



CRIMINALIZATION OF ACTIVISTS IN INDONESIA: A SERIOUS CHALLENGE TO THE PROTECTION OF FREEDOM OF OPINION IN A DEMOCRATIC COUNTRY

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| ABSTRACT

The criminalization of activists is a phenomenon that is increasingly prominent in the dynamics of Indonesian democracy. Various cases show that activists who voice criticism of the government, corporations, or public policies often face legal threats, especially through the use of rubber articles such as the Electronic Information and Transaction Act (UU ITE) as well as a number of other criminal provisions. This research aims to analyze the forms of criminalization of activists, identify the causative factors, and examine the impact on freedom of expression as a constitutional right of citizens. This research analyzes the practice of criminalizing activists and its implications for guaranteeing freedom of expression in democratic countries. Based on the results of a legal-normative study conducted through the analysis of laws and regulations, legal doctrines, and studies of several cases of criminalization of activists in Indonesia. This study found that the practice of criminalization not only reflects the weakness of legal protection, but also shows the imbalance in power relations between the state and civil society. The main impact is seen in the increasing culture of fear, limiting the space for public criticism, and eroding the quality of democracy. This research confirms the need for regulatory reform, strengthening law enforcement accountability mechanisms, and civil society support to ensure that freedom of expression remains guaranteed as a fundamental pillar in a democratic state.

| KEYWORDS

Activist, Freedom Opinion, Government

I. INTRODUCTION

Human Rights (HAM) is the basic principle that becomes the foundation of the legal system of democratic countries in various parts of the world. However, in its implementation, many countries still have difficulty providing optimal human rights protection, especially regarding freedom of opinion and expression. One of the rampant human rights violations is the attempt to criminalize activists, which generally appear in countries with legal systems that are vulnerable to abuse by those in power. In Indonesia, this problem is increasingly concerning because of the rampant use of rubber articles in various regulations, such as the Electronic Information and Transaction Law (UU ITE) and the Criminal Code (KUHP). These multi-interpreted provisions are often used to silence criticism, including against activists and opposition groups that highlight government policies or corporate actions. The criminalization of activists in Indonesia has a great impact on civil liberties and the quality of democracy. This practice clearly narrows the scope of civil society in conveying criticism of government policies and corporate actions. According to Komnas HAM data, throughout 2018-2023 there were more than 85 cases of criminalization of activists that led to prolonged legal proceedings, so that many of them had difficulty obtaining proper legal assistance. The impact of this criminalization not only affects individual activists, but also weakens the power of the social movement as a whole because it has a deterrent effect for other community groups who want to voice their opinions. Excessive law enforcement against activists also worsens the level of public trust in the judicial system, especially when the process

is not transparent or looks more beneficial to influential parties. In many cases, the pressure of the authorities made the activists finally stop their advocacy activities, so that the social and environmental issues that were fought for lost momentum and public attention. In addition, the legal uncertainty experienced by activists creates an atmosphere that does not support freedom of expression, because individuals and community groups become increasingly afraid to submit constructive criticism of government policies or certain corporate interests. A number of studies on the criminalization of activists show that legal tools are often used as a tool to curb civil freedom and dampen criticism directed at the government. A number of other studies also highlight the impact of criminalization on freedom of expression as well as the guarantee of legal protection for activists. Research conducted by Eboibi and Richards (2025) shows that the criminalization of activists often starts from unspecific accusations, such as the spread of false information or defamation, although it is often not accompanied by strong evidence in the trial. Criminalization of activists often appears in the context of conflicts of economic and political interests. However, these various studies have not deeply highlighted how the role of judicial institutions can protect or actually worsen the situation. Those studies also discuss the social impact of criminalization on community movements, but still do not review how to reform legal regulations so that the abuse of power against activists can be minimized [1].

II. METHODOLOGY

This research aims to analyze the practice of criminalization of activists and its implications for the guarantee of freedom of expression in a democratic country. Based on the results of a legal-normative study conducted through the analysis of laws and regulations, legal doctrines, and studies of several cases of criminalization of activists in Indonesia. This research combines 3 main methods, namely: Statute approach, namely by studying various relevant laws and regulations, such as the 1945 Constitution of the Republic of Indonesia, the Law on Human Rights, the Criminal Code, and other regulations related to freedom of opinion and criminal offenses (1). Conceptual method (conceptual approach), namely by analyzing legal concepts regarding criminalization, activism, freedom of opinion, and democratic rule of law as stated by legal experts (2). Case method (case approach), which is by analyzing several cases of criminalization of activists in Indonesia as an analysis material to see the application of the law in practice and its implications for the protection of the right to freedom of opinion (3).

