activities. Security forces are obligated to protect and facilitate them, not to obstruct them. A demonstration may only be dispersed if it has turned into a riot, involves violence, or violates valid regulations. Unfortunately, in practice, authorities often disperse peaceful demonstrations on grounds lacking a strong legal basis,

or arrest demonstrators based on fabricated charges. This situation constitutes a violation of Article 28E, paragraph (3) of the 1945 Constitution and Law No. 9 of 1998.

5. Conditions for Constitutional Restrictions

A. The Three-Part Test

Under international human rights law, restrictions on freedom of expression must meet three cumulative requirements known as the “three-part test.” This standard derives from Article 19(3) of the ICCPR and has been widely adopted in the constitutional jurisprudence of various countries, including Indonesia through the Constitutional Court:

Conditions for Restrictions	Substance	Test Questions	Legal Basis
1. Legality (Prescribed by Law)	Restrictions must be based on laws that are clearly defined, publicly accessible, and predictable	Is there a clear statutory provision that prohibits such expression?	Article 28J(2) of the 1945 Constitution; Article 19(3) of the ICCPR
2. Legitimate Purpose (Legitimate Aim)	Restrictions may only be imposed for recognized purposes: national security, public order, public health, public morals, or the human rights of others	Is this restriction intended to protect legitimate public interests, rather than the interests of the elite?	Article 28J, paragraph (2) of the 1945 Constitution
3. Necessity and Proportionality	Restrictions must be necessary in a democratic society; they must not be excessive in relation to the threat they are intended to prevent	Is there no less restrictive way to achieve the same objective?	The doctrine of proportionality; Article 19(3) of the ICCPR

If any one of these three conditions is not met, the restriction on freedom of expression is unconstitutional and violates international human rights standards. This test is cumulative: meeting only one or two conditions is not sufficient; all three conditions must be met simultaneously.

B. Lawful Restrictions vs. Unlawful Criminalization

One of the most crucial issues in freedom of expression law is distinguishing between constitutionally valid restrictions and criminalization that goes too far. This distinction is not always easy to draw, but there are several criteria that can serve as a guide:

Criteria	Lawful Restrictions	Unlawful Criminalization
Legal Basis	Established by clear legislation (Article 28J, paragraph (2) of the 1945 Constitution)	Created through an interpretation that goes beyond the text of the law; without a clear basis

Purpose of the restriction	For legitimate purposes: security, public order, the human rights of others, public morals, public health	Intended to protect the reputation of officials, prevent political criticism, or silence the opposition
Proportionality	The level of restriction is proportionate to the threat it seeks to prevent	The restriction is excessive compared to the impact of the prohibited expression
Principle of legality	Clear, predictable, and unambiguous norms	Vague norms that allow for broad interpretation by law enforcement officials
Necessity test	No less restrictive means are available to achieve the same objective	Criminal sanctions are chosen even though civil or administrative remedies are available
Valid examples	Prohibition of hate speech based on race or religion; prohibition of incitement to violence	Criminalization of criticism of government policies under the ITE Law; criminalization of demonstrators

The table above shows that the key differences between lawful restrictions and unlawful criminalization lie in: the accessibility of the norms (whether they are clear and predictable), the legitimacy of the purpose (whether it is for a genuine public interest or to protect the interests of the elite), and proportionality (whether the level of restriction is commensurate with the threat it seeks to prevent).

C. Unprotected Expression

Although freedom of expression is very broad, there are categories of expression that are universally unprotected in democratic legal systems:

- **Direct incitement to violence:** Expressions that directly and explicitly urge others to commit violence against specific individuals or groups do not enjoy legal protection.
- **Hate speech that threatens human dignity:** Under the ICCPR standards, hate propaganda that advocates discrimination, hostility, or violence based on race, religion, or nationality must be prohibited (Article 20 of the ICCPR). However, this standard must be applied strictly so that it does not become a pretext for silencing.
- **False information causing actual harm:** Disinformation that directly causes serious and imminent physical harm may be restricted; however, this standard is very strict and must not be expanded to justify silencing dissenting or unpopular views.

Disclosure of state secrets: The disclosure of information classified as a state secret on grounds of national defense and security that are genuinely legitimate—not merely to embarrass the government—may be restricted.

6. Criminalization of Expression: Empirical Issues

A. Patterns of Criminalization in Indonesia

Data from various legal aid institutions and human rights organizations reveal an alarming pattern of criminalization of expression in Indonesia. Some of the most frequently identified patterns include:

1. Criminalization of criticism of officials under the ITE Law: Citizens who criticize officials' policies or conduct on social media are often reported to the police on charges of defamation or insult under provisions of the ITE Law.
2. Arrest of demonstrators based on fabricated charges: Demonstrators who peacefully voice their opinions are frequently arrested on baseless charges of vandalism, violence, or disturbing the peace.
3. Criminalization of activists and journalists: Civil society activists and journalists who criticize government policies or expose corruption are vulnerable to criminalization under various provisions of the Criminal Code (KUHP) or the ITE Law.
4. Use of treason charges to silence political expression: Provisions on treason in the Criminal Code have been used on several occasions against activists and students who voice certain political opinions.
5. Dispersal of peaceful demonstrations: Demonstrations that have been legally notified to the National Police are still forcibly dispersed by authorities on grounds that lack legal basis.

