



## Right to Information and Anti-SLAPP on Consumer Protection in Indonesia

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Article	Abstract
<p><b>Keywords:</b>            Anti-Strategic Lawsuit Against Public Participation (SLAPP); Consumer Protection; Right to Information.</p> <p><b>Article History</b>            Received: Dec 24, 2024; Reviewed: Dec 23, 2025; Accepted: Jan 29, 2026; Published: Jan 31, 2026.</p> <p><b>DOI:</b>            10.28946/slrev.v10i1.4544</p>	<p>Anti-Strategic Lawsuit Against Public Participation (SLAPP) is a provision that provides legal protection to the public who fight for public interests recognised in legislation, usually in the environmental field; however, this study examines the projection of Anti-SLAPP for consumer protection. This research is normative legal research with a legislative, case, and conceptual approach, examining legal protection for consumers when submitting reviews on social media by highlighting the freedom of opinion guaranteed by legislation. The results of this study led to a balance of rights to information, and SLAPP was implemented for the benefit of all Indonesian people to foster meaningful participation in consumer protection. This study provides suggestions to Lawmakers on issuing regulations that specifically address Anti-SLAPP. These regulations are important to protect consumers from all threats, especially criminal entanglements, and as a guide for law enforcement officers in handling SLAPP cases in Indonesia. Lawmakers can issue regulations that, in revising the Consumer Protection Law, include anti-SLAPP provisions.</p>

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## INTRODUCTION

Nowadays, awareness of the law in Indonesian society is increasing. Indonesian people are beginning to understand their rights and obligations under the law, including in buying and selling activities that occur at every level of social life. In general, buying and selling activities involve several parties, namely consumers and business actors. All consumers and business actors have their respective rights and obligations, such as sellers who are obliged to provide goods that are in accordance with their descriptions and in good condition, without deliberately concealing deficiencies or defects. Buyers also have an obligation to pay for the goods and

services they purchase at the previously agreed price and to use them in accordance with the instructions for use.<sup>1</sup>

In these buying and selling activities, consumers are in a more vulnerable position, as their rights are not always fulfilled. Because many consumers do not get the rights they should, and to protect consumers, the legislators (House of Representatives and the President)<sup>2</sup> created Law Number 8 of 1999 concerning Consumer Protection (Consumer Protection Law). In general, this law sets out the rights and obligations of consumers, the rights and obligations of business actors, the responsibilities of business actors, and what consumers can do if their rights are violated by a party, whether a consumer or a business actor.<sup>3</sup>

Even though business actors violate the Consumer Protection Law, fraud against consumers that results in the complete non-fulfilment of consumer rights still often occurs. Many consumers who become victims simply accept the fraud that befell them. Whether it is because they do not realise, they are being cheated, feel their losses are insignificant, or do not know how to defend their rights. However, many victims also take legal action by reporting to the police, the Consumer Disputes Redressal Commission, or by filing a lawsuit in court.<sup>4</sup> In fact, what happened in the case of Prita Mulyasari was that the business actor made a very striking defensive move against consumers who sued the rogue business actor or dared to speak out about fraud or the non-fulfilment of consumer rights by the business actor. This defensive movement is evident in the fact that several consumers who took legal action received backlash in the form of new lawsuits brought by business actors who were previously sued by consumers. In the well-known case of Prita Mulya Sari versus Omni International Hospital, Prita, as a hospital customer, complained to her friend about poor hospital service. Prita provided a chronology of wrong diagnoses, medical procedures that were never explained, and requests for permission from Prita as a patient, as well as the hospital's uncooperative response to patients' questions.<sup>5</sup> The story was sent via electronic mail to a friend. Upon reviewing the contents of the letter, Omni International Hospital reported Prita to the police for defamation, in accordance with Article 27, paragraph 3, of Law Number 11 of 2008 concerning Electronic Information and Transactions (Electronic Information and Transactions Law). This report meant that Prita had to undergo a legal process through the courts and spent time in detention.<sup>6</sup>

<sup>1</sup> Michiel Rhoen, "Beyond Consent: Improving Data Protection through Consumer Protection Law," *Internet Policy Review* 5, no. 1 (2016): 1–15, <https://doi.org/10.14763/2016.1.40>.

<sup>2</sup> Mahesa Rannie et.al, "Does the Reform of the Parliamentary and Presidential Threshold Strengthen the Presidential System in Indonesia?," *Sriwijaya Law Review* 8, no. 1 (2024): 133–51, <https://doi.org/10.28946/slrev.vol8.iss1.3157.pp133-151>.

<sup>3</sup> Deviana Yuanitasari et.al, "A Comparison Study of Strict Liability Principles Implementation for the Product Liability within Indonesian Consumer Protection Law between Indonesia and United States of America Law," *Cogent Social Sciences* 9 (2023): 1–12, <https://doi.org/10.1080/23311886.2023.2246748>.

<sup>4</sup> Anna Rahmania Ramadhan, "Defamation Under The Law Number 11 Of 2008 On Information And Electronic Transaction," *Jurnal Ius: Kajian Hukum Dan Keadilan* 3, no. 3 (2015): 602–19, <https://doi.org/10.12345/ius.v3i9.272>.

<sup>5</sup> Eko Riyadi and Sahid Hadi, "Strategic Lawsuit against Public Participation (SLAPP): A Legal Based Threat to Freedom of Expression," *Padjadjaran Jurnal Ilmu Hukum* 8, no. 1 (2021): 141–62, <https://doi.org/10.22304/pjih.v8n1.a7>.

<sup>6</sup> Rafika Nur et.al, "Insult and Defamation through Information Technology: Indonesia Perspective," *International Journal on Emerging Technologies* 11, no. 4 (2020): 373–78, [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3695580](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3695580).

In addition to the Prita Mulyasari case, several other cases involving consumer reviews on social media have resulted in criminal proceedings.

