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Supreme Court Legal Principle Controversy in Civil Lawsuits (Between Civil Rights and Reporting of Criminal Acts)

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Abstrak

Penelitian ini bertujuan untuk mengkaji konflik hukum yang muncul dari larangan gugatan perdata terhadap pelapor tindak pidana di Indonesia, dengan fokus pada penerapan Undang-Undang Informasi dan Transaksi Elektronik. Konflik ini terjadi karena di satu sisi, yurisprudensi Mahkamah Agung melindungi pelapor dari tuntutan hukum perdata guna mendorong partisipasi dalam pelaporan tindak pidana, sementara di sisi lain, hak keperdataan individu yang merasa dirugikan oleh laporan tersebut terabaikan. Metode yang digunakan adalah penelitian hukum normatif dengan pendekatan yuridis-analitis, di mana penelitian ini mengkaji peraturan perundang-undangan yang relevan, termasuk yurisprudensi Mahkamah Agung, Undang-Undang Informasi dan Transaksi Elektronik, dan Kitab Undang-Undang Hukum Perdata. Penelitian ini juga mengkaji kasus-kasus nyata yang memperlihatkan ketegangan antara perlindungan hukum bagi pelapor dan hak perdata pihak yang dilaporkan. Hasil penelitian menunjukkan bahwa meskipun tujuan dari perlindungan pelapor adalah penting untuk menjaga integritas proses pidana, hak perdata pihak yang dirugikan oleh laporan yang tidak berdasar harus tetap dihormati. Oleh karena itu, diperlukan upaya untuk mengharmonisasi kedua kepentingan hukum tersebut melalui revisi regulasi dan penegakan hukum yang lebih adil, guna menciptakan keseimbangan yang tepat antara hak pelapor dan hak pihak yang merasa dirugikan.

Kata kunci: *Gugatan Perdata, Pelapor Tindak Pidana, Undang-Undang Informasi Dan Transaksi Elektronik*

Abstract

Focusing on the execution of the Electronic Information and Transactions Law, this paper seeks to explore the legal conflict that arises from the restriction of civil lawsuits against criminal reporters in Indonesia. This contradiction arises from the fact that the civil rights of those who feel wronged by the report are disregarded, but the jurisprudence of the Supreme Court shields reporters from civil litigation in an effort to promote involvement in reporting illegal crimes. This study employs a juridical-analytical approach to normative legal research, which involves analyzing pertinent statutes and regulations, such as those pertaining to the Civil Code, the Electronic Information and Transactions Law, and the jurisprudence of the Supreme Court. Case studies illustrating the conflict between reporters' rights and the civil liberties of the reported are also included in this research. The study's findings highlight the need of respecting the civil rights of parties harmed by baseless reports, even as protecting reporters is crucial to preserving the honesty of the criminal justice system. Efforts must be made to bring these two legal interests into harmony by changing regulations and enforcing them more fairly. This will ensure that the rights of the reporter and the person who feels wronged are properly balanced.

Keywords: Civil Lawsuit, Criminal Reporter, Electronic Information and Transactions Law

INTRODUCTION

The enforcement of criminal procedures and the preservation of civil rights provide a pretty notable conundrum in Indonesian legal theory. As the highest court in the land, the Supreme Court decided that criminal reporters could not be sued in civil court (Harahap et al., 2023). The purpose of this regulation is to prevent civil law threats and intimidation against persons who report suspected criminal conduct. Conversely, legal recourse in the form of a civil lawsuit is available to everyone who has been wronged in a civil way. The conflict between these two parts of the law prompts discussions about how to strike a fair balance in the law's protection of each side.

This is a common occurrence in situations pertaining to the Electronic Information and Transactions Law, particularly when it comes to hate speech and defamation. Anxieties about the criminalization of civil disputes brought to light by the dramatic rise in recent years in instances invoking the Electronic Information and Transactions Law (Puluhulawa et al., 2023). The number of criminal proceedings using the Electronic Information and Transactions Law increased significantly in 2022, according to SAFEnet. The articles most often cited were those pertaining to hate speech and defamation. By combining the application of these articles with provisions in the Criminal Code, the scope of crimes that may be punished is expanded under criminal law (Wijaya et al., 2024).

