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Anti-SLAPP Policy Conceptualization as a Strategic Effort to Protect Indigenous Peoples' Environmental Rights from Judicial Harassment

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Abstract

Human Rights regulation has been implemented in several positive laws of international countries, including Indonesia. All citizens are entitled to equal rights and status through human rights, and the state, including indigenous peoples, must guarantee their fulfillment. The guarantee of protection for the rights of indigenous peoples has been regulated by law. However, its implementation has not been fully realized. This statement is evidenced by findings of field conflict records and instances of judicial harassment between indigenous communities and environmental management companies. The government subsequently introduced the Anti-SLAPP policy to allow vulnerable groups to present proposals, criticisms, and ideas in their fight for social justice and fulfilling their environmental rights. Addressing these issues, this research aims to analyze the relationship between the fulfillment of indigenous peoples' rights to the environment and instances of judicial harassment, evaluate the conceptualization of Anti-SLAPP principles within Indonesia's positive legal framework, and examine the implementation of Anti-SLAPP principles in various international countries. This normative juridical study is conducted using legislative, conceptual, and comparative approaches, and it utilizes secondary data from primary and secondary legal materials to analyze legal issues related to anti-SLAPP. Through various legal approaches and theories, the findings of this research reveal several weaknesses in Indonesia's Anti-SLAPP policy. The researcher provides recommendations, including a comprehensive study on the need for a specific Anti-SLAPP law and the necessity for law enforcement officers to prioritize persuasive and non-repressive efforts, ensuring transparency in the environmental management permitting process.

Keywords: Anti-SLAPP, Indigenous People, Human Rights, Community, Customary

Introduction

Indonesia has echoed itself as one of the countries that upholds the concept of Human Rights (hereinafter referred to as HAM), but the implementation of the HAM concept has not been carried out properly. As a country of law, Indonesia should provide protection and equality for all its citizens (Nazril et al., 2024). This is following the adage humans for law. One of the various human rights protections for Indonesian citizens is the right to a good and healthy environment (stated in Article 28H paragraph (1) of the 1945 Constitution and Article 9 paragraph (3) of UU No. 39/1999). Every individual has the right to enjoy a good and healthy environment and has the right to fight for this right (Sriyanti, 2023). The guarantee of public involvement in the policy-making process has shown positive developments after the reform era. The development of public involvement or participation has also been conceptualized in environmental laws and regulations (Mariana, 2015). If we look at the beginning of its formation, UU No. 4/1982 only regulates the rights and obligations of the community to participate in environmental management, starting from the planning, implementation, and evaluation stages.

This provision was then maintained and expanded in UU No. 23/1997 by adding the community's right to information, social supervision, submission of suggestions and opinions, and information reporting. Furthermore, the regulation of public participation was strengthened in UU No. 32/2009, which emphasizes the principles of accountability, transparency, participation, and justice and regulates in detail the rights and obligations of the community to play an active role (Wibawa, 2019). Indonesia's claim that it is one of the countries that upholds human rights does not entirely apply in reality. Although it has been legally stipulated in the 1945 Constitution and UU No. 39/1999 (das sollen), in practice, there are still many findings of judicial harassment, especially in the context of freedom of expression and voicing opinions (das sein). The term judicial harassment refers to the abuse of the legal process to intimidate or silence criticism from activists, journalists, or other elements of society through legal channels. Judicial harassment often overlaps or is used interchangeably with other terms, such as malicious lawsuits and abusive litigation (Nugroho, 2022).

The practice of judicial harassment often overlaps with Strategic Lawsuit Against Public Participation (hereinafter referred to as SLAPP), which refers to lawsuits filed by companies or individuals with the intention of intimidating, weakening, or silencing parties involved in environmental advocacy (Hasanudin et al., 2024). In Indonesia, the practice of SLAPP is often carried out by large companies to pressure environmental activists, indigenous peoples, and journalists who try to expose environmentally damaging activities. SLAPP usually diverts attention from the main issue by burdening critical parties with a long, expensive, and tiring legal process. This practice hinders freedom of expression and violates the community's rights to be involved in environmental protection efforts (Handayani et al., 2021). In Indonesia, SLAPPs are often related to agrarian conflicts or exploitation of natural resources where the aggrieved parties try to fight for their rights.