**Table 1. Consumer Review Cases That Ended in Criminal Prosecution**

Year	Case	Problem	Result
2021	A letter of objection from PT Eigerindo Multi Produk Industri (Eiger Indonesia) to YouTuber Dian Widyanarko regarding a review of Eiger Kerato eyewear.	A letter of objection from PT Eigerindo Multi Produk Industri (Eiger Indonesia) to YouTuber Dian Widyanarko regarding a review of Eiger Kerato eyewear.	Ends with a complete solution peace.
2022	A legal notice from PT Es The Indonesia Makmur to Gandhi regarding a critical Twitter post.	Criticism was directed at the Red Velvet Iced Tea variant, which was deemed too sweet.	Ends with a complete solution peace.
2022	Defamation lawsuit filed by L'Viors Beauty Clinic Surabaya against Stella Monica.	Stella reported that the facial treatment worsened her skin condition, leading to serious inflammation.	The court found Stella not guilty.
2023	Defamation lawsuit by PT Mahkota Sentosa Utama against eighteen buyers in the Meikarta apartment project.	The buyer demanded a refund because the developer had not delivered the promised apartment unit.	The plaintiff eventually withdrew the lawsuit.
2023	A lawsuit by PT Mandiri Bangun Makmur against TikToker "Om Polos Banget" regarding the content of an apartment review video.	A TikToker uploaded a video complaining about the structural strength of the apartment building, which he deemed vulnerable to collapse. The video went viral and caused several prospective buyers to cancel their transactions.	Sentenced to prison for 2 years.

*Source: Daffa Rizqy Naufal et.al, 2025, 123–52,*

Reflecting on the cases above, it is clear that the consumer's position is very weak. Consumers who choose to speak out or even sue through legal channels for the losses they incur receive defensive treatment from business actors who are sued or face consumer criticism.<sup>7</sup> The backlash they receive in the form of lawsuits can weaken their psychological condition so that Consumers who are harmed become afraid, even though they are only demanding their rights. Consumers who see this condition may also become silent, no longer daring to speak up about complaints of rights violations they receive. Business actors are carrying out this counterattack. It becomes a powerful move to defend oneself and a target for attacks that hit the heart of society's defences.<sup>8</sup>

Counterattacks against parties who express opinions in public are known as Strategic Lawsuit Against Public Participation (SLAPP). Loosely speaking, SLAPP can mean a deadly lawsuit aimed at stifling public participation. Public participation is when the community or community groups demand their rights.<sup>9</sup> Public participation is when the community or community groups demand their rights. The legal basis for SLAPPs, generally in the environmental sector, is regulated by Law Number 32 of 2009 concerning Environmental

<sup>7</sup> Aya Sofia, "Strategic Lawsuit Against Public Participation Dalam Hukum Perlindungan Konsumen" (Universitas Indonesia, 2012).

<sup>8</sup> I Benöhr, "The United Nations Guidelines for Consumer Protection: Legal Implications and New Frontiers," *Journal of Consumer Policy* 43 (2020): 105–124, <https://doi.org/10.1007/s10603-019-09443-y>.

<sup>9</sup> Laura Lee Prather and Justice Jane Bland, "Bullies Beware: Safeguarding Constitutional Rights Through Anti SLAPP In Texas," *Texas Tech Law Review* 47 (2015): 725–801, <https://ssrn.com/abstract=3468350>.

Protection and Management.<sup>10</sup> However, this study examines the projection of Anti-SLAPPs for consumer protection. In the United States, SLAPPs are used by business actors to censor, intimidate, and stop public criticism of products circulating in the community. Business actors have no intention of winning the counterclaim. The target of this SLAPP method is consumers who are intimidated and tired of following the legal process. The author refers to SLAPP practices in the United States because they have guaranteed Anti-SLAPP practices.<sup>11</sup> However, the construction of the Right to Information in Indonesian Positive Law aims to protect the interests of all parties, including consumers and business actors. For this reason, this research is intended as a middle way to realising Meaningful Participation in Consumer Protection.

An element of the Indonesian rule of law is the recognition and guarantee of Human Rights. Indonesian Positive Law, in this case, the Consumer Protection Law, guarantees Human Rights, namely the right to obtain information and the right to express opinions regarding services provided by service providers. Therefore, the author discusses the human rights aspect of consumer protection so that consumers who exercise their right to review the services or goods they purchase are not easily subject to criminal charges for defamation.

Based on the above background, the legal issues raised in this article are: (1) Is the Right to Information of A Consumer Part of Human Rights?; (2) How is the Protection of the Right to Information for Consumers in the Indonesian Consumer Protection Law?; (3) What are the Opportunities and Challenges for Anti-SLAPP Regulations in Indonesia?; and (4) How to Realise Meaningful Participation in Consumer Protection in Indonesia?.

Before further discussing the Right to Information and SLAPP in relation to Consumer Protection in Indonesia, the author felt the need to conduct a literature review to ensure the originality of this research and avoid plagiarism.<sup>12</sup> The author found three studies discussing the Right to Information and SLAPP. First, a journal article titled: "Strategic Lawsuits Against Public Participation in the Age of Online Speech: The Relevance of Anti-SLAPP and Anti-Cyber SLAPP Legislation" by Lauren Merk.<sup>13</sup>

Second, a journal article titled "Fighting SLAPPs in Federal Court: Erie, the Rules Enabling Act, and the Application of State Anti-SLAPP Laws in Federal Diversity Actions" by Benjamin Ernst.<sup>14</sup> Third, a journal article titled: "Integration of Anti-SLAPP in the Reform of the Indonesian Criminal Procedure Code in an Effort to Protect Human Rights" by Afif Muhni

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<sup>10</sup> Hartiwiningsih et.al, "Dysfunctional Factors of Environmental Law on Strategic Lawsuit Against Public Participation and Developing Remedial Strategies Through Reconstruction Criminal Law System Model in Indonesia," *Padjadjaran Jurnal Ilmu Hukum* 10, no. 3 (2023): 411–30, <https://doi.org/10.22304/pjih.v10n3.a6>.

