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Civil Legal Protection for Environmental Warriors

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ABSTRACT
The article analyzes civil law issues on the legal protection for environmental rights activists written in Permen LHK Number 10 (2024) upholds to protect the people who struggle to get the right for better environment. The main objective of the regulation is to protect for environmental activists from the criminal threat in accordance with Article 66 of Law Number 32 (2009) that guarantees anyone who focused to struggle in the environment cannot be criminalized. This type of research is normative law using examining statutory regulations approach by taking primary and secondary data. Qualitative analysis is also applied in this study. The results of the study show that the regulation aims to increase public participation between institutions to protect and to preserve the environment.

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INTRODUCTION

The principles of environmental protection and management in Indonesia originally have been stated in the Fourth Paragraph of the Opening of the 1945 Constitution of the Republic of Indonesia. Article 33 paragraph (3) of the 1945 is a logical consequence. To control over natural resources is the obligation of the state. The state is focused on utilizing of natural resources for the greatest prosperity of the people. Article 33 paragraph (4) of the 1945 Constitution of the Republic of Indonesia shows of the recognition of the importance environmental protection and management efforts in Indonesia and principles of environmental protection and management as written in that article showing the inclusion of sustainable and environmentally aware principles.

In fact, public participation to protect good environment often sees resistance from business actors, their activities are indicated of causing environmental destruction. The rights of environmental activists to carry out public participation conveying information through the media or demonstrations intended by the Plaintiff or Reporter to keep silence in their participation for the public interest, thus creating fear so that the community activists no longer dare to speak up to submit complaints or criticizes the business activities of business actors who are indicated caused environmental destruction such lawsuits or criminal reports.

Decided by the Malang District court on july 21, 2014, in its decision the panel of judges rejected willy suhartanto's lawsuit and granted the defendant's (H. Rudy) counterclaim and sentenced the counterclaim defendant to pay Rp.2,000,000,- (two million rupiah).

IMB for The Rayja Batu Resort, they found that it was unlawful because the different distance between the water source and the hotel building was 150 meters, while the minimum distance should be 200 meters. In the verdict, the panel of judges ordered that the construction of The Rayja Batu Resort must be stopped. The Judex Facti had been wrong in Cassation Respondent's exception regarding the vague lawsuit, where in the posita of the lawsuit it turned out to contain the actions of the Defendant/Cassation Respondent which according to the Plaintiff/Cassation Applicant were unlawful acts because they made threats to local residents, sent letters of objection from the community to related agencies, provoked local residents to hold demonstrations, and damaged the fence belonging to the Plaintiff, but contained a request for ratification of the hotel construction permits and recommendations from related agencies that had been received by the Plaintiff Applicant, so that the relationship between the petitum and the posita of the lawsuit was unclear, and in the counterclaim filed by the Cassation Respondent/Defendant it was proven that the position of the Cassation Respondent/Conventional Defendant/Reconventional Plaintiff was unclear namely whether he filed a counterclaim in his capacity as an individual or representing a group.

Likewise, in the Cibinong District Court in 2018, an expert (Dr. Basuki Wasis) was sued in a civil case (on the grounds of an unlawful act) filed by a convict in a corruption case (former Governor of Southeast Sulawesi) with the

claim that the expert had been submitted some opinions on the calculation of ecological and economic losses due to the Defendant's actions in a corruption trial, which was detrimental to the Plaintiff.

Another case that is indicated doing by SLAPP. This case is based on Robandi et al. rejection of food assistance from PT Bangka Asindo Agri (BAA) to the community in the administrative area of Robandi et al. Neighborhood Association (RT). PT BAA then reported Robandi et al. because they were considered should not be longer to the authority as RT to make a letter of rejection of food assistance. Previously, Robandi et al. were also parties in an environmental civil case against PT BAA.

Reflecting on the previous case, the rules of civil law protection for environmental rights activists become the fundamental legal issue for the realization of environmental law enforcement in Indonesia. That legal regulations in the environmental field need to be directed towards the development of laws that are oriented towards environmental interests (environment oriented law) including those correlating to the behavior of environmental legal subjects which include environmental activists. As written in Egocentrism focused on the individual interest claiming that what is good for the individual is also good for society.

This research is oriented towards two problems, namely: first, on how to reformulate the law regulating civil legal protection for environmental rights defenders. The urgency of this research is to contribute the effectiveness of environmental law enforcement in Indonesia, especially related to the aspect of civil legal protection for environmental rights defenders.