III. RESULTS AND DISCUSSION

The phenomenon of criminalization of human rights defenders (HAM) in Indonesia shows a significant increase in the first half of 2025. Based on the report of Amnesty International Indonesia, in the period of January to June 2025, as many as 104 human rights defenders were victims of 54 attack cases. Affected groups include indigenous people, journalists, environmental activists, students, advocates, and farmers. The forms of attacks experienced are also diverse, ranging from reporting to law enforcement officers, arrests, the use of rubber articles for criminalization purposes, intimidation, to physical violence. The data also shows that police officers are the most frequently involved actors in attacks, followed by the private sector, the government, and the Pamong Praja Police Unit. Not only individuals, human rights defenders and the media are also targets of threats in the form of terror, physical violence, and cyber attacks. This condition reflects the weak role of the state in providing protection to human rights defenders, although Indonesia has ratified various international human rights instruments that require the state to guarantee their safety and freedom. The criminalization of human rights defenders causes various negative impacts. One of them is the emergence of discrimination and social stigma, where human rights defenders are often labeled as disruptors of public order or even accused of being agents of foreign interests, thus reducing the legitimacy and public trust in their role [2].

This kind of rhetoric worsens the situation because it indirectly gives social legitimacy to the repressive actions carried out by law enforcement officers. Amnesty International also emphasized that there is an increasing trend in the militarization of civil space as well as the strengthening of authoritarian practices, where security forces are often used as instruments to limit protests and silence public criticism. The situation clearly contradicts international human rights standards that have been recognized and adopted by Indonesia, including the United Nations Declaration on Defenders of Human Rights as well as various international instruments on civil and political rights that require countries to guarantee freedom of expression, association, and participation in public life. Therefore, a comprehensive and effective advocacy strategy is needed to prevent criminalization practices against human rights defenders, one of which is through the optimization of the media role. The media has a strategic position in overseeing state accountability, forming a constructive public opinion to protect human rights defenders from negative stigma, and strengthening transparency in human rights issues [3].

The practice of criminalization and various forms of attacks on human rights defenders (HAM) in Indonesia is still

ongoing, even though there are national regulations and international commitments that require the state to provide protection for them. This condition shows that there is a gap between the applicable legal norms and the practice of law enforcement in the field. Amnesty International reported that throughout January to June 2025, 54 cases of attacks against human rights defenders in Indonesia were recorded with the number of victims reaching 104 people. The victims came from various groups, including indigenous people, journalists, students, environmental activists, and whistleblowers. Police officers are the actors who are most often reported involved in these cases, followed by private companies, government apparatus, Pamong Praja Police Unit, and the Indonesian National Army. The forms of attacks experienced are also diverse, ranging from reporting to law enforcement officers, arrests, to criminalization practices. One example is experienced by indigenous people in East Halmahera who reject mining activities and are then designated as suspects. In addition, journalists also often face intimidation and physical violence, as happened in Jakarta and Semarang, where a number of journalists were beaten even though they had shown their official press identity. The attack not only targeted individuals, but also human rights defenders, such as terror against KontraS office after expressing criticism of the revision of the TNI Law, as well as threats against Tempo's editorial office through the delivery of packages containing pig heads and rat carcasses [4].

The phenomenon of attacks on human rights defenders is influenced by various structural and institutional factors. The existing regulations, including the regulations of the National Human Rights Commission regarding the protection of human rights defenders, are considered not to have sufficient binding power and effectiveness to guarantee real protection. On the other hand, the government's commitment often shows an inconsistent attitude. Although the government formally expressed support for the principles of human rights in international forums, at the domestic level there is a narrative that discredits civil society organizations by labeling them as instigators or agents of foreign interests. This situation is aggravated by the practice of militarization of civil space, the use of a repressive approach in responding to protests, and weak law enforcement. It is not uncommon for officers involved in acts of violence to be subject to administrative sanctions, even some are not legally processed at all, thus creating a culture of impunity. In addition, economic interests and development agendas, especially in mining projects and agrarian conflicts, are often placed as top priorities, setting aside the protection of indigenous people's rights and environmental preservation. The impact of this condition is very significant. The practice of criminalization and attacks on human rights defenders not only creates a negative stigma, but also further narrows the space of civil liberties. Many activists, journalists, and indigenous people feel intimidated and reluctant to voice criticism or fight for their rights. Threats and violence experienced also cause trauma as well as physical and psychological risks for the victims. Furthermore, allowing impunity has the potential to break down public trust in law enforcement institutions. In the end, the basic rights of the community, especially the rights of indigenous people over land and the environment, are threatened to be neglected due to the silence of critical voices. In the classical perspective, law is often understood as a set of binding and coercive norms, which are formed by the authority to regulate human behavior in social life. The main purpose of the law is to create order, certainty, and justice. However, in the development of modern legal thought, law is no longer seen solely as a written rule, but also as an instrument to protect and advance the fundamental rights of each individual. Thus, the law should function as a protection mechanism that protects human rights and dignity from all forms of abuse of power [5].