Rules governing the prohibition of civil litigation against criminal reporters are outlined in the principles of Indonesian criminal law and the Supreme Court Jurisprudence. The Supreme Court's ruling makes it clear that criminal reporters are immune from civil lawsuits based on their work. A case that is often cited is Supreme Court Decision Number 851 K/Pdt/2007, which establishes that people who report suspected illegal actions to the police cannot be sued for doing so (Colondam, 2018).

Law No. 8 of 1981, which deals with Criminal Procedure, also contains relevant rules. The right to report suspected illegal activities to the authorities is guaranteed under Article 108 of the Civil Procedure Code, and people are both legally and morally obligated to do so (Arief et al., 2023). As part of this duty, the reporter is not to be legally harassed or assaulted in a civil case.

Then, under Law Number 13 of 2006, which was revised by Law Number 31 of 2014, witnesses and informants in criminal proceedings are guaranteed protection from any kind of physical or legal harm, including the possibility of civil litigation. In order to ensure that informants are not subjected to any kind of coercion or intimidation that might impede the criminal legal process, this legislation places an emphasis on protecting them (RAMADAN, 2022).

While it's true that these regulations safeguard individuals who report crimes, issues emerge when other people's civil rights are disregarded. Anyone who believes they have been wronged by another person has the right to sue under civil law. As stated in Article 1365 of the Civil Code, "Every unlawful act that causes harm to another person, requires the person whose fault caused the loss, to compensate for the loss." This implies that in theory, the injured person may still seek compensation even if the reporting of the crime results in the wrongful injury of another party.

If a criminal reporter's report damages the reported party financially, emotionally, or reputationally, or if the report turns out to be unfounded, then a conflict may emerge. The legal regulations that protect criminal reporters mean that the aggrieved party frequently has little choice except to accept their civil disadvantage and move on without seeking redress. A civil action would be futile due to the reporter's legal protections, but the situation becomes worse when the criminal report is made in ill faith or to intimidate.

Examples of this issue may be seen in cases pertaining to the Electronic Information and Transactions Law. To illustrate the point, a reporter may utilize electronic media to accuse someone of defamation in instances governed by Article 27, paragraph (3) of the Electronic Information and Transactions Law (Ngiji et al., 2022). A legal case against the reporter is difficult if the story is false or used to censor free speech. This generates injustice,

particularly when the report is filed simply to settle a civil dispute criminally.

Haris Azhar and Fatia Maulidiyanti demonstrate this intricacy. Luhut Binsar Panjaitan charged them with defamation under the Electronic Information and Transactions Law for their comments about Papua New Guinea's military deployment's political economy (Brotherhood & Wardani, 2022). The panel of judges found the story not defamatory, but Haris and Fatia had to go through a lengthy legal procedure. Even if Luhut's criminal complaint was unproven, the law protects his civil rights to defend his identity.

There is a conflict between Supreme Court doctrine and associated statutes protecting criminal whistleblowers and civil rights of injured parties. The key challenge is how to protect criminal whistleblowers while protecting the offended party's civil rights.

This research examines the goals from the two problem formulations. First, this analysis seeks to reconcile the Supreme Court's ban on criminal reporter lawsuits with injured parties' civil rights. It is crucial to explore how Indonesian legal practice may harmonize these two apparently opposing legal concepts. Criminal reporters and civilly aggrieved parties need this harmonization to get equitable legal protection. Second, this research seeks to explore the legal ramifications of using provisions in the Electronic Information and Transactions Law, particularly in defamation instances like Haris Azhar and Fatia Maulidiyanti. The research examines how these publications alter the balance between good reputation protection and free speech. These instances should be examined in detail to show the limits and reach of criminal law in civil disputes.

Based on explanation, formulation of the problem (1) How is the harmonization of the Supreme Court's legal rule prohibiting lawsuits against those reporting criminal acts with the civil rights of individuals who feel aggrieved? and (2) What are the legal implications of using articles of the Electronic Information and Transactions Law in cases of alleged defamation, such as those that occurred in the cases of Haris Azhar and Fatia Maulidiyanti?

RESEARCH METHOD

This study employed normative legal research, which included literature review of legal sources related to issue formation (Ishaq, 2017). This research explores primary legal sources like laws and regulations, particularly those linked to the Supreme Court rules and the Electronic Information and Transactions Law, and secondary legal sources like books, scientific papers, journals, and pertinent academic works.