Agrarian Reform Consortium (KPA) noted that as many as 940 farmers and agrarian activists who fought for land and environmental rights were criminalized during the 2014–2018 period. In addition, according to the ELSAM report, in 2019, there were 128 individuals and

50 groups fighting for environmental human rights who became victims of violence. From January to April 2020, ELSAM also identified 69 individuals and 4 indigenous groups who became victims due to the struggle to defend the environment (L T Wongkar et al., 2021). Referring to the records of the National Agrarian Reform Committee (KNPA), in 2016-2022, there were 1,587 cases of criminalization against civil society who expressed criticism (Papua, 2022). The victims of these cases vary, such as groups of farmers, fishermen, and indigenous peoples, which are generally related to agrarian conflicts (plantation and agricultural land interventions) and natural resources. This normative legal research uses a statutory, conceptual, and comparative approach. In this case, the researcher analyzed the laws related to the problems related to Anti-SLAPP and the protection of the environment of indigenous peoples. Then, the data collection method used in this study is a literature study.

The researcher collects materials or research sources from various literature or library materials in the form of scientific journals, books, and legal regulations that are relevant to the problems discussed. Researchers have analyzed several previous studies on the relationship between Anti-SLAPP and indigenous legal communities. First, in 2021, in a study entitled Provisions and Enforcement of Anti-SLAPP Law against Women Environmental Human Rights Defenders in the Perspective of Feminist Legal Theory. This study discusses the protection guaranteed by Article 66 UU No. 32/2009 for environmental human rights defenders, especially in facing SLAPP lawsuits. This study examines the implementation of the Anti-SLAPP mechanism for women environmental human rights defenders (PPHAM Lingkungan) with a Feminist Legal Theory approach and finds problems related to the inapplicability of legal protection, weak understanding of law enforcement officers, and the influence of patriarchal culture in increasing their vulnerability (L T Wongkar et al., 2021). Second, in 2022, in a study entitled The Concept of Anti Eco-Slapp in UU No. 32/2009 Concerning Environmental Protection and Management. This study discusses the weaknesses in regulating the Anti Eco-SLAPP concept in Indonesia, which can hinder the implementation of its protection and open up the potential for criminalization of community participation in environmental management. This study describes the regulation of the Anti Eco-SLAPP concept in UU No. 32/2009 concerning Environmental Protection and Management and suggests four important things in operationalizing Article 66 UU PPLH (Medhika et al., 2022).

This study differs from the two previous studies in several aspects. First, this study focuses on protecting indigenous peoples' environmental rights within the framework of fulfilling human rights, which was not explicitly discussed in previous studies. Second, although the first study analyzed women's environmental human rights defenders, and the second study discussed the weaknesses of the Anti-Eco-SLAPP concept, this study leads to a broader evaluation of the Anti-SLAPP policy by highlighting the judicial harassment experienced by indigenous peoples. In addition, this study proposes a more in-depth study of the special anti-SLAPP law and recommendations for law enforcement officers to prioritize a non-repressive approach to resolving disputes. This study aims to provide views to various parties regarding the urgency of protecting the environment of indigenous peoples, which needs to be considered within the framework of fulfilling human rights in Indonesia. This study is hoped to become a reference framework for the government and companies in the agrarian

sector to guarantee and protect the rights of indigenous peoples and minimize intervention practices.