LITERATURE REVIEW

SLAPP is a lawsuit (civil) report to the police (criminal) filed by a business actor opposite the community as the victim or the activist who criticizes the business actor which is indicated as the causing of environmental damage.

The lawsuit is intended to stop public participation. This can also happen when the reporter who reports environmental destruction with the argument of defamation. In practice, judges often focus more on the Plaintiff's lawsuit with the argument of unlawful acts or the Public Prosecutor's indictment and to forget environmental destruction. The first cases suspected of being a SLAPP in Indonesia (2018), the lawsuit against an expert witness, which Bambang Hero Saharjo, the Professor of Forestry at the Bogor Agricultural Institute. The unlawful act lawsuit was filed by PT Jatim Jaya Perkasa (PT. JJP) against Bambang Hero at the Cibinong District Court on September 17, 2018. In its lawsuit, the Cibinong District Court was asked to declare Bambang Hero unlawful, the expert certificate of fire and land that he prepared to be legally flawed, and has no evidentiary force, and is null and void. This means that all letters issued based on the expert certificate are legally flawed. However, on January 17, 2023, PT Jatim Jaya Perkasa (PT JJP) withdrew its lawsuit. The forest burning company has been recorded as having attempted to sue Bambang Hero in the court twice times.

Previously, PT JJP filed a lawsuit against Bambang Hero through its attorney, Christian Immanuel and Partner Office on December 27, 2023. The case was registered at the Cibinong number 6/Pdt.G/2024/PN Cibinong January 2, 2024. In 2016, the Rokan Hilir District Court found the Assistant Head of PT JJP, Kosman Vitoni Immanuel Siboro guilty for the 2013 forest fires. This verdict was upheld by the Supreme Court. The same court also sentenced JJP to a fine of IDR 1 billion. This verdict was also upheld. PT JJP was also found guilty in a civil lawsuit by the North Jakarta District Court and had to pay compensation and environmental restoration of IDR 29.473 billion. The Jakarta High Court increased the penalty for compensation and peatland restoration by IDR 491.025 billion and forced of IDR 25 million.

Several years later since the Bambang Hero Saharjo case, other cases have emerged in Indonesia, there is the case of SLAPP. This became a consideration for lawmakers took the initiative to include an article regulating legal protection for community participation in environmental law. This is intended to protect in maintaining better environment, shown on the Article 66 of the PPLH Law.

Although there is a regulation that environmental rights, the fighters cannot be sued or reported as stated in Article 66 of the PPLH Law, the phenomenon of suing victims or environmental rights fighters continue occured, including the lawsuit of willy suhartanto (article 1365 bw) against H. Rudy, (FMPMA) making negative impact on the gemulo spring in malang city.

METHODOLOGY

This research describes on the normative legal research which is also called library research or document study research because it is more focused on secondary data that describes more about library research. In normative research, secondary data as the source material that it can be primary and secondary legal material. Normative research is also supported by empirical data so that researchers get adequate results as scientific content.

The data in this study comes from secondary data which includes: primary legal materials, namely binding legal materials consisting of statutory regulations and secondary legal materials, which provide explanations regarding primary legal materials, such as research results, written works from criminal law circles and other secondary legal materials related to other objects.

RESEARCH RESULT AND DISCUSSION

Reformulation of the Law on Civil Legal Protection for Entrepreneurs of the Right to a Good and Healthy Environment

Legal protection for every citizen who takes attention to the struggle for justice in the environmental sector as the necessity in law enforcement in Indonesia. The facts shows that the progress of development in a country is also accompanied by a variety of weaknesses in terms of authority, administration and sustainable development planning models. The formation of the state as a manifestation of shared hopes and desires in protecting citizens as a relational relationship that the source of state power is obtained from citizens as the holders of the highest sovereignty.

The ratification of the Declaration on the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms in 1998 by the UN General Assembly is a foundation of a statement that has moral binding power for member states in guaranteeing protection for human rights defenders. Then, Article 1 of the Declaration states that, "Everyone has the right, individually, and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels."

It should be the obligation of a country to fulfill the rights of every person, including in this case, including those the fighters are solely fighting for environmental justice and the sustainability of their place of residence as reflected on that principle.

