

Legal Protection for Students Participating in Demonstrations: An Analysis of Law Number 9 of 1998 Concerning Freedom of Expressing Opinions in Public

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Abstract

This study examines legal protection for students in exercising their right to express opinions in public under Law Number 9 of 1998 concerning Freedom of Expressing Opinions in Public, focusing on the reciprocal relationship between Articles 6 and 13 and the challenges of implementation in practice. This study employs a normative juridical method using a statutory approach and a conceptual approach, with the Corrupted Reformation movement presented as an empirical illustration. The findings indicate that Law Number 9 of 1998 establishes a reciprocal legal protection framework through three layers of mechanisms: the definitional and legitimizing layer under Articles 1 and 2; the balancing layer concerning rights and obligations under Articles 5, 6, and 8; and the procedural and sanction-based layer under Articles 9–11 and 15–18. Applying Lawrence M. Friedman's legal effectiveness theory, the study finds that the implementation of such protection continues to face challenges involving the legal substance, legal structure, and legal culture, which mutually reinforce one another. Consequently, normative legal protection cannot be effectively realized without simultaneous improvements across all three dimensions.

Keywords

Demonstrations; Legal Effectiveness; Students; Legal Protection; Law Number 9 Of 1998



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INTRODUCTION

As citizens, students possess a constitutional right to express their aspirations and opinions in public, as guaranteed under Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia. This constitutional guarantee is further reinforced by Article 18 paragraph (1) of Law Number 9 of 1998 concerning Freedom of Expressing Opinions in Public, which provides criminal sanctions for any person

who unlawfully obstructs citizens from exercising their right to express opinions in public (Indonesia, 1998). This normative foundation provides a strong legal basis for students to participate in demonstrations as a legitimate form of civic participation, critical evaluation of government policies, and articulation of public concerns. Within a democratic constitutional state, demonstrations should therefore not merely be understood as public gatherings that potentially disrupt public order, but also as an instrument through which citizens participate in monitoring the exercise of state power.

Historically, students have played a significant role as agents of social change and as a driving force of social control over government authority, particularly since the Reform Era (Jannah & Sulianti, 2021; Akbar, 2016). Student movements have frequently emerged in response to policies considered inconsistent with democratic principles, social justice, and public interests. Their involvement demonstrates that freedom of expression in public has an important dimension of democratic participation. Nevertheless, the exercise of this constitutional right often encounters tension with the authority of law enforcement agencies. In practice, demonstrations may be subject to restrictions justified on the grounds of maintaining public order, protecting public safety, or preventing potential disturbances. Such restrictions become problematic when they develop into excessive or disproportionate measures that undermine the substantive protection of the right to peaceful assembly and expression (Alifiana & Ahmad, 2024; Buldani, 2025).

The issue becomes increasingly important in the context of the growing frequency and intensity of student demonstrations in Indonesia. Various demonstrations have been conducted in response to legislative policies, governmental decisions, human rights concerns, environmental issues, and broader demands for democratic accountability. The Indonesian National Police recorded that hundreds of people among thousands of demonstrators arrested during the wave of demonstrations in late August 2025 remained subject to legal proceedings in several major cities. This situation attracted attention from international human rights activists and raised concerns regarding the proportionality of law enforcement measures against demonstrators. The circumstances demonstrate that the existence of legal norms guaranteeing freedom of expression does not automatically ensure effective protection in practice. A fundamental question consequently arises concerning the extent to which the state can guarantee the constitutional rights of students while simultaneously maintaining public order and security.

Law Number 9 of 1998 is particularly significant because it does not merely recognize the right to express opinions in public but also establishes reciprocal responsibilities between demonstrators and the state. Article 6 regulates the obligations of citizens exercising their freedom of expression, including respect for the rights and freedoms of others, respect for generally recognized moral rules, compliance with applicable laws and regulations, preservation of public order, and protection of national unity and integrity. On the other hand, Article 13 establishes the state's responsibility to provide legal protection and security to participants in public demonstrations. These provisions demonstrate that the legal framework is constructed upon a reciprocal relationship: demonstrators are required to exercise their rights responsibly, while the state is required to ensure that the legitimate exercise of those rights receives protection. The relationship between these provisions is therefore essential for determining whether legal protection operates as a genuine guarantee or merely as a formal normative declaration.