Literature Review

Anti-SLAPP is a legal protection mechanism that aims to protect public participation in voicing opinions, objections, and expressions related to environmental issues or policies. The Environmental Protection and Management Law (UU PPLH) drafters agreed upon the provisions regarding anti-SLAPP as an important part of protecting public participation and creating a healthy and good environment. However, implementing the anti-SLAPP norm in Indonesia still faces several weaknesses in both substance and procedure. This weakness has led to increasing legal attacks on human rights activists who fight for environmental sustainability. In addition, the weaknesses in implementing the Anti-SLAPP norm in Indonesia also create legal uncertainty for people who want to be actively involved in environmental monitoring and protection. Without strong protection, those who dare to express environmental problems are often threatened by lawsuits that can hinder their efforts to defend environmental rights (Gómez-Betancur et al., 2022). Therefore, it is important to strengthen the Anti-SLAPP provisions through revisions and improvements to be more effective in supporting social and environmental struggles in the country. SLAPP can be understood as an action taken strategically through legal channels to hinder public participation. According to its definition, the main purpose of SLAPP is to silence or eliminate public participation in certain issues (Nelisa, 2022).

However, until now, there has been no clear understanding of SLAPP in Indonesia, especially regarding who is entitled to protection by Article 66 of the Environmental Protection and Management Law and whether the principles, criteria, and characteristics of Anti-SLAPP have been applied appropriately in legal considerations by judges in Indonesia. Referring to the definition of SLAPP in other countries, such as the Philippines, through the Rules of Procedures for Environmental Cases, SLAPP is defined as a legal action filed to intimidate, put excessive pressure on, or silence legal efforts made by individuals, institutions, or governments in enforcing environmental law, protecting the environment, or fighting for environmental rights (Norman, 2017). Cases like this will be considered as SLAPP and regulated following applicable regulations. In the Indonesian context, a clearer understanding and application of SLAPP is crucial to ensure adequate legal protection for those involved in environmental struggles. Without a clear definition and consistent implementation, communities participating in environmental issues are still vulnerable to legal attacks that can weaken environmental protection efforts themselves (Indrawati, 2022).

Research Method

The research method used in this study is normative legal research, which aims to analyze and understand the laws and regulations related to the perspective of the Anti-SLAPP policy in protecting the threat of judicial harassment to the environment of indigenous peoples

in Indonesia. This study's legal materials include laws and regulations, especially the PPLH, Human Rights Law, and other related regulations. The approach used in this study is a normative qualitative approach, which focuses on analyzing the content of legal regulations and relevant literature. This approach allows researchers to explore judicial harassment violations in the context of the environment of indigenous peoples, as well as to understand how these regulations are applied in practice.

The location of this research is a literature review, where researchers collect data from various written sources, such as books, journals, articles, and official documents related to financing institutions. The collection of legal materials was carried out by means of a literature study, namely reviewing and analyzing relevant legal sources to collect the required information. The data analysis technique in this study used qualitative analysis, where data obtained from legal materials were analyzed systematically to identify patterns, themes, and meanings contained in the regulations. Through this systematic and structured research method, it is hoped that the research can provide a significant contribution to the understanding of the problems of judicial harassment and can be a reference for further research in the field of customary law.

Result and Discussion

The richness of biodiversity owned by indigenous peoples is threatened, which in turn also threatens their relationship with the land and environment that has been established for generations. Continuous environmental damage risks disrupting the sustainability of their relationship with nature, which has been maintained through traditions and practices for thousands of years, such as collecting medicines, hunting, fishing, and farming. The largest conflicts that occur are in the plantation sector, followed by the forestry and mining sectors. There were 119 recorded cases of plantation conflicts with an area reaching 415 thousand hectares; meanwhile, forestry conflicts involved 72 cases with a total of almost 1.3 million hectares in 17 provinces, and mining conflicts involved 17 cases with an area of around 30 thousand hectares (Christian, 2014). This shows the non-neutrality of laws and regulations, which sacrifices the legal certainty that should be given to indigenous peoples. The link between the fulfillment of indigenous peoples' rights to the environment and the practice of judicial harassment can be seen from how their basic rights to protect and manage their environment are often disrupted by intimidatory efforts through the legal system.