B. Implications for Democracy

The criminalization of expression that crosses the line has far-reaching effects beyond the impact on the individuals charged. It creates what is known in legal literature as the "chilling effect": a deterrent effect that causes others who witness their peers being criminalized to choose not to express their opinions to avoid similar risks. This chilling effect is extremely dangerous for democracy because it quietly erodes a healthy public sphere. Democracy requires free and open public debate—including harsh criticism of the government and its policies—as the primary mechanism for holding power accountable and correcting its abuses. When citizens are afraid to express their opinions, democracy loses its most fundamental function. In a constitutional democracy, it is precisely the expressions most disliked by the government—namely, sharp criticism of the policies and behavior of those in power—that most need protection. Laws that protect only expressions that please the government are not laws of free speech, but laws of propaganda.

7. Comparative Analysis

A. Freedom of Expression in Various Countries

A comparative study of the protection of freedom of expression in various countries provides a useful perspective for assessing Indonesia's position and charting a course for better development:

Country	Constitutional Basis	Nature of Protection	Critical Notes
United States	First Amendment (1791)	Very strong; restrictions apply only to a "clear and present danger"; criticism of the	Speech that insults the state or public officials remains protected; even hate speech is

		government is not criminalized	protected unless it constitutes direct incitement
Germany	Article 5 of the Grundgesetz	Strong; limited by specific laws; prohibition on Holocaust denial and Nazi symbols	Balance between freedom and human dignity; courts actively review restrictions
India	Article 19(1)(a) of the Indian Constitution	Strong but subject to broader restrictions than under the ICCPR; many controversial restrictive laws	The Constitution permits more restrictions than the international standards of the ICCPR
Indonesia	Articles 28E, 28F, and 28J of the 1945 Constitution	Guaranteed by the Constitution; practice shows that expression is criminalized through the ITE Law and provisions of the Criminal Code	Progress toward democracy; challenges regarding the criminalization of expression remain significant
Singapore	Article 14 of the Singapore Constitution	Limited; many laws restrict criticism of the government	A model that formally recognizes the right but in practice severely restricts critical expression

B. Lessons from Comparative Analysis

From the comparison table above, there are several important lessons that can be drawn to strengthen freedom of expression in Indonesia. First, countries with the strongest protections (the U.S., Germany, Australia) do not use the reputation of public officials as a basis for restricting expression; harsh criticism of public officials is at the core of freedom of expression, not a violation. Second, any restriction must be subject to judicial review and must meet the standard of proportionality. Third, the threat of criminal penalties should be a last resort in responding to problematic speech, not the first response. Indonesia can learn in particular from the German model, which has historical experience with the extraordinary consequences of abused free speech but still maintains very strong protections by banning only truly harmful categories (Nazi symbols, Holocaust denial). Drawing on its own history, Indonesia can develop a similar model that restricts only truly harmful speech, not merely offensive speech.

8. Recommendations for Strengthening Protection

A. Legislative Reform

To ensure that freedom of expression in Indonesia is effectively protected and consistent with constitutional and international standards, several urgent legislative reforms are needed:

1. A comprehensive revision of the ITE Law: Provisions of the ITE Law that are vague, have the potential for over-criminalization, and do not meet legitimate human rights restriction standards must be revised or repealed. The Constitutional Court's decision in Case No. 105/PUU-XXII/2024 regarding Article 27A should be awaited and serve as a catalyst for broader reform.
2. Decriminalization of civil expressions: Various acts currently criminalized as defamation or insult should be resolved through civil channels (claims for damages), not criminal proceedings that threaten an individual's freedom.

3. Elimination of excessive treason provisions: The treason provisions in the Criminal Code that are used to criminalize legitimate political expression need to be reviewed and limited only to actions that truly threaten the physical existence of the state.

B. Strengthening Law Enforcement and Legal Culture

Legislative reform will not be effective without strengthening law enforcement and the culture of the law:

1. Training for law enforcement officials: The National Police and prosecutors need comprehensive training on legitimate standards for restricting human rights, so they do not resort too readily to criminal instruments to deal with unwelcome expressions.
2. Strengthening judicial independence: Courts must be capable and courageous enough to issue rulings that protect freedom of expression, even if that means going against the wishes of the executive branch or those in power.
3. Constitutional education: The public needs to be educated about their constitutional rights, including the right to freedom of expression, so that they can recognize and resist unlawful criminalization.