Previous studies have examined various dimensions of demonstrations and police authority, including repressive measures against demonstrators (Suliyanto, 2021), legal protection for victims of violence by law enforcement officers (Salsabila, 2025), the exercise of police discretion (Siregar, 2020), and criminal sanctions against law enforcement personnel (Algiifari, 2024). These studies have contributed significantly to understanding the legal relationship between demonstrations and law enforcement. However, most have focused primarily on the authority, conduct, or accountability of law enforcement agencies. Limited attention has been given to examining the reciprocal relationship between the obligations imposed on demonstrators under Article 6 and the state's obligation to provide protection under Article 13 of Law Number 9 of 1998. This gap is particularly relevant when students are considered as a social group that has historically and contemporarily played a prominent role in public demonstrations. Examining this reciprocal relationship is necessary to avoid viewing demonstrations solely from the perspective of public order or police authority.

The present study addresses this research gap by analyzing legal protection for students participating in demonstrations from a normative legal perspective. The study focuses on two principal issues: first, how the legal framework governing student protection in demonstrations is constructed under Law Number 9 of 1998; and second, what legal obstacles students encounter when exercising their right to express opinions in public. The #ReformasiDikorupsi movement is employed as an empirical illustration to contextualize the gap between the normative framework and

its implementation in practice. The phenomenon demonstrates how legal provisions that appear comprehensive at the textual level may encounter structural and practical limitations when applied in real situations.

This study is also analyzed through Lawrence M. Friedman's theory of legal effectiveness, which conceptualizes the effectiveness of law through the interaction of legal substance, legal structure, and legal culture. This theoretical perspective enables the study to move beyond an examination of statutory provisions and assess the factors influencing the implementation of legal protection in practice. Through this approach, the study seeks to demonstrate that effective protection of students' freedom of expression cannot depend solely on the existence of legal norms. It also requires institutional commitment from law enforcement agencies and a legal culture that recognizes demonstrations as a legitimate component of democratic participation. Accordingly, this research is expected to contribute both theoretically and practically to the development of a more balanced legal framework that simultaneously guarantees freedom of expression, protects demonstrators, and maintains public order within Indonesia's constitutional democracy.

METHODS

This study employs a normative-doctrinal legal research approach, in which law is understood as a normative system consisting of legal rules, principles, and doctrines that must demonstrate internal consistency and coherence, rather than as an empirical social phenomenon. Normative legal research is intended to identify, analyze, and interpret legal rules, principles, and doctrines relevant to the legal issues under examination. Accordingly, the materials used in this study consist primarily of legal materials rather than empirical field data. This approach is considered appropriate because the central concern of the study is to examine the legal protection afforded to students participating in demonstrations and to analyze the normative relationship between the obligations of demonstrators and the state's responsibility to provide protection.

Two complementary approaches are employed. First, the statutory approach (*statute approach*) is used to examine Law Number 9 of 1998 concerning Freedom of Expressing Opinions in Public, Article 28E paragraph (3) of the 1945 Constitution of the Republic of Indonesia, and relevant implementing regulations. This approach is directed at identifying the *ratio legis* of the relevant provisions and examining the consistency and coherence of norms governing freedom of expression and legal protection for demonstrators. Particular attention is given to Articles 6 and 13 of Law Number 9 of 1998 because these provisions establish a reciprocal normative

relationship between the obligations of citizens exercising their right to express opinions and the state's obligation to provide legal protection and security.

Second, the conceptual approach (*conceptual approach*) is employed to examine relevant legal doctrines and theoretical perspectives. The analysis draws upon Philipus M. Hadjon's theory of preventive and repressive legal protection, Lawrence M. Friedman's legal system theory concerning legal substance, legal structure, and legal culture, Satjipto Rahardjo's theory of progressive law, and Jürgen Habermas's theory of deliberative democracy. These theoretical perspectives are used to assess not only the formal existence of legal protection but also its normative orientation, institutional implementation, and relationship with democratic participation.