<sup>11</sup> David L Hudson Jr, "Anti-SLAPP Coverage and the First Amendment: Hurdles to Defamation Suits in Political Campaigns," *American University Law Review* 69 (2020): 1541–58, <https://repository.belmont.edu/lawfaculty/155>.

<sup>12</sup> Putra Perdana Ahmad Saifullah et.al, "Reconstruction of Restrictions on the President's Power in Determining the Posture of Ministries in the Indonesian Government System," *Jambura Law Review* 7, no. 2 (2025): 521–58, <https://doi.org/10.33756/jlr.v7i2.29684>.

<sup>13</sup> Lauren Merk, "Strategic Lawsuits Against Public Participation in the Age of Online Speech: The Relevance of Anti-SLAPP and Anti Cyber SLAPP Legislation," *The University of Cincinnati Intellectual Property and Computer Law Journal* 5, no. 1 (2021): 1–26, <https://scholarship.law.uc.edu/ipclj/vol5/iss1/1/>.

<sup>14</sup> Benjamin Ernst, "Fighting SLAPPs in Federal Court: Erie, the Rules Enabling Act, and the Application of State Anti SLAPP Laws in Federal Diversity Actions," *Boston College Law Review* 56, no. 3 (2015): 1181–1215, <https://doi.org/http://lawdigitalcommons.bc.edu/bclr/vol56/iss3/>.

et al.<sup>15</sup> These three studies conclude that the right to participate in public activities has long been the foundation of democracy because public participation and freedom of speech are part of human rights, however these three studies focus on SLAPP in the environmental field and criticise public policies, in contrast to the author who focuses on consumer protection with a first-generation human rights approach in the civil political field (right to information).<sup>16</sup> Based on this, this research can be scientifically accounted for by adhering to the rules and academic ethics that a researcher must follow.<sup>17</sup>

## RESEARCH METHODS

This research is a normative legal study that employs doctrinal methods to analyse the principles and norms of legislation on the Right to Information and SLAPP in the context of Consumer Protection in Indonesia.<sup>18</sup> Three approaches were employed: the statutory regulatory approach, the case study approach, and the conceptual approach.<sup>19</sup> In terms of nature, this research is descriptive. Descriptive research describes something within a specific time and place.<sup>20</sup> In legal research, descriptive research is crucial for accurately presenting existing legal materials, from which legal prescriptions are formulated. With its descriptive nature and prescriptive form, this research can shed light on the Right to Information and SLAPP in relation to Consumer Protection in Indonesia.<sup>21</sup> The data collection method used in this research is a literature review.<sup>22</sup>

## ANALYSIS AND DISCUSSION

### The Right to Information of a Consumer as Part of Human Rights

In the formulation of freedom by the Enlightenment philosophers of the 17th and 18th centuries, it contained natural rights that could not be taken away because they were a gift from God. These rights were not destroyed when civil society was created; neither society nor the Government can revoke them. These natural rights are inherent and fundamental to humans.

<sup>15</sup> Afif Muhni et.al, "Integration of Anti-SLAPP in the Reform of the Indonesian Criminal Procedure Code in an Effort to Protect Human Rights," *SIGN Jurnal Hukum* 7, no. 1 (2025): 437–53, <https://doi.org/10.37276/sjh.v7i1.485>.

<sup>16</sup> Muwaffiq Jufri et al., "State Power Limitations on Religion for The Fulfillment of the Constitutional Rights of Indigenous Religion Believers in Indonesia," *Journal of Indonesian Constitutional Law* 1, no. 3 (2024): 195–213, <https://doi.org/10.71239/jicl.v1i3.23>.

<sup>17</sup> Putra Perdana Ahmad Saifulloh et al., "Legal Standing to the Corruption Eradication Commission As an Applicant for the Dissolution of a Political Party at the Constitutional Court," *Jurnal Konstitusi* 20, no. 2 (2023): 318–39, <https://doi.org/10.31078/jk2028>.

<sup>18</sup> Iwan Satriawan et.al, "Internet Shutdown in Indonesia: An Appropriate Response or A Threat to Human Rights?," *Sriwijaya Law Review* 7, no. 1 (2023): 19–46, <https://doi.org/10.28946/slrev.Vol7.Iss1.1018.pp19-46>.

<sup>19</sup> Amancik et al., "Reforming the Indonesian Bureaucracy through State Civil Apparatus Reform, Could It Be Optimised with Technology?" *Journal of Law and Legal Reform* 5, no. 3 (2024): 943–72, <https://doi.org/10.15294/jllr.v5i3.13753>.

<sup>20</sup> Herawan Sauni et.al, "Beyond Borders: Shedding Light on Foreign Bribery through an Islamic Legal Lens," *Al-Istinbath: Jurnal Hukum Islam* 9, no. 2 (2024): 649–78, <https://doi.org/10.29240/jhi.v9i2.9752>.

<sup>21</sup> Amancik et al., "Breaking the Cycle of Injustice: Revolutionising Human Rights Violations Resolution Through the 1945 Constitution," *Lex Scientia Law Review* 8, no. 2 (2024): 777–816, <https://doi.org/10.15294/lslr.v8i2.7460>.

<sup>22</sup> Putra Perdana Ahmad Saifulloh et.al, "Political Dynasties in General Elections According to Human Rights and A Comparison in Four ASEAN Countries," *Trunojoyo Law Review (TLR)* 7, no. 1 (2025): 123–60, <https://doi.org/10.21107/tlr.v7i1.28492>.