Indigenous peoples closely relate to their land and natural resources and have long relied on their rights to customary territories and sustainable nature management practices. However, when they fight for these rights, whether in the form of protests against environmental damage, opposition to destructive business permits, or efforts to defend their territories from exploitation, they often become the target of judicial harassment practices. Judicial harassment is a form of abuse of the legal process that aims to intimidate, weaken, or silence voices that criticize policies or practices that are detrimental to the environment (Klasik, 2022). States and large corporations often use legal channels to intimidate, sue, or even punish activists and indigenous peoples who defend their environmental rights, even though they are

only exercising their constitutional right to a healthy environment. The practice of judicial harassment has implications for the obstruction of the fulfillment of indigenous peoples' rights to a healthy and clean environment. The legal process used to oppress indigenous peoples can actually worsen the inequality between more powerful parties, such as large companies and vulnerable indigenous peoples (Beattie et al., 2023). With legal intimidation, indigenous peoples are often forced to back down from their resistance or even forced to choose not to involve themselves in legal processes that could threaten their existence. In addition, in the practice of judicial harassment, indigenous peoples and environmental activists involved are often faced with unfair legal demands, which divert their focus from the main goal, which is to preserve their environment, to long and detrimental self-defense.

Indigenous peoples, whose way of life and traditions are highly dependent on the sustainability of their natural environment, face serious threats from environmental damage caused by large-scale industrial activities, such as plantations, forestry, and mining. These activities damage the environment and threaten their traditional rights to land and natural resources. The lack of neutrality in existing legal regulations often marginalizes indigenous peoples because the law favours the interests of large corporations, reducing protection for their rights that are already recognized in customary law and the constitution. This legal ambiguity and uncertainty further worsen their situation, exacerbating the injustice they experience (Denedo et al., 2019). Therefore, there is a need for fairer law enforcement and clearer regulations to protect the rights of indigenous peoples. The rapid development of the palm oil plantation industry in Indonesia has made palm oil one of the main commodities that is very important in the country's economy, especially as a foreign exchange earner (Rosmegawati, 2021). Data from the Directorate General of Plantations (2013) shows that the palm oil plantation sector in Indonesia is divided into three categories: large private plantations (PBS) with a portion of 51.86%, smallholder plantations (PR) of 41.42%, and large state plantations (PBN) with 6.72% (Sempo et al., 2024).

The area of oil palm plantations continues to grow rapidly, increasing from 6.59 million hectares in 2006 to 11.44 million hectares in 2018. The expansion of oil palm plantations has a broad impact on the economy and the environment and the development of the CPO (crude palm oil) industry (Rosmegawati, 2021). The palm oil industry's contribution to economic growth is very significant, plays a role in poverty alleviation, and helps improve income distribution. The development of the palm oil sector also shows a positive impact on investment, output, and foreign exchange. This industry also improves the welfare of households dependent on the palm oil business. However, despite the economic benefits, the expansion of oil palm plantations also brings potential environmental problems, especially those experienced by indigenous peoples. When their environment is polluted, it is very important to protect the rights of indigenous peoples to have a healthy and clean environment.

The palm oil industry contributes significantly to the Indonesian economy, but its negative environmental impact, especially for indigenous communities, cannot be ignored (Tahamata et al., 2023). There needs to be stricter legal regulations to ensure that the expansion of this industry does not damage the environment that is the home of many indigenous communities. Protection of indigenous peoples' rights is part of balancing economic

development and environmental sustainability. Salmond's legal protection theory emphasizes that law integrates and coordinates various societal interests (Hansen Samin, 2023). In this context, law can be used to protect environmental interests and indigenous peoples' rights by limiting other interests that can damage the balance. In other words, the law must be a fair tool to regulate relations between government, companies, and communities so that the interests of more vulnerable communities can be protected, especially regarding their access to a healthy environment and natural resources that are part of their identity and sustainability. Philipus M. Hadjon put forward two types of legal protection: preventive and repressive.