This research will utilize a normative descriptive method to address the first issue formulation: harmonizing the Supreme Court's legal regulations that restrict lawsuits against criminal reporters with the civil rights of injured parties. Legal protections protecting criminal

reporters, including Supreme Court jurisprudence and witness and victim protection statutes, will be examined. This research will also investigate civil law concepts that allow injured parties to sue. This method maps the tension between the two legal principles and explores how legal practice might reconcile these apparently incompatible rights.

This research will employ a legal-analytical technique to solve the second issue formulation, which concerns the legal ramifications of using Electronic Information and Transactions Law articles in defamation cases. The study will concentrate on how Article 27 paragraph (3) of the Electronic Information and Transactions Law applies to defamation instances like Haris Azhar and Fatia Maulidiyanti. This research will analyze how these articles are employed in criminal law and how they affect free speech and reputation. This technique will assist determine how the Electronic Information and Transactions Law affects Indonesia's criminal justice system and its compliance with human rights and justice.

RESULT AND DISCUSSION

1. Harmonization Between the Supreme Court's Legal Principles Prohibiting Lawsuits Against Criminal Reporters and the Civil Rights of Individuals Who Feel Aggrieved

In Indonesia, protecting criminal reporters is crucial to law enforcement honesty. This ensures that those who report suspected criminal conduct to authorities are not intimidated by civil litigation from the reported party (Muhtar et al., 2023). This approach follows legal protection for whistleblowers in law and Supreme Court jurisprudence.

According to Supreme Court Decision Number 851 K/Pdt/2007, a criminal reporter cannot be sued in civil court for reporting suspected crimes. This provision encourages the public to report legal infractions without fear of civil penalties that might affect them (Sovereign, 2022).

Civil law also protects those wronged by others. Article 1365 of the Civil Code allows a victim of an illegal conduct to sue for damages. This means that civil law allows people to sue for rights violations.

Legal practice is complicated by the contradiction between whistleblower protection and civil suit rights. To reveal suspected crimes without fear of counterclaims, the whistleblower must be safeguarded. However, victims of unsubstantiated or inaccurate reports may seek compensation.

The conflict between criminal reporter protection and civil rights of disadvantaged people is tied to two important legal ideas. To guarantee individuals may cooperate in law enforcement without fear or legal threats, criminal law requires reporter protection. Many laws restrict this idea, notably the Supreme Court's ban on civil lawsuits against criminal

reporters. This ban prevents the reporting party from using a civil case to intimidate or coerce them.

However, under civil law, anybody who feels wronged by others, even unsubstantiated or malicious reports, may claim for damages. Article 1365 of the Civil Code states that the party committing a crime shall pay for the damages. This includes if the criminal report is false and harms the reported party's reputation, property, or mental health (Mantili, 2019).

When criminal reporting is unfounded yet protected by Supreme Court guidelines, this legal issue gets more complicated. Because the reporter is shielded from litigation, the reported party, even if innocent, often cannot seek civil justice. Even if the reporter behaved in ill faith, he remains protected, whereas the harmed person loses his civil rights.

Legal system misuse is connected to this problem. Reporting crimes may be used to repress or settle civil problems via criminal processes. The restriction prevents the reported party from suing for civil damages if the charge is false or exploited for personal benefit. This leaves the reporter with significant legal protection but the aggrieved party without.

This problem raises issues concerning the balance between complainant and damaged civil rights in terms of justice. Legal ambiguity may bring unfairness to one party because these two concepts have not been appropriately harmonized. Clearer and more specific legal restrictions are needed to guarantee both parties' rights without compromising theirs.

A balanced and thorough legal strategy is required to resolve the tension between criminal reporter protection and civil rights of injured parties. Clarifying the restrictions and standards for criminal reporter protection while allowing aggrieved parties to seek civil justice is one option. To preserve civil liberties, criminal reporter rules and jurisprudence must be amended.

This issue could be addressed by strengthening supervision of good faith reporting, adding whistleblower protection regulations to the Law, and creating a judicial mechanism that allows civil lawsuits in certain situations. The law should overprotect whistleblowers and balance justice for the harmed party. The following table lists legal pros and cons of different solutions to this problem.