This fundamental right also includes the right to obtain information that is universally applicable so that it receives attention from the international community. This can be seen from international instruments on human rights which stipulate freedom of obtaining information as part of human rights, which includes Article 19 of the UN Universal Declaration of Human Rights (UDHR) which confirms the right of every person to seek, receive and provide information, the contents of which are: "Everyone has the right to freedom of opinion and expression; This right includes freedom of opinion without interference, and to seek, receive and impart information and ideas through any media and regardless of frontiers.<sup>23</sup>

Likewise, Article 19, point 2 of the UN International Covenant on Civil and Political Rights regulates the same thing, by emphasising that: "Everyone has the right to freedom of expression, this right includes the freedom to seek, receive and convey any information and thoughts, regardless of all that matters. -restrictions verbally, in writing or in print, in the form of art, or through other media of his choice." These arrangements are based on the belief that freedom to obtain information is one of the most basic rights that humans have. If someone's freedom to find out information is restricted, a closed regime will certainly arise, because access to information is the key to public participation, which is the door to the implementation of democracy. Therefore, the right to access public information is closely related to the principles of the rule of law and democracy.<sup>24</sup>

In a rule of law and democracy, every formation and implementation of law must always involve community participation. According to philosopher Jurgen Habermas, this will stimulate society to mobilise solidarity to produce legitimate laws. Public participation will only be possible if access to public information is guaranteed. According to Todung Mulya Lubis, regulations on freedom of access to public information can guarantee three important elements of the right to information: the right to collect information, the right to disseminate information, and the right to communicate that information.<sup>25</sup> Abid Hussain believes that freedom of information is a very important human right. Freedom will not be effective if people do not have access to information. Access to information is the basis for democratic life. Therefore, the tendency to withhold information from the public must be considered.<sup>26</sup> As described above, institutionalising public information is not easy. Not just a guarantee from the law, but also the certainty of government administrators' commitment to seriously strive for openness and access to public information for their citizens is inevitable. The fulfilment of the right to freedom of access to public information is one indicator of the adoption of the concept of a state of law and democracy, characterised by the recognition of human rights. According to Jimly Asshidiqie, in the concept of a democratic rule of law or a democratic state based on law, one of the main characteristics is recognition and respect for human rights. This means that the

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<sup>23</sup> Kartini Laras Makmur, "Analisis Perlindungan Hak Memperoleh Informasi Atas Rahasia Negara Demi Keamanan Nasional" (Universitas Indonesia, 2012), 22-24.

<sup>24</sup> Kartini Laras Makmur.

<sup>25</sup> Todung Mulya Lubis, "Realitas Hak-Hak Unuk Mendapatkan Informasi Dan Berkommunikasi Di Indonesia," *Jurnal Hukum & Pembangunan* XVI, no. 4 (1986): 350.

<sup>26</sup> Claire Wardle and Hossein Derakhshan, *Information Disorder: Toward an Interdisciplinary Framework for Research and Policy Making* (Strasbourg: Council of Europe Publishing, 2017).

right to access public information is an absolute human right.<sup>27</sup> The basic idea of democratic rule of law has several implications. Firstly, there is a demand for legal certainty, that the law applies equally to everyone. Second, there is democratic legitimacy, meaning that the law-making process must include public opinion. Third, the rule of law is a demand of reason.<sup>28</sup>

The right to public information is a tool for the public to control every step and policy taken by the Government, which affects their lives. At this point, there is a correlation between the right to public information and the democratisation plan. In the concept of democratisation, state power comes from the people, so the exercise of that power must always be accountable to the people at all times. Democracy also means that the people do not view the authorities as perfect, who always side with the people. On the contrary, the people need to always be suspicious, critical, and to control every policy taken by the authorities.<sup>29</sup>

The right to public information also aims to realise good governance. Good governance requires open Government as one of its foundations. This covers the entire process of managing public resources, from decision-making to implementation and evaluation. According to Achmad Santosa, open Government requires a guarantee of the right to participate in the process of forming public policy. Thus, the right to public information is an important prerequisite for realising open Government.<sup>30</sup>

Considering the importance of guaranteeing the right to information, it is appropriate that the main agenda for Indonesian reform is to realise the best possible information services as an embodiment of a democratic and open government, where information is made as widely available to the public as possible. The success of this guaranteed effort will have a major impact on the creation of good governance.<sup>31</sup>

In consumer protection law, the right to information and the right to express an opinion are integral parts of consumer rights recognised both nationally and internationally. These rights reflect consumers' freedom to contribute to improving service quality, while also requiring businesses to listen to and respond to such input. Within the national legal framework, the Consumer Protection Law explicitly states in Article 4, letter d, that "consumers have the right to have their opinions and complaints heard regarding the goods and/or services they use." The right to express opinions and complaints is an essential element of the basic consumer principles introduced by John F. Kennedy, President of the United States, in 1962. This

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<sup>27</sup> Giovanni De Gregorio and Roxana Radu, "Digital Constitutionalism in the New Era of Internet Governance," *International Journal of Law and Information Technology* 30 (2022): 68–87, <https://doi.org/10.1093/ijlit/eaac004>.

<sup>28</sup> Giovanni De Gregorio and Roxana Radu, "Digital Constitutionalism in the New Era of Internet Governance."

<sup>29</sup> Rachmawati Putri, "Hak Atas Informasi Dalam Proses Pembentukan Undang-Undang Di DPR RI" (Universitas Indonesia, 2012).

<sup>30</sup> Kinfe Micheal Yilma, "Digital Privacy and Virtues of Multilateral Digital Constitutionalism—Preliminary Thoughts," *International Journal of Law and Information Technology* 25, no. 2 (2017): 115–38, <https://doi.org/10.1093/ijlit/eax001>.

