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Juridical Review of the Implementation of Anti-SLAPP Policy in Indonesia (Analysis of Decision No. 14.Pid.Sus/2024/PN JPA)

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Abstract: The state's obligation to protect activists is a crucial aspect of human rights enforcement and democracy. Despite existing legal frameworks, both domestic and international, many activists still face significant threats in practice. The decision in Jepara District Court Case No. 14 Pid.Sus/2024/PN Jpa illustrates challenges in safeguarding freedom of expression, particularly on environmental issues. This case raises concerns about the inadequate implementation of anti-SLAPP policies, which aim to protect public participation. The ruling risks suppressing freedom of speech and creating a chilling effect on environmental activists. Protecting activists through legal reforms and consistent policy implementation is essential to fostering democracy, social justice, and public engagement in critical discussions.

Keyword: Activist Protection, Human Rights(HAM), (Strategic Lawsuit Against Public Participation).

INTRODUCTION

The Anti-SLAPP (Strategic Lawsuit Against Public Participation) policy is a legal measure aimed at protecting individuals or groups from strategic and disproportionate lawsuits, particularly those intended to suppress freedom of expression and public participation. In Indonesia, SLAPP cases have been increasing in line with the growing public awareness of issues such as environmental protection, politics, and human rights. With the rise of public criticism against government policies and corporate actions, concerns have emerged that legal proceedings could be used as a tool to intimidate and silence critical voices in society. Therefore, it is crucial to explore and analyze the implementation of the Anti-SLAPP policy within the Indonesian legal framework.

As part of the effort to address this issue, Law No. 39 of 1999 on Human Rights affirms the importance of freedom of expression as a fundamental right. However, despite these protections, numerous cases have shown that individuals who express their opinions or criticize authorities often face legal threats, intimidation, and lawsuits that can cause financial and psychological harm. This creates an environment that is not conducive to public discourse and democratic development in Indonesia. The implementation of the Anti-SLAPP policy in Indonesia is still relatively new and requires a comprehensive evaluation.

The case analyzed in this study is Decision No. 14.Pid.Sus/2024/PN JPA, which involves a defendant charged with violating legal provisions related to freedom of expression. Through this ruling, the court is expected to set a clear precedent on the boundaries of free speech and the protections that should be afforded to individuals engaging in public participation.

An analysis of this decision is crucial to assess whether the court's ruling aligns with the spirit of the Anti-SLAPP policy and the protection of freedom of expression. On one hand, courts must safeguard individuals' rights to voice their opinions and express their views. On the other hand, they must consider the impact of such expressions, especially if they are deemed harmful or incite hatred against certain groups. Therefore, a balanced and fair approach is essential in implementing this policy.

The background of this issue is also influenced by the increasing role of social media and information technology. Social media has become the primary platform for the public to voice their opinions, share information, and engage in discussions. However, with the rise of these platforms, new challenges have emerged in managing the spread of information and preventing potential misuse. SLAPP cases often arise in this context, where individuals or groups who criticize via social media can easily face legal action from those who feel harmed. This underscores the importance of the Anti-SLAPP policy in providing protection for individuals who speak out.

It is essential to understand the legal and social contexts that shape the implementation of the Anti-SLAPP policy in Indonesia. In many cases, inconsistent law enforcement and a lack of understanding of individuals' rights to express their opinions are major factors contributing to the rise of SLAPP cases. Thus, this study aims to identify the challenges faced in implementing the Anti-SLAPP policy and provide constructive recommendations to improve the existing legal system.

From a legal perspective, the implementation of the Anti-SLAPP policy in Indonesia is not yet specifically regulated by law. Although there are several provisions protecting freedom of expression, such as those in Law No. 39 of 1999, the enforcement of these laws still requires strengthening. In this regard, Decision No. 14.Pid.Sus/2024/PN JPA will be crucial in providing guidance for other courts in handling similar cases in the future (Diaz & Jegiantho, 2021).

Meanwhile, Indonesia's political and social dynamics also significantly influence the application of this policy. In the political context, many parties fear that legal actions could be used as a tool to suppress freedom of expression and public participation. Therefore, the analysis of this decision is expected to provide a better understanding of how the Anti-SLAPP policy can be effectively implemented to protect individual rights and strengthen democracy.

Through this study, the author hopes to explore in greater depth the practices and challenges in the implementation of the Anti-SLAPP policy in Indonesia, as well as to offer relevant recommendations for policymakers, law enforcement agencies, and society. This study also aims to contribute to the development of Indonesian law, particularly in safeguarding freedom of expression and public participation (Harahap & Pratiwi, 2023). Overall, the background of this study highlights that the implementation of the Anti-SLAPP policy in Indonesia requires serious attention from various stakeholders. In addressing the existing challenges, collaboration between the government, society, and legal institutions is crucial to fostering an environment that supports freedom of expression.