Preventive legal protection aims to prevent disputes by directing government actions to be more careful in decision-making, especially those involving discretion or authority held by the government. Meanwhile, repressive legal protection focuses on resolving disputes that have already occurred (Arya Prayoga et al., 2023). Based on this thinking, legal protection is a description of how the function of law works to achieve legal objectives, namely justice, benefit, and legal certainty. In this context, the state is responsible for protecting indigenous peoples' rights, including the rights to their customary territories that have been respected for generations. Customary rights are rights granted to local communities based on customary law that has developed in society. Through development policies, the government continues to pay attention to and protect indigenous people's rights, which existed long before the state was formed, as regulated in the 1945 Constitution and various other laws and regulations (Pangaribuan et al., 2024). Customary law communities have social, economic, cultural, and political institutions inherited from generation to generation and a legal system manifested in norms that originate from their values and outlook on life. (Douglas et al., 2019)

The protection of a healthy and clean environment is not only the responsibility of the government and companies but also the community. In this case, Article 65, paragraph 1 recognizes the right of every individual to prevent disturbances to the environment and to demand restoration or improvement of the environment from parties that damage the environment. Legal protection for customary law communities must be understood regarding rights to customary areas and their rights to be involved in environmental management and protection (Drawi et al., 2024). Customary law communities have a very close relationship with their environment, established for centuries through a strong system of values and traditions. The state must recognize and protect their rights, including the right to a healthy and clean environment (Etchart, 2017). In addition, the state needs to implement preventive legal protection by identifying potential disputes early on and providing space for indigenous communities to participate actively in environmental management. (Aime & Robinson, 2023)

Historically, the anti-SLAPP principle was first introduced when the Environmental Protection and Management Law was being drafted. The idea to include this principle arose for two main reasons: 1) the rampant attempts to silence people who fight for environmental issues, and 2) the frequent occurrence of counter-reporting based on defamation against those who report environmental cases to the authorities (Indrawati, 2022). This was then realized in Article 66 of Law Number 32 of 2009 (Law 32/2009), which indirectly integrated the principle into the legislation. Furthermore, the Anti-SLAPP principle is regulated in the Supreme Court Decree on Guidelines for Handling Environmental Cases (SK KMA 36/2013) (Is, 2021).

However, because it is only in the form of a decision letter, this guideline does not have binding force for judges to handle court cases. Therefore, a stronger legal instrument is needed to ensure the effective implementation of the Anti-SLAPP principle and the establishment of a mechanism that allows protection for individuals or groups vulnerable to such silencing, such as environmental activists, journalists, or indigenous peoples.

Although the provisions regarding the Anti-SLAPP principle in Law Number 32 of 2009 (Law 32/2009) and SK KMA 36/2013 are not yet completely clear and specific, their existence has provided an important legal basis. This principle helps law enforcers identify whether a case falls into the SLAPP category from the start. With early identification, law enforcers can protect vulnerable parties. In addition, the Anti-SLAPP principle aims to protect weaker groups so that they can continue to fight for their rights, especially the right to participate in decision-making related to the environment (Zahra Aulia et al., 2021). One example of applying this principle is the case involving Jomboran residents with PT Citra Mataram Konstruksi (CMK) and Pramudya Afgani. Jomboran residents feel they were not actively involved in the socialization process regarding mining activities in the Progo River carried out by the two parties. In addition, allegations of maladministration in the issuance of mining business permits by PT CMK and Pramudya Afgani added to the residents' dissatisfaction. Residents are concerned that the mining activities will have a negative impact on the surrounding environment, thus triggering further protests.

Jomboran residents reported mining activities in the Progo River to the authorities due to concerns about the environmental impacts caused. However, PT Citra Mataram Konstruksi (CMK) and Pramudya Afgani reported back to Jomboran residents after the community rejected them. The report included alleged violations of Articles 170, 160, and 335 of the Criminal Code (KUHP) and Article 162 of Law Number 4 of 2009 concerning Mineral and Coal Mining (UU Minerba) (Nuswantoro, 2021). This case reflects the pattern of SLAPP cases that often occur, where there is an imbalance of power between large companies and local communities. Therefore, applying the Anti-SLAPP principle is important to ensure community protection, increase participation, and provide the courage to resist pressure from stronger parties. When analyzed based on the theory of justice developed by John Rawls, the Anti-SLAPP principle in Law 32/2009 and SK KMA 36/2013 can be seen as an effort to achieve social justice, especially for the weaker parties in society. Rawls emphasized the importance of distributive justice, ensuring that the most marginalized or vulnerable are protected from injustice (Faturohman Faturohman et al., 2024).