<sup>31</sup> Annemarie Drahmann and Anne Meuwese, "AI and Lawmaking: An Overview," in *In Information Technology and Law Series* (The Hague: T.M.C. Asser Press, 2022), 433–49, [https://doi.org/10.1007/978-94-6265-523-2\\_22](https://doi.org/10.1007/978-94-6265-523-2_22).

principle has become a crucial foundation for consumer protection. The following rights are recognised within this framework:<sup>32</sup>

- 1) The right to safety: This right aims to protect consumers from goods and services that may pose a risk. In this regard, the Government plays a crucial role in ensuring consumer safety through strict regulation and oversight. These efforts are designed to prevent producer actions that could harm or endanger consumers.
- 2) The right to be informed: This right is fundamental to consumers, particularly regarding their interests and economic well-being. Information provided regarding products or services must be complete, accurate, and transparent. Information must be communicated clearly through various communication channels to avoid misunderstandings that could harm consumers.
- 3) The right to choose: This right allows consumers to make informed choices when purchasing goods or services. However, this right can only be effectively implemented if supported by honest information, adequate education, and economic conditions that enable consumers to make rational decisions.
- 4) The right to be heard: This right ensures that consumer interests are taken into account in government policymaking and business practices. Furthermore, this right emphasises the importance of responding to consumer complaints and expectations regarding the goods and services they use.

Among these four rights, the rights to information and to be heard play a crucial role in ensuring that consumer interests are considered in every policy adopted by both the Government and businesses. This principle emphasises that consumer rights encompass not only the freedom to express opinions but also create an obligation for businesses to listen and provide constructive feedback.<sup>33</sup>

This conceptualisation is closely related to consumer complaint behaviour. Consumer complaints, both verbal and written, often arise from dissatisfaction with goods or services. However, this phenomenon is not solely driven by dissatisfaction but also by factors such as age, gender, culture, education level, and personal experiences. This reflects the fact that consumers, as individuals with freedom of expression, instinctively want to voice their opinions to advocate for their rights. Consumer complaints are part of consumers' right to seek redress or compensation for losses they have experienced, or when a business fails to fulfil an agreed-upon agreement.<sup>34</sup>

In the digital era, the concepts of the right to information and the right to be heard have expanded. Consumers not only submit formal complaints to businesses but also use digital platforms to leave both positive and negative reviews of their experiences. Social media, as a primary means of expression in this era, allows consumers to express their opinions more freely and openly. This form of expression is not always oriented toward redress but also reflects the

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<sup>32</sup> Daffa Rizqy Naufal et.al, "Pelindungan Hukum Bagi Konsumen Dalam Menyampaikan Pelindungan Hukum Bagi Konsumen Dalam Menyampaikan Ulasan Atas Suatu Produk Melalui Platform Media Sosial Ulasan Atas Suatu Produk Melalui Platform Media Sosial," *Jurnal Hukum & Pembangunan* 55, no. 1 (2025): 123–52, <https://doi.org/10.21143/jhp.vol55.no.1.1813>.

<sup>33</sup> Daffa Rizqy Naufal et.al.

<sup>34</sup> Daffa Rizqy Naufal et.al.

nature of consumers as human beings with an instinct to express themselves and contribute to public information about products or services.<sup>35</sup>

In the context of consumer protection, the rights to information and to express opinions ensure that consumers can submit product or service reviews that do not meet their expectations without fear of threats or retaliation. Complaints and opinions expressed by consumers, both through formal channels and through digital platforms such as social media reviews, serve as public oversight that can encourage transparency, accountability, and improvements in the quality of services or products by businesses.<sup>36</sup>

### **Protection of the Right to Information for Consumers in the Consumer Protection Law**

Article 1, number 2 of the Consumer Protection Law defines a consumer as any person who uses goods or services available in society, whether for their own benefit, that of their family, another person, or any other living being, and not for sale. Consumers are generally defined as the ultimate users of products delivered by businesses; that is, any person who acquires goods for their own use, not for sale or resale. Meanwhile, a business actor is any individual or business entity, whether a legal entity established and domiciled in, or conducting activities within, the jurisdiction of the Republic of Indonesia, whether acting individually or jointly through an agreement, engaged in business activities across various economic sectors.<sup>37</sup>

Business activity is a mutually beneficial relationship between businesses and consumers. To maintain a balance between consumers and businesses, regulations are needed that provide legal protection for consumers. Consumer protection is necessary because consumers are generally in a weak position in their relationships with businesses (producers), both economically and in terms of education, skills, competitiveness, and bargaining power.<sup>38</sup>

Regulations regarding consumer protection law are stipulated in the Consumer Protection Law. Article 1, paragraph (1) states that consumer protection is any effort to guarantee legal certainty to protect consumers. Legal certainty, in the form of consumer rights protection reinforced by specific laws, provides hope that business actors will not act arbitrarily and will not consistently harm consumer rights.<sup>39</sup>

Consumer protection is any effort to ensure legal certainty to protect consumers. The definition of consumer protection, as explained in Article 1, paragraph (1), of the Consumer Protection Law, is sufficient and is expected to serve as a bulwark against arbitrary actions by business actors that harm consumers solely for the sake of consumer protection itself. Az. Nasution states that the legal definition of consumer protection is the entirety of the principles and rules that regulate and protect consumers in the relationship and issues surrounding the provision and use of consumer products (goods/services) between providers and users in social life. Legal certainty, providing consumer protection through consumer rights reinforced by specific laws, offers hope that business actors will not act arbitrarily and will not consistently

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<sup>35</sup> Daffa Rizqy Naufal et.al.

<sup>36</sup> Daffa Rizqy Naufal et.al.

<sup>37</sup> Yanci Libria Fistaet.al, "Perlindungan Hukum Konsumen Dalam Transaksi E-Commerce Ditinjau Dari Perspektif Undang-Undang Perlindungan Konsumen," *Binamulia Hukum* 12, no. 1 (2023): 177–89, <https://doi.org/10.37893/jbh.v12i1.599>.

<sup>38</sup> Yanci Libria Fistaet.al.