This study is expected to serve as a foundation for the development of improved policies in the future and to ensure justice for individuals who courageously voice their opinions in the public sphere. Through an analysis of Decision No. 14.Pid.Sus/2024/PN JPA, it is hoped that solutions can be found to overcome the current issues and strengthen the protection of freedom of expression in Indonesia (Paka & Najicha, 2023).

METHOD

This research is a normative legal study. The data sources for this research are derived from primary, secondary, and tertiary law. The data collection for this research was obtained from library studies. The data analysis of this research is deductive, meaning drawing conclusions from a general problem to a specific problem.

RESULTS AND DISCUSSION

The State's Obligation to Protect Activists

The state's obligation to protect activists is a crucial aspect of the enforcement of human rights and the practice of democracy. Activists, who are often at the forefront of advocating for people's rights and social justice, face various risks, including intimidation, threats, and violence. The state has a responsibility to create a safe environment for activists so they can carry out their duties without fear. This obligation is not only regulated in domestic law but also in various international instruments that emphasize the protection of human rights. Internationally, the state's duty to protect activists can be found in the Universal Declaration of Human Rights (UDHR), adopted by the United Nations General Assembly in 1948. Article 19 of the UDHR affirms the right of every person to express their opinions and freely convey them, while Article 20 guarantees the right to assemble and associate. Activists often exercise these rights, and the state must ensure that they are protected from any form of repressive actions that could hinder freedom of expression. In this context, the state must take appropriate steps to safeguard activists from physical threats, whether from individuals or irresponsible groups (Aulia & Margarettha, 2021).

In Indonesia, the state's obligation to protect activists is regulated by various legal frameworks, including the 1945 Constitution. Article 28E of the 1945 Constitution guarantees the right to freedom of opinion and assembly, while Article 28I emphasizes that human rights cannot be reduced under any circumstances. Therefore, the state has an obligation to ensure that activists can exercise these rights without fear of retaliation. In addition, Law No. 39 of 1999 on Human Rights also underscores the importance of protecting activists who advocate for public rights.

In practice, despite the clear legal framework, many activists in Indonesia still face various threats, including arbitrary arrests, intimidation, and physical violence. Several high-profile cases, such as attacks on environmental and human rights activists, highlight that the state has not fully fulfilled its obligation to protect them. This shows a gap between legal commitments and the reality on the ground. Therefore, it is crucial for the state to carry out necessary evaluations and reforms to improve protection for activists (Indrawati, 2022).

In the context of human rights protection, the state's obligation to protect activists is not limited to the recognition of their rights, but also includes concrete actions to ensure that activists can carry out their duties without fear of intimidation, threats, or violence. Activists are often at the forefront of advocating for social justice, environmental protection, and human rights, which puts them at high risk, including physical attacks, arbitrary arrests, and other forms of violence. Therefore, the state needs to provide adequate support through protection mechanisms, especially for witnesses and whistleblowers facing threats. One legal basis that supports this protection is Law No. 13 of 2006 on the Protection of Witnesses and Victims. This law is designed to provide protection to witnesses and victims who provide information related to criminal acts, particularly in cases where their safety may be at risk. Pasal 1, number 1 of the Witness and Victim Protection Law defines a witness as "any person who provides testimony in a judicial process," while a victim is defined as "any person who suffers harm due to a criminal act."

In the context of activists, they often function as witnesses who provide information related to human rights violations, and therefore, are entitled to protection in accordance with the provisions of this law (Medhika et.al., 2022).

Legal challenges they may face as a result of their activism. This legal assistance should ensure that activists have proper representation in court, especially when they are targeted by lawsuits or face potential criminal charges due to their involvement in human rights advocacy or whistleblowing. Moreover, psychological support is equally crucial in providing comprehensive protection for activists. Many activists endure emotional and psychological distress due to the threats or violence they experience. Therefore, offering access to counseling services, mental health care, and social support networks is vital to help them cope with the emotional toll of their work.

In summary, the protection program for witnesses and whistleblowers must be multi-faceted, encompassing physical, legal, and psychological support to ensure the safety and well-being of activists and those who expose human rights violations. The state has a fundamental responsibility to create a comprehensive framework that enables these individuals to continue their vital work without fear of retaliation or harm and providing them with the necessary support. The state must take proactive steps to address these challenges, ensuring that mechanisms are in place to both prevent and respond to threats against activists.