C. Strengthening the Role of the Constitutional Court

The Constitutional Court plays a crucial role in upholding constitutional standards for freedom of expression:

1. Consistent application of the three-part test: In every case involving restrictions on freedom of expression, the Constitutional Court must consistently apply the three-part test (legality, legitimate purpose, proportionality) and not uphold restrictions that fail to meet these standards.
2. Invalidation of vague provisions: The Constitutional Court must actively invalidate provisions containing legal vagueness (vagueness doctrine), as ambiguous norms create uncertainty that in itself has a chilling effect on expression.

Strengthening the case law on freedom of expression: The Constitutional Court needs to build a consistent and cumulative body of case law regarding standards for the protection of freedom of expression, so that it can serve as a reliable guide for lower courts and law enforcement officials.

8. Conclusion

Based on the analysis conducted, this article draws the following conclusions:

1. Freedom of expression in public is a right explicitly guaranteed by the 1945 Constitution through several complementary articles, particularly Article 28E, paragraph (3), which guarantees the right to assemble and express opinions. This guarantee is reinforced by Law No. 9 of 1998, which specifically regulates the mechanism for expressing opinions in public by requiring notification—not permission—as a procedural requirement.
2. Freedom of expression is not absolute and may be restricted by law. However, constitutional restrictions must meet a three-part test: legality (based on clear law), legitimate purpose (for a valid public interest), and proportionality (not excessive in relation to the intended objective). Restrictions that do not meet all three of these requirements are unconstitutional.

3. The issue of criminalizing expression through the ITE Law poses a serious challenge that threatens the quality of Indonesia's democracy. The use of the ITE Law to prosecute critical expression directed at officials and policies creates a chilling effect that undermines a free and open public sphere—a key prerequisite for meaningful democracy.
4. Comparative analysis shows that the strongest democratic nations are precisely those that provide the broadest protections for expression, including expressions that harshly criticize officials and the government. Indonesia can and must move in the same direction through legislative reforms that repeal or revise provisions that allow excessive scope for the criminalization of expression.
5. Freedom of expression is not a threat to national stability; on the contrary, it is the foundation of true stability in a democracy. A state that bans criticism and silences public expression does not build stability; it merely postpones and accumulates discontent that will eventually erupt in far more destructive forms. Freedom of expression is democracy's safety valve.

In a tradition of constitutional law grounded in constitutionalism and respect for human rights, there is no freedom more fundamental than the freedom to express one's thoughts—including, and especially, when those thoughts constitute criticism of those in power. Safeguarding this freedom is the constitutional duty of all state institutions: the executive, the legislative, the judicial, and civil society as a whole.

ORCHID

Irmanjaya Thaher 

Bibliography

- Asshiddiqie, Jimly. (2010). *Konstitusi dan Konstitusionalisme Indonesia*. Jakarta: Sinar Grafika.
- Catatan Akhir Tahun LBH Jakarta, AJI Indonesia, dan SAFEnet mengenai Kebebasan Berekspresi.
- Dworkin, Ronald. (1977). *Taking Rights Seriously*. Cambridge: Harvard University Press.
- Emerson, Thomas I. (1970). *The System of Freedom of Expression*. New York: Random House.
- Freedom House. (2024). *Freedom in the World 2024: Indonesia Country Report*. Washington, D.C.: Freedom House.
- Haris, Syamsuddin (Ed.). (2019). *Masalah-Masalah Demokrasi dan Kebangsaan Era Reformasi*. Jakarta: Yayasan Obor Indonesia.
- International Covenant on Civil and Political Rights (ICCPR), khususnya Pasal 19 dan 20.
- Komnas HAM RI. (2024). *Laporan Tahunan Komisi Nasional Hak Asasi Manusia 2024*.
- Nowak, Manfred. (1993). *UN Covenant on Civil and Political Rights: CCPR Commentary*. Kehl am Rhein: N.P. Engel.
- Putusan MK Nomor 105/PUU-XXII/2024 (dalam proses) tentang Pengujian Pasal 27A UU ITE.
- Reporters Without Borders. (2024). *World Press Freedom Index 2024*. Paris: RSF.
- Sunstein, Cass R. (1993). *Democracy and the Problem of Free Speech*. New York: Free Press.
- Susanti, Bivitri. (2023). Hukum dan Pembungkaman di Era Digital. *Jurnal Hukum dan HAM*, 15(2), 45–68.
- The Johannesburg Principles on National Security, Freedom of Expression and Access to Information (1995).

UN Human Rights Committee. (2011). General Comment No. 34 on Article 19: Freedoms of Opinion and Expression.

Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 (khususnya Pasal 28, 28E, 28F, dan 28J).

Undang-Undang Nomor 11 Tahun 2008 tentang Informasi dan Transaksi Elektronik sebagaimana diubah dengan UU No. 19/2016 dan UU No. 1/2024.

Undang-Undang Nomor 12 Tahun 2005 tentang Pengesahan International Covenant on Civil and Political Rights.

Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia.

Undang-Undang Nomor 9 Tahun 1998 tentang Kemerdekaan Menyampaikan Pendapat di Muka Umum.