<sup>39</sup> Yanci Libria Fistaet.al.

harm consumer rights. The implementation of consumer protection as a joint effort has five basic principles, all of which are relevant to national development, namely:<sup>40</sup>

- a) The principle of benefit mandates that all efforts to implement consumer protection must provide the greatest possible benefit to the interests of consumers and business actors as a whole.
- b) The principle of justice is intended to ensure maximum public participation and provide opportunities for consumers and business actors to obtain their rights and fulfil their obligations fairly.
- c) The principle of balance aims to balance the interests of consumers, business actors, and the Government, both materially and spiritually.
- d) The principle of consumer safety and security, intended to guarantee the safety and security of consumers in the use, utilisation, and use of goods and/or services consumed or used; and
- e) The principle of legal certainty is intended to ensure that both business actors and consumers comply with the law and obtain justice in the implementation of consumer protection, and the State guarantees legal certainty.

According to Article 3 of the Consumer Protection Law, the objectives of consumer protection are:<sup>41</sup>

- a) Increasing consumer awareness, ability, and independence to protect themselves.
- b) Elevating the dignity and status of consumers by preventing them from the negative consequences of using goods and/or services.
- c) Increasing consumer empowerment in choosing, determining, and demanding their rights as consumers.
- d) Creating a consumer protection system that includes legal certainty, information transparency, and access to information.
- e) Raising business awareness of the importance of consumer protection, thereby fostering an honest and responsible attitude in business; and
- f) Improving the quality of goods and/or services to ensure the continuity of the production of goods and/or services, as well as the health, comfort, security, and safety of consumers.

The right to information is regulated in the Consumer Protection Law, specifically in Article 4, which states that consumers have the right to information that is true, as clear and honest as possible, regarding the condition of existing goods or services in accordance with the guarantee. Article 7 states that business actors are obliged to provide information that is as true, clear and honest as possible, regarding the condition of existing goods or services, in accordance with the guarantee, repairs, and maintenance. Article 8 paragraph (1) letter f states that business actors may not sell goods or services that do not match the promises contained in the advertisements offered. Regarding the right to information, it consists of correct, clear and honest information, namely:<sup>42</sup>

1. Valid information: according to the Big Indonesian Dictionary, the word correct is as it is (supposed to be). Thus, the meaning of correct information is that the information on the specifications of a good and/or service stated on the label or advertisement must be

<sup>40</sup> Yanci Libria Fista et.al.

<sup>41</sup> Yanci Libria Fista et.al.

<sup>42</sup> Widi Wiranti, "Perlindungan Konsumen Atas Hak Informasi Dalam Transaksi Online" (Universitas Islam Indonesia, 2020), 38-40.

in accordance with the actual situation. So that the information conveyed must not be excessive, and the truth cannot be justified.

2. Clear information: this means that the information conveyed must be easy to understand and complete, in accordance with reality, without anything being covered up.
3. Honest information: this means the information conveyed must not contain any lies or fraud, as it would result in losses to other parties.

The regulations governing electronic buying and selling are regulated in Articles 49 and 51 of Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions and Law Number 19 of 2016 concerning Electronic Information and Transactions (ITE). Article 9 of Law Number 19 of 2016 states that business actors, when promoting valuable goods, must be accompanied by information that is open, complete and truthful. Article 49 Government Regulation Number 82 of 2012<sup>43</sup> stipulates that 1) Business actors who provide goods are obliged to provide true information in accordance with the contract and goods or services; 2) Business actors are obliged to provide clear information regarding promotions for contracts or advertisements; 3) If the goods are not suitable, the consumer is given a return time limit; and 4) Goods that have been sent must be reported to consumers.

Article 51 of Government Regulation Number 82 of 2012 concerning the Implementation of Electronic Systems and Transactions states that parties are obliged to ensure that data and information are accurate and that there are suggestions and dispute resolution services. Consumer protection aims to guarantee consumers' rights and prevent bad faith conduct by business actors. Likewise, consumers have the right to receive correct, honest, and clear information, as regulated in Article 4, letter c, of the Consumer Protection Law. Consumers consider this important because this information is the responsibility of business actors. Correct, clear, and honest information is very important to avoid the possibility that good intentions by business actors result in consumers experiencing losses. If the right to information is ignored, it may be a defect in the instructions or due to unclear information. The information conveyed by business actors greatly influences whether consumers experience losses. Business actors are obliged to provide consumers with accurate information when selecting goods. According to Howard Beales, price standards and information quality influence the ease with which consumers choose goods. According to Hans W. Micklitz, consumers can be divided into two types, namely:<sup>44</sup>

1. Informed consumers: this means that consumers have greater knowledge due to a certain level of education, communicate smoothly, and are easy to socialise with, so they do not need consumer protection.
2. Uninformed consumers: these consumers have less knowledge due to limited education.
3. Consumers who have poor communication skills.

These consumers need legal protection, which is the State's responsibility. The information listed is mandatory by law. Including information from a legislative perspective is necessary. This is regulated in Article 4, letter c, of the Consumer Protection Law, concerning the right to receive correct, honest and clear information. When consumers receive information, it must be

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<sup>43</sup> Rachmawati Putri, "Hak Atas Informasi Dalam Proses Pembentukan Undang-Undang Di DPR RI."

<sup>44</sup> Widi Wiranti, "Perlindungan Konsumen Atas Hak Informasi Dalam Transaksi Online."

clear, honest, and responsible, because the truthfulness of a statement or label is the responsibility of the party that makes and/or broadcasts it.<sup>45</sup>

## Opportunities and Challenges for Anti-SLAPP Regulations in Indonesia

### Opportunities for Anti-SLAPP Regulations in Indonesia

Anti-SLAPP is a concept that has developed in Indonesia in recent years due to the high rate of violence, "criminalisation," intimidation, and lawsuits against members of the public expressing their opinions and objections to development in the natural resources sector. There are two reasons behind the need for anti-SLAPP regulations: (i) the frequent silencing of communities advocating for environmental interests by the Government or other authorities; and (ii) the frequent occurrence of counter-reports alleging defamation against individuals who report environmental cases to the authorities.<sup>46</sup>

Pring and Canan noted that SLAPPs in the United States are easily defeated in court because they lack a legal basis, particularly when the SLAPP's target files a defence based on constitutionally protected rights to petition. A similar situation is also observed in Southeast Asian countries, where SLAPPs fail when the target files a defence based on constitutionally protected rights to freedom of expression and freedom of association and assembly.<sup>47</sup>