Therefore, the issuance of further regulations governing legal protection for environmental rights defenders to be protected from legal entanglement by interested parties is an urgent interest that must be pursued for the future of environmental law enforcement itself. In this regard, the government should pay more attention because legal protection for environmental defenders is not only related to relational issues between humans and the environment but also includes the dimension of human rights.

At least the implementing regulations of Article 66 of the UUPPLH are like an urgency by the community in order to guarantee the value of justice. The issuance of regulations that in substance to regulate SLAPP as a kind of legal protection for environmental activists from legal threats or criminalization.

This is not only merely a social dimension as the basis of the argument and the important basis for the positivization of law related to regulations on SLAPP but also refers to the UUPPLH which contains the principle of environmental rights that have the substance of the human rights dimension. In general, the domain regulated in the UUPPLH is to regulate the provision of protection for three things, including environtmental protection, right protection to get better environment, and fight protection for right.

UUPPLH can not only be understood as a regulation with environmental dimensions but also a regulation with human rights dimensions, because there is a strong correlation between humans and the environment. The regulation of Article 66 of UUPPLH concerning legal protection for everyone who fights for environmental rights is very important. The reason is that there were cases that trapped environmental activists.

The report is alleged in the environmental destruction. Prosecuted civilly on the pretext of defamation of the company that is suspected damaged the environment.

In the legal systems of the United States and the Philippines, the guarantee of legal protection, hereinafter referred to as Anti-SLAPP, the lawsuit filed by a company suspected of having committed environmental destruction, which then files a lawsuit against the reporter or whistle blower with the

intention of causing fear or causing material losses to the person providing the information.

In fact, Article 66 of the UUPPLH, shown as the immunity in fighting for environmental rights has been regulated, but in implementation or application it cannot run optimally. In law enforcement, although the substance of the law has been regulated quite well, if the legal culture and law enforcement still justify all means in environmental cases that occur for their interests, then the legal formulation in any form is merely a spelling of an article that has no power.

In the fight to see the regulation of "immunity" for environmental activists, the Indonesian National Human Rights Commission also supports by socializing several criteria substances that can be used as input for anti-SLAPP material in the renewal of the UUPPLH or in the form of derivative regulations that regulate specifically, including:

1. Can fight for the right good environment in the form of social supervision, providing advice, opinions, proposals, objections, and making complaints about environmental pollution and/or destruction that has a factual impact on the public interest;
2. Fighting for the right good emvironment that can be done collectively. Other material substances that can be included as ANTI-SLAPP criteria are fighting for the right to the environment solely for the sake of good environment and fighting right to through means that are justified according to laws and regulations.

The legal provisions in Article 66 of the UUPPLH state that "Any person who fights for the environment cannot be prosecuted civilly." The explanation of Article 66 of the UUPPLH emphasizes that the provisions in Article 66 of the UUPPLH are intended to protect victims and/or reporters who take legal action due to environmental destruction. This protection is intended to prevent retaliation from the reported party through criminalization and/or civil lawsuits while still paying attention to the independence of the judiciary. In fact, it has been regulated quite clearly and in detail regarding legal protection for community participation in the environmental sector, in terms of regilations.

Yet, multiple interpretations are in the explanation which implies that legal protection for the community that plays a role in realizing better environment can only be accessed and provided when the community has undergone and gone through the trial process so that it does not apply to the community through applied in the trial way. This seems limited legal protection itself. Related to the effectiveness of the law which is the capability of the LAW in creating conditions or situations desired by the law, and also the extent of the application of the rule of law and obedience is the target rule itself, then in an effort to reformulate the rules of Article 66, it is necessary to revise Article 66 of the UUPPLH.

The objective is to avoid multiple interpretations and to be more implementable. Clarity of substance from the drafting of the Law related to the scope of handling coverage that is not limited to legal efforts alone, but when

the community fights for its environment legally and legitimately, it must receive legal protection. Before the revision of the UUPPLH, it is necessary to coordinate with the relevant legal apparatus, both the police, prosecutors and judges, and efforts are made to socialize the meaning of Article 66 and implementing regulations and internal regulations that are possible to be realized.