The primary legal materials consist of the 1945 Constitution of the Republic of Indonesia, Law Number 9 of 1998 concerning Freedom of Expressing Opinions in Public, Law Number 39 of 1999 concerning Human Rights, Law Number 2 of 2002 concerning the Indonesian National Police, Regulation of the Chief of the Indonesian National Police Number 7 of 2012, and the International Covenant on Civil and Political Rights (ICCPR), ratified by Law Number 12 of 2005. Secondary legal materials include legal doctrines, scholarly books, academic journal articles, and other relevant legal literature used to explain, contextualize, and interpret the primary legal materials.

The collection of legal materials is conducted through library research by identifying, collecting, classifying, organizing, and systematizing relevant legislation hierarchically. The collected materials are subsequently examined through normative synchronization and harmonization to identify potential inconsistencies, overlaps, or gaps among legal provisions. This process enables the study to assess whether the legal framework governing students' freedom of expression and their protection during demonstrations is normatively coherent.

The analysis applies four complementary methods of legal interpretation. Grammatical interpretation is used to examine the linguistic meaning of Articles 6 and 13 of Law Number 9 of 1998. Systematic interpretation places these provisions within the broader structure and objectives of the legislation. Historical interpretation is employed to examine the legislative background and the original intent of the lawmakers. Teleological interpretation focuses on the objectives and values underlying the regulation, particularly the protection of freedom of expression and public order. The results of these interpretative processes are subsequently constructed into legal arguments concerning the forms and limits of legal protection for students participating in demonstrations. Finally, the resulting

legal construction is evaluated against human rights principles and examined through Friedman's legal effectiveness framework, particularly the interaction between legal substance, legal structure, and legal culture.

FINDINGS AND DISCUSSION

Juridical Framework of Legal Protection for Students under Law Number 9 of 1998

The right to express opinions in public constitutes a constitutional right guaranteed by the 1945 Constitution of the Republic of Indonesia. Article 28 recognizes the freedom of association, assembly, and expression, while Article 28E paragraph (3) expressly guarantees every person the freedom to associate, assemble, and express opinions. These constitutional guarantees are further operationalized through Law Number 9 of 1998 concerning Freedom of Expressing Opinions in Public. From a juridical perspective, the statutory framework demonstrates that freedom of expression is not merely recognized as an individual liberty but is also positioned as an essential instrument of democratic participation and public oversight of state authority.

The legal protection established by Law Number 9 of 1998 has a reciprocal character. The state is required to guarantee the exercise of the right to express opinions, while citizens exercising that right are simultaneously required to comply with certain legal and social obligations. This reciprocal construction is important because it prevents two extremes: first, the interpretation of freedom of expression as an unlimited right that may disregard the rights of others and public order; and second, the interpretation of public order as a justification for arbitrary restrictions on citizens' constitutional rights. In this context, legal protection should operate by maintaining a proportional balance between individual freedom and collective responsibility.

Article 1 points 1 and 3 provides the normative foundation for this balance. The provision defines freedom of expressing opinions as a right exercised freely and responsibly and expressly recognizes demonstrations (*unjuk rasa*) as one of the legally recognized forms of expressing opinions in public. The recognition is significant because it establishes demonstrations as a legitimate form of civic participation rather than inherently unlawful conduct. For students, demonstrations consequently constitute a legally protected mechanism for communicating criticism, aspirations, and demands concerning public policy.

Article 2 further establishes that the exercise of freedom of expression, whether individually or collectively, must comply with the provisions of the law. This provision indicates that the statutory concept of freedom is accompanied by

responsibility. The existence of procedural and substantive limitations does not, in itself, negate the constitutional character of the right. Rather, such limitations are intended to ensure that the exercise of one person's freedom does not unlawfully interfere with the rights of others, public security, or the broader interests recognized by law.

The balance between rights and obligations becomes more explicit in Articles 5 and 6. Article 5 provides two fundamental rights to participants in public expression activities: the right to express thoughts freely and the right to obtain legal protection, including security guarantees. The protection provided by Article 5 is therefore not limited to protection against private interference but also creates a responsibility for the state, particularly law enforcement authorities, to ensure the security of participants during the lawful exercise of their rights.