In essence, a SLAPP does not need to win in court for the litigation process to be an effective weapon in silencing public participation. The protracted trial process and the shift from a political to a judicial forum have been enough to achieve their goal of silencing the political expression of SLAPP targets. Therefore, a mechanism to prevent or minimise legal interference and intimidation against public participation actors is needed. The Anti-SLAPP mechanism regulation that aims to ease the burden on SLAPP targets includes three important points, namely (1) a mechanism for reviewing and dismissing SLAPP cases that is fast and early, (2) a process of proof through the transfer of the burden of proof, and (3) provision of compensation assistance for SLAPP targets.<sup>48</sup>

SLAPP, which is used to prevent or punish other parties who exercise the right to speak in public, which is actually protected in the Constitution. SLAPP has been defined as a lawsuit against one or more people or against a group that speaks or takes a position on an issue of public interest. The goal of a SLAPP is to silence critics by diverting their energy and finances into filing a lawsuit against the party speaking out and distancing them from the issue in question. Apart from that, a SLAPP is also intended as a warning to other potential critics, so they do not speak in public forums.<sup>49</sup>

**Consumer Protection Against SLAPPs** The Consumer Protection Act explains the rights and obligations of consumers. In Article 4 letters d and e, consumers have the right to have their opinions and complaints heard regarding the goods and/or services they use. Consumers

<sup>45</sup> Azrul Afrillana Awaludin and Moch Aridhi Al-Khaidar, "Opinion Leaders and Product Boycott Intentions: Factors Influencing Consumer Behaviour in Support of Israel Boycott," *Journal of Digital Marketing and Halal Industry* 5, no. 2 (2023): 243–264, <https://doi.org/10.21580/jdmhi.2023.5.2.20166>.

<sup>46</sup> Marsya Mutmainah Handayani et.al, "Berbagai Wajah Fenomena SLAPP Di Indonesia," *Jurnal Hukum Lingkungan Indonesia* 8, no. 1 (201AD): 152–92, <https://doi.org/10.38011/jhli.v8i1.369>.

<sup>47</sup> Marsya Mutmainah Handayani et.al.

<sup>48</sup> Marsya Mutmainah Handayani et.al.

<sup>49</sup> Raynaldo Sembiring, "Merumuskan Peraturan Anti Strategic Lawsuit Against Public Participation Di Indonesia," *Jurnal Bina Hukum Lingkungan* 3, no. 2 (2019): 186–203, <https://doi.org/10.24970/jbhl.v3n2.14>.

also have the right to obtain advocacy, protection, and appropriate consumer protection dispute resolution. The article shows that consumers have the right to form an opinion about the services or goods they receive. Apart from that, consumers also have the right to demand their rights from business actors if what they receive does not comply with the obligations they have undertaken. However, this article does not explain the details of what opinions are permitted and to whom they are expressed. Likewise, there is a right to receive protection and to appropriate dispute-resolution efforts. Consumers can indeed assert their rights until they are taken to court, but the problem is that business actors often file counterclaims against them (SLAPPs). Under this law, protection against SLAPPs is not regulated.

In addition to the Consumer Protection Law, Indonesia has several other laws and regulations that protect those who express their opinions from lawsuits brought by parties related to those opinions. These laws are: First, Article 28E paragraph (3) of the 1945 Constitution states that "everyone has the right to freedom of association, assembly, and expression of opinion." Moreover, Article 28F states that "everyone has the right to communicate and obtain information for personal and social development, and the right to seek, obtain, possess, store, process, and convey information using all available channels."

Second, Law Number 9 of 1998 concerning Freedom of Expression in Public. Under this law, those who receive protection are those who express their opinions in general, regardless of whether they are witnesses or victims. However, in the sanctions section, Article 18 applies only to parties that use violence or threats of violence to obstruct citizens' right to express their opinions in public. However, when compared to the Anti-SLAPP statute, citizens are protected from lawsuits attacking them for their opinions in public regarding public issues that are not regulated in Law Number 9 of 1998.

Third, Law Number 39 of 1999 concerning Human Rights. This law states regarding the human right to express an opinion. Article 23 paragraph (2) states, "Everyone is free to hold, express, and disseminate opinions according to their conscience, verbally and in writing through print and electronic media, while taking into account religious values, morality, public order, the public interest, and the integrity of the nation." Moreover, Article 25, "Everyone has the right to express their opinions in public, including the right to strike in accordance with statutory provisions." This law, regarding the human right to freedom of expression, only mentions the right for citizens and the Government's role in upholding all human rights stipulated therein. Sanctions for violations of this right are not explained. Therefore, the author believes that this law is insufficient to protect citizens, particularly consumers, from SLAPP attacks.

Fourth, Consumer Protection as Victims is stipulated in Law Number 13 of 2006 and Law Number 31 of 2014 on Witness and Victim Protection (the Witness and Victim Protection Law). Article 1, number 1 of the Witness and Victim Protection Law defines a witness as a person who can provide information for investigation, inquiry, prosecution, and court hearing regarding a criminal case that they personally heard, saw, or experienced. Meanwhile, Article 2 explains that a victim is someone who experiences physical or mental suffering and/or economic loss resulting from a criminal act. From this definition, we can see that the scope of protection under the Witness and Victim Protection Law is limited to witnesses and victims. Under the Anti-SLAPP statute, what is protected is the public's freedom of expression in

various regulated contexts regarding public issues or matters of public interest. Therefore, upon further examination, a person or group speaking in public need not be a witness or a victim of the public issue.

Those who dare to speak publicly could be members of the general public or representatives of a specific institution concerned with a public issue. However, under the definition of witnesses and victims in the Witness and Victim Protection Act, they are not categorised as witnesses or victims protected by the law. Although the Consumer Protection Act allows organisations concerned with consumer issues to file lawsuits, they are not victims.