Arnold Gehlen, a German anthropologist-philosopher defined humans as free creatures of the environment (Umweltfreies Wesen). This means that morphologically (the form of the body constitution), humans are not bound by a particular environment. Unlike animals, for example, the organs of a deer have ensured that it will live in the grasslands, humans have a loose and free relationship with their environment. The environment is uncertain, the human environment must be sought and even built. This is because there is no specific habitat for humans. Finally, for humans, the environment is not something that is given and not accepted for granted (not a gabe, or an object), but rather a task, an Aufgabe, so that the environment gives us a task, the opportunity to be creative, to create. As an Aufgabe, which is based on the ethics of goodness and wisdom, humans as subjects who have reason are not allowed to treat nature arbitrarily. Nature is a living reality which therefore must be treated "humanely". In Ethical Theory, the erroneous perspective that occurs in environmental management stems from the ethics of anthropocentrism, humans as the center of the universe, because they have value, while nature are as tools for satisfying their interests and needs. Humans are considered to be outside, above, and separate from nature. In fact, humans are understood as rulers over nature who can do anything to nature. This perspective gives rise to exploitative attitudes without any concern at all for nature and all its contents which are considered to have no value in themselves.

Based on the context, the efforts made in the reformulation of legal protection for environmental activists that are good and healthy include: (1) revising Article 66 of the UUPPLH so that it does not give rise to multiple interpretations and can be implemented; (2) the need for a redefinition related to the concept of legal protection for environmental activists or the Anti Eco-SLAPP concept; (3) the importance of seriousness and synergy between all elements, both government and society; and (4) it is necessary to make arrangements in the form of internal regulations and derivative regulations both in the Indonesian police and the Attorney General's Office regarding the handling of cases involving activists for the right to a good and healthy environment so that they can be used as a joint reference in enforcing Indonesian environmental law.

Civil Rights to a Good and Healthy Environment

Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia mandates that "Everyone has the right to live in physical and mental prosperity, to have a place to live and to have a good and healthy living environment and has the right to receive health services."

In the considerations of letter a of the Environmental Management Law, it is explained that a good and healthy environment is a basic human right

of every Indonesian citizen as mandated in Article 28H of the 1945 UUDN. The mandate of Article 28H of the 1945 UUDN is specifically regulated in the provisions of Article 65 paragraph (1) of the Environmental Management Law, that every person must play a role in protecting and managing the environment in accordance with statutory regulations, thus the Environmental Management Law provides stronger recognition of the right to participate from the community compared to previous environmental laws.

The right to a good and healthy environment has been recognized in the Stockholm Declaration and the Rio Declaration.

a. Stockholm Declaration

Principle 1

"Man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations …".

b. Rio Declaration

Principle 1

"Human beings are at the center of concerns for sustainable development. They are entitled to a healthy and productive life in harmony with nature." Free translation: Article 1 "Human beings are the focus of the right to a healthy and productive life in harmony with nature."

In 1990 the UN General Assembly issued a resolution to ensure a healthy environment for the well-being of individuals which recognized that all individuals have the right to live in an adequate living environment, to have the right to a good and healthy living environment as part of human rights. In paragraph (4) of the article it is stated that everyone has the right to their health and well-being.

Indonesia has recognized the right since Law Number 4 (1982) concerning on Environmental strengthened in subsequent changes to environmental laws. Environmental laws in Indonesia have recognized the importance of everyone having the right and obtaining a good and healthy environment. Recognition of the right to a good and healthy environment as part of human rights has significant implications for the legal relationship between society and the state. The right to the environment as part of human rights gives rise to constitutional obligations for the state to respect, fulfill, and protect.

In taking out this constitutional obligation, according to Heringa as quoted in the "Academic Manuscript of the PPLH Law", the state is obliged to:

1. Translating the principles of environmental protection as part of human rights protection in legislation;
2. Strive to protect these human rights and make reasonable efforts to protect these rights;
3. Comply with the laws that have been made by the country itself (in this case it means that the government is obliged to comply with applicable laws and regulations);

4. Ensuring that the interests of every citizen to get better environment are considered and treated in balance with the public interest, including ensuring that every citizen is guaranteed their procedural rights and receives compensation if their rights are violated;
5. Ensuring that environmental management is carried out transparently and that every citizen can participate in every decision-making that affects their livelihoods. This shows that the PPLH Law pays attention to access for achieving the right to a good and healthy environment.

Public access to information, participation, and justice is considered very important in achieving the fulfillment of the right to a good and healthy environment. The state also has an obligation to provide legal protection for everyone who fights for the right to a good and healthy environment. This provision is intended to strengthen the two guarantees of rights above by ensuring that the law must protect everyone.