Table 1

Harmonization Between Protection of Criminal Reporters and Civil Rights

Solution	Description	Excess	Challenge
1. Good Faith Regulation in Reporting	Add good faith criterion for reporting illegal conduct for legal	Not using criminal records to intimidate.	Due of reporter and reported subjectivity, determining a good faith standard is

Solution	Description	Excess	Challenge
	protection.		difficult.
2. Limited Civil Lawsuit Mechanism	Provides a civil litigation option for unsubstantiated or malicious reports.	Provides a civil litigation option for unsubstantiated or malicious reports.	This process must be closely monitored to prevent whistleblower intimidation.
3. Multi-level Protection for Whistleblowers	Reporters are only protected legally after verifying their reports.	Avoid civil litigation without discouraging good-faith whistleblowers.	Adds administrative steps that may hinder reporting.
4. Special Provisions in the Electronic Information and Transactions Law	Defamation article limits in the Electronic Information and Transactions Law should be clarified to prevent overcriminalization.	Avoid using the Electronic Information and Transactions Law to settle legal disputes and protect free speech.	Ensure that limits do not undermine legal protection for legitimately aggrieved parties.
5. Mediation Before Civil Lawsuit	Mediation between the complainant and respondent is required before filing a civil action to resolve the dispute.	Reduce court workload and improve fairness and speed.	Mediation may fail if one side is obstructive, particularly if power is imbalanced.
6. Revision of Supreme Court Jurisprudence	Rewrite the law that protects criminal reporters.	Facilitates a more accurate assessment of the reporter's poor faith.	Changes in court policy and practice may cause legal practitioners to resist.

Several methods may resolve the tension between criminal reporter protection and civil rights of injured parties. First, good faith reporting regulation is crucial to preventing

intimidation with reports. Adding good faith allows reporters who operate without a valid basis or with malicious motives to be held responsible while honest reporters remain protected. This objective standard of good faith is difficult to apply since it is hard to define the reporting motivation.

There should also be a limited civil litigation procedure for unfounded report victims. When a criminal report fails or is carried out with malicious motives, the victim might initiate a civil case. This may balance civil rights with journalistic safety, but the key problem is preventing retribution from intimidating real reporters.

Tiering whistleblower protection may also work. After their reports are reviewed and found lawful, whistleblowers are protected. Early detection of erroneous or misleading reports prevents avoidable losses for the reported party. This technique needs a more thorough first assessment, which might hinder reporting (Wulandari, 2020).

Consider the Electronic Information and Transactions Law's provisions to avoid overcriminalizing civil proceedings. Clear restrictions on defamation and hate speech articles help prevent criminalization of civil fights. However, the major difficulty is to ensure that these constraints do not weaken legal protection for victims of crime. Mediation before a civil litigation may also reduce complainant-accused tensions. Mediation allows both parties to resolve peacefully before going to court. Only if both parties are prepared to collaborate and there is no major bargaining position disparity will mediation succeed.

Finally, the Supreme Court should revise its doctrine to protect criminal whistleblowers. This modification might provide whistleblower protection more flexibility in cases of ill faith. Law enforcement and the courts must agree on this reform, and the judicial system may fight it.

These proposals try to balance informant and civil rights. With clearer and more thorough restrictions, the Indonesian criminal and civil legal system should protect all parties more fairly.

2. Legal Implications of the Use of Articles of the Electronic Information and Transactions Law in Cases of Alleged Defamation, as Occurred in the Case of Haris Azhar and Fatia Maulidiyanti

In a public conversation, Haris Azhar and Fatia Maulidiyanti denounced state official Luhut Binsar Pandjaitan for suspected economic and military involvement in Papua. The video on Haris Azhar's YouTube channel revealed the findings of nine civil society groups' research on the political economics of military deployment in Papua, notably Intan Jaya

(Nining Yurista Prawitasari et al., 2022). Video "Lord Luhut Behind Intan Jaya's Economic Relations-Military Ops!" BIN General is Also There!! Hamtam" Luhut Binsar Pandjaitan said that the comment had ruined his reputation (Pramujiono et al., 2022).

Luhut's study references many Electronic Information and Transactions Law provisions, including Article 27 paragraph (3) against electronic defamation. It reads "Any person who intentionally and without the right distributes and/or transmits and/or makes accessible Electronic Information and/or Electronic Documents that contain insults and/or defamation" owes. The reporter also cited Article 45 paragraph (3) of the Electronic Information and Transactions Law, which criminalizes electronic media defamation and is juncto to Article 27 paragraph (3). In addition to the Electronic Information and Transactions Law, Haris Azhar and Fatia Maulidiyanti face defamation charges under Criminal Code Article 310 on insults. Willfully harming someone's honor or reputation in writing or speech is illegal, according to this article. Luhut claimed that Haris and Fatia's criticism damaged his reputation and breached criminal law with these writings (Head of Team, 2022).