This entitlement is accompanied by five principal obligations under Article 6. Participants are required, among other things, to respect the rights and freedoms of others, comply with applicable laws and regulations, respect generally accepted moral norms, maintain public order, and preserve national unity and integrity. These obligations demonstrate that the law adopts a responsibility-based conception of freedom. The protection afforded to demonstrators should therefore be understood not as unconditional immunity from legal consequences but as protection for the lawful exercise of constitutional rights.

Article 8 strengthens this construction by recognizing that maintaining public order is not exclusively the responsibility of demonstrators or law enforcement authorities. Society as a whole also has a role in maintaining a conducive environment during public expression activities. This provision is important in the context of student demonstrations because potential conflict cannot automatically be attributed to the demonstrators. The creation of a safe and democratic demonstration environment requires cooperation among participants, law enforcement agencies, government institutions, and the wider community.

The next layer concerns procedural protection. Article 9 identifies the forms of public expression covered by the law, while Article 10 requires written notification to the Indonesian National Police no later than 3 × 24 hours before the activity is conducted, subject to statutory exceptions. The legal character of this mechanism is particularly important. The notification requirement (*kennisgeving*) should be distinguished from a permit (*vergunning*). A notification is intended to inform the authorities about an intended activity so that security and public order can be prepared, whereas a permit places the legality of an activity under the prior

authorization of the state. Accordingly, the notification mechanism should not be interpreted as granting the police discretionary authority to approve or reject demonstrations merely because they are critical of government policies.

The procedural framework is consequently designed to facilitate, rather than eliminate, the exercise of freedom of expression. The state's role should primarily be directed toward ensuring security, preventing violence, protecting the rights of all parties, and facilitating the lawful exercise of demonstrations. Any restriction must therefore have a clear legal basis and must be proportionate to the legitimate objective pursued. An overly expansive interpretation of police authority may transform a notification mechanism into a de facto permit system, which would weaken the constitutional protection guaranteed by Article 28E paragraph (3) of the 1945 Constitution.

Legal protection is further reinforced through the provisions governing dissolution and sanctions. Article 15 provides that the dissolution of a public expression activity may be undertaken when there are violations of the provisions expressly stipulated by the law. This indicates that dissolution should not be based solely on subjective assessments or assumptions concerning the possibility of disturbance. A concrete legal violation must provide the basis for such action. Articles 16 and 17 further reflect the principle of individual responsibility by establishing legal consequences for violations attributable to particular persons rather than automatically imposing collective liability upon all participants.

Article 18 represents one of the most significant protective provisions because it establishes criminal consequences for any person who unlawfully obstructs citizens from exercising their right to express opinions in public. The provision is particularly relevant when viewed from the perspective of students because it establishes that legal protection is not merely declaratory. The state provides a legal instrument to respond to unlawful interference with the exercise of a legitimate right. In principle, this protection may also extend to unlawful conduct committed by individuals acting within law enforcement institutions. Thus, the position of the police is not only that of an institution authorized to regulate public demonstrations but also that of an institution legally obliged to protect the exercise of citizens' rights.

The normative structure of Law Number 9 of 1998 can therefore be understood through three interconnected layers: the definitional and legitimizing layer, the rights-and-obligations balancing layer, and the procedural and sanction-based layer. These three layers demonstrate that legal protection is constructed progressively, beginning with recognition of the right, followed by the establishment of reciprocal

responsibilities, and culminating in procedural guarantees and legal consequences for violations.

Table 1. Three-Layer Mechanism of Legal Protection under Law Number 9 of 1998

Mechanism Layer	Articles	Protective Function
Definitional and legitimizing	Articles 1 and 2	Recognizes demonstrations as a legally legitimate form of expressing opinions and establishes the normative basis for their exercise.
Balance between rights and obligations	Articles 5, 6, and 8	Balances individual freedom with social responsibility by recognizing participants' rights while establishing obligations to respect others, comply with the law, and maintain public order.
Procedural and sanction-based	Articles 9–11 and 15–18	Regulates the technical procedures for conducting demonstrations and establishes legal consequences for violations, including unlawful obstruction of the right to express opinions.

Source: Processed by the authors based on Law Number 9 of 1998.