One of the key elements in this protection program is funding legal assistance for those facing intimidation or persecution, particularly through pro bono services offered by law firms or specialized human rights organizations. This funding should not only facilitate access to legal defense but also allow for the training of lawyers who are well-versed in the specific challenges faced by activists and the legal protections they are entitled to.

Furthermore, providing psychological support is critical for the well-being of activists. Given the emotional toll of facing threats, physical harm, or even the loss of personal security, psychological care should be integrated into the protection programs. Access to counseling, trauma care, and recovery programs can help activists deal with the mental and emotional impact of their experiences and maintain their ability to continue their important work. Non-governmental organizations (NGOs) that specialize in mental health and human rights can play a key role in providing this support and collaborating with the government.

In Indonesia, while the Witness and Victim Protection Law exists, its implementation remains insufficient, leaving many activists vulnerable. Numerous cases of threats, harassment, and violence against environmental and human rights activists often go unaddressed or receive minimal attention from law enforcement agencies. In these instances, the state must go beyond its role as a law enforcer and become a proactive protector of activists, ensuring that they can operate without fear of reprisal. Only through a robust and responsive protection system will Indonesia be able to foster an environment where activism can thrive, and human rights can be safeguarded (Handayani et. al, 2021).

Civil society involvement is also crucial in creating a safe environment for activists. Civil society organizations can serve as watchdogs to monitor government actions regarding the protection of activists. They can advocate to raise awareness about the importance of protecting the rights of activists and provide moral support to those facing threats. By involving society in the protection process, the government can build better trust and collaboration between the state and civil communities. Furthermore, the government needs to conduct regular policy evaluations and reforms to ensure the effectiveness of existing protection mechanisms. The evaluation should include an analysis of how well witness and whistleblower protection programs function in safeguarding activists. The results of these evaluations can be used to formulate better, more responsive policies that address the protection needs of activists. Through continuous reforms, the government can demonstrate a genuine commitment to protecting the rights of activists and creating a conducive environment for public participation.

The decision of the Jepara District Court in the case of Daniel Frits Maurits Tangkilisan highlights the importance of law enforcement in protecting the public from the spread of SARA (ethnic, religious, race, and inter-group) based information that incites hatred, in accordance with Article 28 (2) of the ITE Law. This case underscores the court's efforts to maintain social

harmony in the face of diversity by ensuring a transparent and fair legal process. Additionally, digital literacy becomes an essential aspect in raising public awareness about responsibility on social media and the legal consequences of irresponsible behavior.

In the context of environmental advocacy, freedom of expression, as protected under Article 66 of the Environmental Protection Law, is an important human right. However, the ruling against Tangkilisan may spark debates about the potential violation of anti-SLAPP policies that protect activists from legal intimidation. Criticism and opinions related to environmental issues should be understood as legitimate forms of public participation, not as illegal acts of provocation. Therefore, the court needs to consider the context of the statements to prevent the suppression of freedom of expression.

More broadly, the implementation of anti-SLAPP policies requires consistent law enforcement and comprehensive education to protect environmental activists. The state must ensure that freedom of expression remains guaranteed while maintaining social and environmental harmony. With a holistic approach, collaboration between the government, society, and the private sector can strengthen efforts to sustain the environment without neglecting individuals' rights to voice their opinions.

This decision has the potential to hinder environmental protection efforts because activists critical of government or corporate policies could face legal consequences. In this context, anti-SLAPP policies must be strengthened to protect individuals involved in environmental advocacy and freedom of expression. Policy reforms are necessary so that legal actions are not used as tools to silence critical voices. The state must commit to creating an environment that supports public participation, allowing society to express their views safely without fear of legal action.

To maintain freedom of expression, it is essential for the government, law enforcement agencies, and society to collaborate in protecting individual rights. Education on the importance of freedom of expression and the right to participate in public policy discussions, particularly those related to the environment, is needed. With the right steps, Indonesia can strengthen its democracy and ensure active public participation in environmental protection. This will not only support environmental sustainability but also enhance community involvement in decision-making processes that are more transparent and accountable.

CONCLUSION

The state's obligation to protect activists is a crucial foundation in upholding human rights and democracy. The state must create a safe environment for activists to carry out their duties without fear, in accordance with domestic laws and international instruments such as the Universal Declaration of Human Rights. In Indonesia, although there is a legal framework in place to protect activists, many still face serious threats, including intimidation and violence. Therefore, significant evaluation and reforms are needed to enhance this protection. Furthermore, the enforcement of laws against human rights violations, support from the National Human Rights Commission, and international cooperation are essential in establishing an effective protection system for activists. By fulfilling this obligation, the state not only protects individuals but also strengthens democracy and human rights as a whole.

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