In this context, the Anti-SLAPP principle protects individuals or groups who criticize or advocate for environmental issues, which are often targeted by dominant powers, such as large companies or those in power. With an early identification mechanism for SLAPP cases, the community can be better protected in exercising their rights to participate in decision-making related to the environment, a right guaranteed by the principle of social justice. Researchers assess that the regulation of the Anti-SLAPP principle in Indonesia still has weaknesses because it has not been specifically regulated, such as the need for clearer regulations in several aspects, namely: 1) who are the protected subjects; 2) types of actions categorized as SLAPP; 3) requirements for protection; and 4) criteria used to identify SLAPP

cases. Establishing more systematic arrangements regarding the Anti-SLAPP principle is important, especially in determining the SLAPP criteria. Without clear indicators, the identification of SLAPP cases can be subjective and depend on the views of each law enforcer. This also allows for influence from certain parties to direct law enforcers to take sides.

One important aspect that needs to be considered in determining the protected subjects and the form of protection provided is that some subjects are often vulnerable, especially when they have much less power or knowledge than the more powerful party (Etchart, 2022). One example is the indigenous legal community. Indigenous legal communities are considered a group that deserves protection, as regulated in the 1945 Constitution of the Republic of Indonesia. This recognition shows that the state recognizes the existence of indigenous legal communities. Therefore, they also need to be made subjects who receive special protection in applying the Anti-SLAPP principle in Indonesia, especially considering their vulnerability to threats from more powerful parties.

In the United States, SLAPP lawsuits are used as a tool to block or suppress public participation that is considered threatening to certain parties. To overcome this, anti-SLAPP provisions are applied to protect individuals or groups who are victims of SLAPP lawsuits (America Civil Liberties Union, 2024). The Anti-SLAPP provisions encourage the court to stop the trial process that is invalid or detrimental to the party being sued, intending to prevent any obstruction of freedom of speech or participation in public activities (Aaron, 2018). In addition, applying anti-SLAPP regulations allows defendants to obtain compensation for costs incurred during irrelevant trial processes (Rosen, 2023). Thus, Anti-SLAPP functions as a fast, effective, and inexpensive solution for those involved in SLAPP lawsuits by providing better legal protection and ensuring justice for the threatened party.

As a country with a federal government system, the United States has anti-SLAPP regulations that vary from state to state, but they are also regulated at the federal level and apply nationally. If a state does not have an Anti-SLAPP or weak provision, federal court regulations can step in to fill the gap. These regulations aim to provide stronger legal protections for victims of SLAPP lawsuits, although their application can vary depending on each state's policies. The state of California has the most extensive Anti-SLAPP statutes, set out in the SPEAK FREE Act of 2015 and California Code of Civil Procedure Sections 425.16 through 425.18, which protect individuals' rights to participate in public activities, including petitioning and expression (Brooks Pierce, 2009). However, the differences in state regulations often confuse the court process, especially when SLAPP lawsuits are filed at the federal level. This underscores the importance of uniformity and refinement of Anti-SLAPP regulations across states to ensure more effective protection of the public's rights and reduce the potential for abuse of the legal system.

Second, in Canada, SLAPP regulations cover civil lawsuits filed to obstruct, intimidate, or silence public criticism and advocacy for social or political change. SLAPPs in Canada not only focus on protecting environmental rights but also aim to protect freedom of expression and public participation in general (Diaz et al., 2022). Several provinces in Canada, such as Ontario and British Columbia, have adopted anti-SLAPP regulations in their regulations as a

step to protect freedom of speech and public participation. The province of Ontario is known to have the most comprehensive anti-SLAPP legal instrument, namely the Protection of Public Participation Act (PPPA). The PPPA provides broader protection for people involved in public activities by setting a strict time limit for resolving SLAPP cases within 60 days after the application is filed. In addition, the PPPA authorizes defendants to file for dismissal of the lawsuit if they can prove that the case is intended to limit their freedom of expression. This law also reverses the burden of proof, where plaintiffs must prove that their lawsuit is legally valid. If the plaintiff fails to prove this, then the costs and damages can be charged to the plaintiff (Protection of Public Participation Acts, 2019).