Anti Eco SLAPP Before understanding Anti Eco SLAPP, one must first understand the meaning of SLAPP. According to its meaning, the objective of a SLAPP is basically to eliminate public participation. Hence, until now, there has been no standard understanding of SLAPP in Indonesia, namely regarding who can be protected, criteria and characteristics of Anti-SLAPP have been applied appropriately in the legal considerations of Indonesian judges' decisions.

Referring to the definition in other countries, the Philippines through the Rules of Procedures for Environmental Cases, provides the following definition of SLAPP:

"A legal action shows to harass giving pressure any legal recourse to the person, institution or the government may take in the enforcement in the environmental laws, protection of the environment or assertion of environmental rights shall be treated as a SLAPP and shall be governed by these Rules."

The iniitial emergence of the SLAPP concept is about when Pring and Canan were inspired by a (USA), where his client, who was fighting for his right to make good environment, was sued by the government and polluters. After many other cases involving public interests that received resistance.

In fact, almost all of these cases occurred when people taking to a plan through newspapers, submitting objections or petitioning a policy. The right to petition itself has been guaranteed by the First Amendment to the US Constitution. The concept of Anti-SLAPP was born from the belief of Pring and Canan who said that freedom of expression and participation in the public interest is part of democratic action protected by the US constitution.

In Indonesia, the proposal for Anti-Slapp regulation was first voiced in RDPU and several environmental organizations in the Draft Law on Environmental Management discussion. The regulation on ANTI-SLAPP in the PPLH Law is based on several reasons, including:

1. There is frequent silencing of communities the fighters organized By The Government Or Other Authorized Parties;

2. There is often a counter-reporting with the pretext of DEFAMATION against the community. The proposal was then approved by the formulators of the PPLH Law because this provision is important as a means of protection for community participation in realizing better environment.

Protection of public participation in exercising their right to gives opinions or to submit objections to business activities that are suspected of/ environmental damage is in line with the second amendment to the 1945 Constitution of the Republic of Indonesia, Article 28E guarantees the right of every person to express an opinion, likewise Article 44 of the Human Rights Law guarantees every person to submit opinions, requests, complaints, and/or proposals to a clean, effective and efficient government. Based on these matters, the regulation on Anti-Slapp can be applied in laws and regulations in Indonesia.

The urgency for the protection of human rights is one of the reasons the MPR issued TAP MPR No. XVII/MPR/1998, 13/11/1998 concerning Human Rights (HAM). This MPR Decree is the legal basis for the formation (39 of 1999) then led to the need for constitutional recognition. The complete provisions can be read in Article 9 paragraph (3) of the Human Rights Law. In addition, Articles 9 to 66 of the Human Rights Law determine the types of human rights that are recognized and protected by the State.

Human rights over the environment have been constitutionally regulated through Article 28H paragraph (1) of the 1945 Constitution supported by various laws, such as the Environmental Protection and Management Law, Human Rights Law, Government Regulation No. 4 of 2001, Control of Environmental Damage Pollution related to the Land Fires, Government Regulation No. 54 (2000) concerning Institutions Providing Services for Resolving Environmental Disputes Outside the Courts, and Law No. 41 of 1999 concerning Forestry, Law No. 4 of 2009 concerning Mineral and Coal Mining. The resolution of environmental disputes is regulated in Articles 87 to 92 of the Environmental Protection and Management Law as lex generalis.

Prof. Dr. Ir. Siti Nurbaya Bakar, M.Sc. is a politician from the National Democratic Party and Minister of Environment and Forestry in the 2014–2019 Working Cabinet and the 2019–2024 Advanced Indonesia Cabinet, issued. The regulation also concerns taking actions that could hinder the law enforcement process and weaken community participation in fighting for the environment.

The Ministerial Regulation on Environment and Forestry is an implementing regulation for efforts to protect environmental activists as mandated in Article 66 of Law Number 32 (2009) stipulates,
"*Person who struggles for the right to get better environment cannot be prosecuted civilly.*"

Basic human right and constitutional right of every person as regulated in Article 28 letter h paragraph (1) of the 1945 Constitution. Thus, it is hoped that it can strengthen public participation and protective measures for environmental activists from rescue actions against people who fight for good environment which can be in the form of: a). weakening of the struggle and

public participation in the form of written threats; verbal threats; criminalization; and/or physical or psychological violence that endangers oneself, life, and property including one's family; b). summons; c). criminal proceedings; and/or d). civil lawsuits.