The three-layer framework demonstrates that, from a normative perspective, Law Number 9 of 1998 provides a relatively comprehensive legal foundation for protecting students participating in demonstrations. Protection begins with the recognition of demonstrations as a legitimate form of public expression, continues through the balancing of rights and obligations, and is strengthened by procedural guarantees and sanctions against violations.

From the perspective of Philipus M. Hadjon's theory of legal protection, these provisions contain both preventive and repressive dimensions. Preventive protection is reflected in the recognition of the right to express opinions, procedural arrangements, security guarantees, and restrictions on state intervention. Repressive protection is reflected in the availability of legal sanctions against parties who violate the rights of participants or unlawfully obstruct the exercise of freedom of expression. The statutory framework therefore provides mechanisms intended to protect citizens both before and during the exercise of their rights and after a violation occurs.

Nevertheless, the existence of comprehensive legal provisions does not necessarily guarantee effective protection. The distinction between *das sollen* and *das sein* remains important. At the normative level, students are positioned as rights holders whose freedom of expression must be protected. In practice, however, the effectiveness of such protection depends on how the relevant provisions are interpreted and implemented by law enforcement institutions, government authorities, demonstrators, and society. This issue becomes particularly important where demonstrations involve strong criticism of government policies, because the

exercise of police discretion may influence the practical boundaries of constitutional freedom.

Accordingly, the legal framework under Law Number 9 of 1998 should not be assessed solely by examining whether protective provisions exist. The more fundamental issue concerns whether the substance of the law, institutional structure, and legal culture operate consistently to realize the protection intended by the legislation. This perspective is consistent with Lawrence M. Friedman's theory of legal effectiveness, which emphasizes the interaction between legal substance, legal structure, and legal culture. The following discussion therefore needs to examine how these three dimensions influence the implementation of legal protection for students and explain why normative protection that appears adequate may not always translate into effective protection during demonstrations.

Obstacles to the Implementation of Legal Protection for Students: A Perspective on Friedman's Legal Effectiveness Theory

Using Lawrence M. Friedman's theory of legal effectiveness, the obstacles to implementing legal protection can be examined through three dimensions of the legal system: legal substance, legal structure, and legal culture. These three dimensions are interrelated and collectively explain why the legal protection normatively provided under Articles 6 and 13 has not been fully effective in practice. The main obstacles identified in each dimension are summarized in Table 2.

Table 2. Obstacles to the Implementation of Legal Protection Based on Friedman's Three Dimensions

Friedman's Dimension	Forms of Obstacles
Legal Substance	Ambiguity in restrictive provisions; unclear notification mechanisms; disharmony with the Criminal Code and the Electronic Information and Transactions Law; limited affirmative provisions specifically addressing student demonstrations
Legal Structure	Repressive conduct by law enforcement officers; weak oversight and accountability mechanisms within Komnas HAM and the Police Professional and Security Division (Propam); weak interinstitutional coordination
Legal Culture	Limited understanding among students of their rights and obligations; socio-political stigma toward student demonstrations; inadequate dissemination of legal information on freedom of expression within universities

Source: Processed by the authors based on Friedman's theory of legal effectiveness.

At the legal substance level, the formulation of obligations under Article 6 contains abstract expressions, such as “maintaining public order” and “respecting

generally accepted moral standards,” without providing sufficiently precise operational parameters. Such formulations may create broad discretionary space for law enforcement officers and potentially enable the provisions to be used against student demonstrations that are constitutionally legitimate. The ambiguity surrounding the notification mechanism further complicates the implementation of the right to demonstrate. The absence of clear legal consequences when notification is rejected or receives no response may contribute to the erroneous characterization of demonstrations as “unauthorized,” which can subsequently be used to justify forced dissolution. This problem is further complicated by potential normative intersections with the Criminal Code and the Electronic Information and Transactions Law, as well as the limited availability of affirmative provisions specifically addressing the particular characteristics of student demonstrations.