Each province in Canada has a different approach to implementing anti-SLAPP regulations, although there are similarities in their application (Beveridge et al., 2020). Among them are that SLAPPs only apply in civil cases, the existence of a preliminary examination procedure that can lead to the dismissal of a case if identified as a SLAPP, and the reversal of the burden of proof and the possibility of charging costs and damages to the plaintiff. In Indonesia, anti-SLAPP regulations began to be applied through Article 66 of the Environmental Protection and Management Law (PPLH) and are further explained in the Supreme Court Regulation (Perma) No. 1/2023, which replaces SK KMA 36/2013. After the enactment of the Perma, there are similarities between Indonesian and Canadian regulations in terms of regulating costs and damages for cases related to environmental struggles that SLAPP threatens. However, the main difference lies in the scope of the types of cases protected by the anti-SLAPP regulation in Indonesia, which covers both civil and criminal cases, while in Canada, it only applies to civil cases.

Conclusion

The anti-SLAPP principle is already stated in the regulations in Indonesia, as reflected in Article 66 of Law No. 32 of 2009 and Supreme Court Decree Number 36/KM/SK/II/2013 concerning Guidelines for Handling Environmental Cases (SK KMA 36/2013). However, this regulation is still considered inadequate to provide optimal protection, especially for vulnerable groups, such as indigenous peoples. One thing that needs to be improved is clarifying the subjects entitled to protection, what actions can be taken by the party who is a victim of SLAPP, and how law enforcement can determine whether an action falls into the SLAPP category. Without more specific and detailed regulations regarding Anti-SLAPP, there will be potential subjectivity from law enforcers or other parties who may exploit the legal loopholes for personal or group interests, benefiting parties with more power or influence. The importance of clarity and specificity of these rules is not only related to the protection of the victims but also to ensuring that the constitutional rights of the community, especially those related to public participation in environmental issues, can be protected fairly. Indigenous communities, who are often the most vulnerable groups, need strong legal protection so that they can continue to play a role in preserving their environment without fear of oppressive lawsuits. Anti-SLAPP regulations in Indonesia, Canada, and California show substantial similarities in efforts to protect individuals or groups involved in environmental struggles. In particular, after the enactment of Perma 1/2023, Indonesia adopted provisions similar to those in Canada regarding

the provision of lawsuits for legal costs and compensation for parties sued in cases indicated as SLAPPs (Strategic Lawsuits Against Public Participation).

This provision is very important because it protects those who try to defend the environment by providing the possibility of obtaining compensation for costs incurred during the legal process. It also serves to prevent the use of intimidating lawsuits or to silence voices that criticize policies or practices that damage the environment. In addition, a comparison with the regulations in California, United States, shows further similarities in the counterclaim mechanism (SLAPPback), which gives the defendant the right to obtain compensation if the lawsuit filed is proven to be an unlawful act of silencing. In this case, Article 66 of the Environmental Protection and Management Law (UUPPLH) in Indonesia, which regulates the protection of environmental struggles, has a similar function to the provisions in the California Code of Civil Procedure Section 425.16 to Section 425.18, namely to protect the rights of the community to participate in the public, especially in the context of environmental issues. Both legal systems aim to create space for the community to speak and participate without fear of unfair legal pressure, especially when discussing public interests such as environmental protection. The frequent SLAPP cases in Indonesia raise concerns regarding the protection of the rights of every individual to fight for a healthy environment, as guaranteed by the constitution.

Declaration of conflicting interest

The authors declare that there is no conflict of interest in this work.

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