Not only that, protection for environmental activists has also been regulated through the Attorney General's Guidelines Number 8 of 2022 concerning Handling of Criminal Cases in the Field of Environmental Protection and Management and Supreme Court Regulation Number 1 of 2023 concerning Guidelines for Adjudicating Environmental Cases. Regulation of the Minister of Environment and Forestry Number 10 of 2024 can certainly act as an initial instrument and aims to prevent rescue efforts from environmental polluters/destroyers and ensure that every environmental activist gets their rights in the legal process. Similar to Article 2 paragraph (2) Legal protection is given to people who fight for the environment, namely to individuals, groups, environmental organizations, experts, customary law communities or business entities that play a role in environmental protection. Egocentric theory is based on various individual interests (self). Egocentric obligation to focus on what actions are considered good for him/herself. Egocentric. The essence of this egocentric view, Sonny Keraf explains: That the actions of each person are basically aimed at pursuing personal interests and advancing themselves. Thus, egocentric ethics is based on human actions as rational actors to treat nature according to "neutral" instincts. This is based on various "mechanism" views of assumptions related to liberal social theory.

The form of legal protection provided to environmental activists as regulated in Article 6 paragraph (2) of the Ministerial Regulation of the Environment and Forestry consists of prevention and handling of decision-making actions. Prevention can be carried out through capacity development for law enforcement officers, the establishment of a forum of law enforcement officers with environmental certification, coordination with local governments, the establishment of a communication network between law enforcement officers, local governments, and related agencies, and the establishment of environmental paralegals.

State protection for its citizens as regulated in Article 66 referred as Anti-SLAPP, practiced in some countries that applied the common law system, like the United States, Canada, Australia and the Philippines with the term Anti-SLAPP.

SLAPP Suit is defined as: *action whether civil, criminal or administrative, brought agains any person, institution or any government agency or local government unit or its official and employees, with the intent to harras, vex, exert undue pressure or stifle any legal recourse that such person, institution or government agency has taken or may take in the inforcement of environmental laws, protection of the environment or assertion of environmental rights.*

Anti-SLAPP is a new terminology included in Article 66 intended to provide immunity for the community or activists/environmental rights activists who fight for the right to a good and healthy environment. The

provisions of this article provide protection against criminalization efforts or civil lawsuits that occur in environmental cases.

Some types of legal violations that occur in SLAPP cases include defamation, interference that affects daily activities, interference committed against individuals (private), conspiracy, dangerous acts, acts that cause harm, and so on. Defamation is the most common type in SLAPP cases. However, violations of the law with other types are also used as the basis for resistance.

Civil lawsuits or criminal reports that SLAPP are always legally baseless, because is solely to keep public participation that has been carried out by the Defendant or Defendant. Legal actions taken by business actors who are suspected of environmental destruction because of their business activities, then suing environmental observers/fighters or victims, or filing a counterclaim when sued by environmental observers/fighters or victims on the grounds of unlawful acts, or making a criminal report to the police on charges of violating Article 310 of the Criminal Code or other articles, is a legitimate legal process, but is motivated by an action intended to keep silence for the public participation that is difficult for law enforcers to detect, especially judges in examining criminal and civil cases.

In examining civil lawsuits, judges concentrate on the arguments submitted by the Plaintiff (unlawful acts/Article 1365 BW), while in criminal cases, judges concentrate on the articles charged by the Public Prosecutor in the indictment, which are generally criminal acts of defamation (Article 310 paragraph (1) of the Criminal Code), or articles from other laws and do not consider the environmental issues that underlie the case. After 4 (four) years of the PPLH Law being enacted, the Supreme Court Anti SLAPP, in the Decree Number 36/KMA/SK/II/2013 concerning the Implementation Handling Environmental Cases (SK KMA No.36/2013), in letter B number 4 explaining

…." deciding per Article 66 Number 32 (2009) that the Plaintiff's lawsuit and the Applicant's criminal report is a SLAPP which can be submitted either in an exception, provision or counterclaim (in civil cases) and/or defense (in criminal cases) and must first be decided in an interlocutory decision."

Article 66 Decree of the KMA No. 36/2013 concerning Guidelines for Handling Environmental Cases do not provide an explanation of the meaning/definition of SLAPP, what the principles, criteria and characteristics of Anti-SLAPP are and who are included as environmental rights defenders who can be protected by Article 66 of the Environmental Protection and Management Law and what are the stages of legal procedures (civil and criminal) in the SLAPP examination process in order to stop lawsuits or charges quickly, effectively and at low cost, so that they can be used as guidelines for law enforcers, especially judges in resolving cases that indicate SLAPP.