As for the criminalization of freedom of expression through the ITE Law, Law Number 11 of 2008 concerning Information and Electronic Transactions (UU ITE), as amended by Law Number 19 of 2016, was originally designed to regulate electronic activities and transactions and provide legal certainty in the utilization of information technology. However, in practice, this law is often used as an instrument to limit criticism and silence freedom of expression, especially in digital space. Constitutionally, freedom of expression is a right guaranteed by the 1945 Constitution of the Republic of Indonesia. Article 28E paragraph (3) affirms that everyone has the right to freedom of association, assembly, and express opinions, while Article 28F guarantees everyone's right to communicate and obtain and convey information. At the international level, the protection of freedom of expression is also affirmed in Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which has been ratified by Indonesia through Law Number 12 of 2005. The provision recognizes the right of every individual to express opinions without interference as well as the right to seek, receive, and disseminate information and ideas in various forms. General Comment No. 34 The UN Human Rights Committee stipulates that the restriction of freedom of expression must meet the three-part test: (1) provided by law - must be regulated in a clear and accessible law, (2) legitimate aim - for legitimate purposes (national security, public order, rights of others), (3) necessary and proportionate - absolutely necessary and proportionate. UU ITE failed to meet these three criteria. The vague formulation of delik violates the principle of *lex certa* (the law must be clear). The criminal threat of 6 years in prison is disproportionate for the expression of opinion. There is no exception for criticism of public officials, even though international standards require higher protection for criticism of public figures [6].

In the framework of protection at the national level, the state should not only provide security guarantees through the rule of law, but also establish a quick, effective, and independent handling mechanism to respond to various threats to human rights defenders. Although Komnas HAM has a mandate to receive complaints and conduct investigations, the limited authority of law enforcement and the lack of budget support make its role not optimal in providing concrete protection. Protection of human rights defenders also requires full recognition of the principle of universality of human rights, which applies regardless of the issue or the group being fought for. A person's status as a human rights defender must be recognized regardless of the political background, religion, or advocacy theme raised, as long as the action taken is peaceful and upholds human values. Thus, the state needs to formulate an affirmative policy that expressly guarantees protection for human rights defenders within the framework of national law [7].

IV. CONCLUSION

The practice of criminalization against activists and human rights defenders in Indonesia is a serious problem that reflects the still weak protection of freedom of opinion within the framework of a democratic state. Although normatively Indonesia has had a constitutional guarantee through the 1945 Constitution of the Republic of Indonesia as well as international commitment through the ratification of various human rights instruments, the implementation of such protection in practice is still far from ideal. Various cases of criminalization, intimidation, and violence against activists, journalists, indigenous people, and human rights defenders show the gap between legal norms and the reality of law enforcement in the field. The use of legal instruments, especially the Electronic Information and Transaction Act, which tends to interpret articles broadly and repressively, has contributed to the limitation of freedom of expression, especially in the digital space. This condition is aggravated by the practice of impunity by law enforcement officers, the militarization of civil space, and narratives that stigmatize activism as a threat to order or national interests. As a result, the space of public participation is getting narrower, people's trust in legal institutions is weakened, and the protection of basic rights, especially the rights of indigenous people over land and the environment is threatened. Therefore, strengthening the protection of freedom of speech and the prevention of the criminalization of activists requires a real commitment from the state through the reform of regulations that have the potential to be abused, law enforcement that is accountable and free from impunity, and respect for international human rights standards. In this context, the role of civil society and the media becomes very important to guard state accountability, build public awareness, and ensure that the law truly functions as an instrument for the protection of human rights and dignity in a democratic country.

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