The court found no defamation or offense in Haris and Fatia's statements. The judges argued that the video's content was protected by law since it was part of a civil society study based on research. The judges thought they challenged Papua's economic-political and military policies, not themselves.

The case illustrates how the Electronic Information and Transactions Law and Criminal Code treat defamation in the context of free speech and government criticism. The Electronic Information and Transactions Law is sometimes challenged because its defamation provisions are too broad and may impede public discourse (Andi et al., 2021).

The Electronic Information and Transactions Law and Criminal Code sections for public official defamation charges are the main considerations in this case. First, defending Luhut Binsar Pandjaitan's reputation and free speech, particularly in government policy criticism, conflict. Many feel Article 27 paragraph (3) of the Electronic Information and Transactions Law is too broad and may restrict free speech. This essay raises the subject of how to separate reasonable criticism from slander in internet defamation cases.

The clause limits legal free speech, especially when criticizing public issues or government acts. Haris Azhar and Fatia Maulidiyanti's statements were related to a public-interest nine-civil society organization study of Papua's military deployment policy. The Electronic Information and Transactions Law's defamation clause makes this issue a felony despite its public nature.

Defamation is reinforced by Criminal Code Article 310 against insults. The Electronic

Information and Transactions Law and its section penalize reputation-damaging statements, especially against prominent people. This article's criticism of government practices harms democracy's free expression.

These articles may outlaw government criticism, curtailing Indonesian free speech. When state policy criticism constitutes defamation, people are afraid to speak up, especially when it affects strong officials. This may diminish democracy and public participation in politics and policy.

Thus, the main issue is how the Electronic Information and Transactions Law and Criminal Code relate to public official defamation. Better defamation standards and free speech safeguards, especially on important public matters, are needed.

The prior research may assist resolve defamation cases involving public officials like Haris Azhar and Fatia Maulidiyanti from the Electronic Information and Transactions Law and Criminal Code. Good faith reporting of criminal defamation needs tight regulation. Protected reporters must report in good faith and with trustworthy evidence. Malicious or false reporting may be halted, and reporters who use criminal complaints to muzzle public criticism will be punished.

It is also crucial to allow people affected by spurious claims to sue civilly (Badruzaman, 2019). If the whistleblower acts in bad faith, the party whose reputation has been hurt might sue for damages. The whistleblower's right to disclose the crime and the reported party's right to safeguard his reputation shall be balanced. To complement this system, whistleblower protection should be staged, with the first report validated before complete protection. Unfounded reports may be sorted out early, preventing legal risks to the reported party.

However, special measures in the Electronic Information and Transactions Law are essential to distinguish defamation from legitimate criticism of public leaders. Freedom of speech and expression must be protected, particularly when criticizing public problems or government actions. Amending the Electronic Information and Transactions Law would shield reasonable criticism of public officials from being used to censor them. Before filing a civil or criminal action, mediation might help resolve the issue peacefully. Mediation lets both parties settle the issue without going to court, which reduces the courts' workload and improves relations.

Finally, the Supreme Court should revise its doctrine to protect criminal whistleblowers unconditionally. This modification balances whistleblower protection by allowing affected parties to sue for bad faith reports. A more balanced approach may preserve the fundamental rights of both parties—the whistleblower who acts in good faith and the entity

injured by an incorrect allegation. These ideas should guarantee free speech, including public policy critique, without compromising legal protection.

CONCLUSION

This research found that although the Supreme Court's jurisprudence protects criminal reporters from civil litigation, this protection should be further evaluated to balance the civil rights of those injured by unfounded reporting. In the framework of the Electronic Information and Transactions Law, notably in defamation proceedings, the limits between reporter protection and reported party civil rights are unclear and frequently lead to legal confusion.

Reporting in ill faith or without a reasonable basis shows that the harmed person lacks legal recourse via civil actions. Thus, current legal rules and practices must be revised to emphasize that good-faith reporters are protected, but reporters who use the law improperly or to intimidate must be held responsible civilly. To establish proportionate justice in Indonesia's legal system, the reporter's rights under criminal law must be balanced with the injured party's civil rights.

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