Silencing efforts through police reports or through civil lawsuits to the courts against environmental rights for the victims can disrupt community involvement in carrying out their participation. Therefore, the SLAPP is a problem that needs to be viewed as a problem that requires regulation by law and must be included into a sense of justice.

However, it must be understood that the function of laws and statutes is not only to maintain order and maintain state stability, but the most basic function of laws is to guide society to achieve the virtue of being worthy of being citizens of an ideal country.

In the Judicial Power Law, Judges are required to be able to explore legal values and a sense of justice in the society. As also regulated in the Republic of Indonesia Law Number 3 of 2009 concerning the Supreme Court (State Gazette of 2009 Number 3, Supplement to the State Gazette Number 4958, hereinafter referred to as the Supreme Court Law), Judges must be able to resolve the cases they handle by conducting Rechtsvinding/Judicial Activism.

CONCLUSIONS AND RECOMMENDATIONS

The provisions of Article 66 of the PPLH Law as the manifestation accommodative attitude towards various community roles. Minimal regulations regarding the Anti-SLAPP process make it difficult for law enforcers to use Article 66 of the PPLH Law. Article 66 of the PPLH Law is normatively clear, but in terms of implications it is still interpreted individually by law enforcers.

SLAPP in Indonesia is different from SLAPP introduced by Pring and Canan, because in Indonesia it is not only interpreted for strategic lawsuits, but also occurs in criminal cases. Until now, Indonesia has not had a law that specifically regulates Anti SLAPP, while other countries have complete laws that regulate Anti-Slapp, such as the United States, Canada and the Philippines. The way to handle the SLAPP is through balanced approach that guarantees rights of citizens to run the role in community participation and protects the rights of the Plaintiff to file a legitimate and legally based lawsuit in court. In addition, the philosophy of Anti SLAPP should be used as the base for Anti SLAPP laws in providing protection rights for the community and environmental activists who fight for the right to a good and healthy environment to be free from criminal charges or civil lawsuits.

The Anti SLAPP concept was born from the belief of environmental rights activists and human rights activists that freedom of expression and participation in issues related to the interests of the community is an act of upholding democracy that must be protected. The provisions of Article 66 of the PPLH Law imply the right to immunity for the community and environmental activists who fight for the right to a good and healthy environment to be free from criminal charges or civil lawsuits.

The Ministry of Environment and Forestry (KLHK) has created regarding the protection of environmental activists. In the Regulation of the Minister of Environment and Forestry Number 10 of 2024, which was signed by the Minister of Environment and Forestry Siti Nurbaya on August 30, 2024. The regulation that protects environmental activists was officially enacted on September 4, 2024. Article 2 of the Regulation of the Minister of Environment and Forestry 10/2024 states that environmental activists are now protected and cannot be prosecuted. "Fighters cannot be sued for civil damages." The categories of people who can be called environmental activists consist of

individuals, groups of people, environmental organizations, academics or experts, customary law communities, and business entities.

It cannot be denied that there is still need for reformulation of legal protection for environmental rights activists, which includes for revising Article 66 of the UUPPLH so that it does not cause multiple interpretations, the need for redefinition related to the concept of legal protection for environmental activists or the Anti Eco-SLAPP concept, the importance of seriousness and synergy of all elements, both government and society; and finally, it is necessary to make arrangements in the form of internal regulations and derivative regulations both in the Indonesian police and the Attorney General's Office regarding the handling of cases involving environmental rights activists so that they can be used as a joint reference to engorce Indonesian environmental law. The next research the writer hopes that it can focused to explain the law that provides civil protection for environmental rights defenders.

ADVANCED RESEARCH

The research has certain limitations. First, as it uses a normative legal approach focusing primarily on statutory regulations, it might not fully capture the practical challenges faced by environmental activists on the ground. Additionally, while the study includes qualitative analysis, it relies heavily on primary and secondary legal data, which may limit insights from real-life case studies or testimonies from activists themselves. Another limitation is that the regulation (Permen LHK Number 10, 2024) is relatively new, so the study may not have enough empirical data to evaluate the effectiveness of these protections over time or predict long-term outcomes.

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