At the legal structure level, although Article 13 normatively requires the state and law enforcement authorities to provide legal protection, practices in the field may still demonstrate patterns of excessive or repressive intervention, ranging from forced dissolution to arbitrary arrests. Such practices indicate a gap between *das sollen* (what ought to be) and *das sein* (what exists in practice). Oversight institutions, including the National Human Rights Commission (Komnas HAM) and the Police Professional and Security Division (Propam), also face institutional limitations in ensuring effective accountability. In addition, the absence of standardized coordination mechanisms among the police, local governments, and universities may result in different approaches to student demonstrations, with their handling often depending heavily on the discretion of individual officers or local authorities.

The legal culture dimension presents another significant challenge. Some students do not fully understand the normative boundaries between their right to express opinions and the legal obligations accompanying that right. This lack of understanding may increase the potential for violations during demonstrations while simultaneously weakening students' ability to assert their legal rights when violations occur. At the broader societal level, socio-political stigma toward student demonstrations remains a significant problem. Demonstrations are sometimes perceived primarily as disturbances to public order rather than as a legitimate form of democratic participation. Such perceptions may be understood as remnants of an authoritarian legal culture that has not been fully transformed into a democratic legal culture. The limited dissemination of Law Number 9 of 1998 as part of formal legal education within universities further contributes to students' limited awareness of the legal protection mechanisms available to them.

The #ReformasiDikorupsi movement provides an empirical illustration of the interaction among these three obstacles. The ambiguity of legal norms may create room for restrictions or dissolution without sufficiently precise legal justification; repressive actions in the field may occur without being adequately followed by effective institutional accountability; and social and political stigmatization may obscure the legitimacy of the demands articulated by students. The phenomenon demonstrates that the principal problem does not merely lie in the absence of legal norms. Rather, it lies in the systemic dysfunction occurring at the intersection of legal substance, legal structure, and legal culture.

From Friedman's perspective, the effectiveness of a legal system cannot be determined solely by the existence of formally valid legislation. Legal substance must be sufficiently clear, legal institutions must implement the law consistently and accountably, and legal culture must support recognition and respect for the rights guaranteed by law. In the context of student demonstrations, these three elements must operate simultaneously. Improvements in the substance of Law Number 9 of 1998 without institutional reform would be insufficient, just as stronger institutional oversight would have limited impact if ambiguity in the legal norms remains unresolved.

Therefore, the protection guaranteed under Articles 6 and 13 of Law Number 9 of 1998 remains normatively established but practically incomplete. Effective protection requires simultaneous improvement in the clarity of legal norms, institutional accountability and coordination, and the development of a democratic legal culture that recognizes student demonstrations as a legitimate component of constitutional participation. This finding reinforces the argument that the effectiveness of legal protection depends not merely on what the law formally provides, but on the extent to which the entire legal system is capable of translating those normative guarantees into concrete protection in practice.

CONCLUSION

This study draws two main conclusions. First, Law Number 9 of 1998 concerning Freedom of Expressing Opinions in Public provides legal protection for students exercising their right to express opinions in public through three interconnected mechanisms: the recognition of demonstrations as a legally legitimate right under Articles 1 and 2; the balancing of rights and obligations under Articles 5, 6, and 8; and the regulation of implementation procedures and legal sanctions under Articles 9–11 and 15–18. Such protection is reciprocal in nature: the right to express opinions is guaranteed insofar as participants fulfill their legal obligations, while the

state's obligation to provide protection applies when participants comply with the prescribed procedures. In this context, the notification mechanism under Articles 10 and 11 functions as a *kennisgeving* (notification), rather than a *vergunning* (permit).

Second, Articles 6 and 13 cannot be interpreted independently, but must be understood as an interconnected set of reciprocal norms. Comprehensive legal protection for students can therefore only be achieved when both provisions are implemented simultaneously. Although the normative framework has been comprehensively established, its effectiveness in practice continues to face multidimensional and mutually reinforcing obstacles involving legal substance, legal structure, and legal culture, as illustrated by the #ReformasiDikorupsi movement. Accordingly, simultaneous improvements are required, particularly through clarifying the distinction between notification and permission, strengthening the principles of proportionality and law-enforcement accountability, and increasing students' legal literacy. These measures are necessary to ensure that the legal protection guaranteed under Law Number 9 of 1998 can be effectively realized in practice. Future research using a socio-legal or empirical juridical approach is recommended to test these normative findings against field data from a broader range of student demonstration cases.

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