The Witness and Victim Protection Act also does not specify sanctions for violations of Article 10, which stipulates that witnesses and victims are prosecuted for disclosing their status. Furthermore, the law does not explain the process for not suing witnesses and victims. The Anti-SLAPP statute, however, states that after the defendant files a special motion to strike and it is proven that the plaintiff's lawsuit could result in the silencing of the public on a public issue, the judge may dismiss the plaintiff's lawsuit. Furthermore, the scope of the Witness and Victim Protection Act is limited to criminal cases. Meanwhile, in SLAPP cases, the lawsuit filed by the business actor can be a civil lawsuit. If this occurs, the Witness and Victim Protection Act cannot protect the SLAPP defendant. Therefore, public protection in SLAPP attacks in the civil realm remains inadequate.

As previously explained, Indonesia lacks regulations that protect consumers against SLAPPs. In addition to the inadequacy of existing laws and regulations, the author believes that an Anti-SLAPP law is urgently needed. In this paper, the author has identified at least three cases that appear to be SLAPPs. These three cases occurred close together: the Prita case in 2010, the phone credit theft case in 2011, and the Lion Air ticket refund case in 2011. Prita's case garnered significant media attention, garnering widespread public attention and legal observers. However, this media attention has not deterred other businesses from subsequently filing countersuits against consumers.

Based on this, it is concluded that the Anti-SLAPP regulations are expected to reduce or even eliminate attempts by business actors to silence public participation in public interest matters through lawsuits. Thus, similar to the goal of the California Anti-SLAPP statute, the Anti-SLAPP regulations can encourage and increase public participation in pursuit of a better life.

### ***Challenges for Anti-SLAPP Regulations in Indonesia***

Anti-SLAPP regulations in Indonesia, both at the statutory level and in Supreme Court Decisions, do not explicitly and comprehensively regulate anti-SLAPP procedural provisions. Reflecting on anti-SLAPP procedural provisions in the United States and the Philippines, three procedural provisions remain undefined or unaffirmed in Indonesia's anti-SLAPP regulations. This often hinders the achievement of anti-SLAPP objectives in Indonesia.<sup>50</sup>

These three points are: first, the lack of explicit provisions regarding the stages and timeframe for the examination and decision-making of anti-SLAPP cases. This results in anti-

<sup>50</sup> Lidya Nelisa, "Urgensi Penguatan Ketentuan Prosedural Anti-SLAPP Di Indonesia Untuk Melindungi Pembela HAM Lingkungan Dari Serangan Litigasi," *Jurnal Hukum Lingkungan Indonesia* 8, no. 1 (2021): 118–51, <https://doi.org/10.38011/jhli.v8i1.373>.

SLAPP defence requests being determined in the final decision, depending on the judge's willingness and understanding of the anti-SLAPP concept. Consequently, SLAPP victims undergo lengthy court proceedings and are subjected to coercive measures. Therefore, explicit provisions are needed regarding the mechanism for anti-SLAPP requests and decision-making, starting from the pre-adjudication process, or at least from the initial stages of the court hearing, to prevent lasting harm to SLAPP victims. Additionally, anti-SLAPP defences need to consider the relatively short timeframe for hearings.<sup>51</sup>

Second, the anti-SLAPP evidentiary process in Indonesia lacks clear and uniform provisions. The evidentiary requirements for anti-SLAPP hearings in Indonesia do not specify which consumer protection actions are eligible for anti-SLAPP protection. Although protected forms of environmental participation are regulated under the Consumer Protection Law, they often escape the courts' attention in SLAPP cases. Therefore, strengthening anti-SLAPP procedural provisions in Indonesia also requires a clear definition of consumer protection actions to provide a strong foundation for SLAPP victims to seek special anti-SLAPP protection. Furthermore, the formulation of provisions regarding the process for shifting the burden of proof in the examination of applications should be considered.

The final SLAPP point to consider in strengthening the anti-SLAPP procedural mechanism is the provisions regarding the form of recovery and the amount of compensation for SLAPP victims who have prevailed in their cases. Compensation and recovery are crucial for restoring the financial well-being and reputation of SLAPP victims, eliminating the chilling effect they may experience on their return to participation.<sup>52</sup>

### **Efforts to Realise Meaningful Participation in Consumer Protection in Indonesia**

Samuel P. Huntington and Joan M. Nelson define community participation as a means of expressing the values that develop in society through regulation. In relation to the formation of statutory regulations, apart from providing early public notice of the possible implications, public participation is needed to ensure that the interests of the community are not ignored in their formation. Saifudin divides public participation in the legislative process into three stages: the ante-legislative stage, the legislative stage, and the post-legislative stage.<sup>53</sup>

Based on Constitutional Court Decision Number 91/PUU-XVIII/2020, the Constitutional Court has required a form of community participation known as meaningful participation. First, fulfilling the right to be heard. Second, the right to be considered. Third, the right to be explained. When interpreted, the purpose of the Constitutional Court's decision emphasises the aspect of community rights, which is not limited to access or formalities in providing aspiration channels. However, the substance of participation can be made as widely available as possible, taken into account, and given a logical basis for acceptance or rejection. Constitutional Court Decision Number 91/PUU-XVIII/2020 is also the basis for technical changes to public participation as regulated in Article 96 of Law Number 13 of 2022 concerning the Formation of Legislative Regulations. In fact, there should be no simplification at any level regarding the

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<sup>51</sup> Lidya Nelisa.

<sup>52</sup> Lidya Nelisa.

<sup>53</sup> Fahmi Ramadhan Firdaus, "Public Participation in Law-Making Process: A Comparative Perspective of 5 (Five) Democratic Countries," *Jurnal Konstitusi* 21, no. 2 (2024): 203–25, <https://doi.org/10.31078/jk2123>.

aspirations and/or participation of the community in the law formation process. Public opinion is very important in shaping laws. The community will be the object of the application of the law when the Draft Law is passed into law, so the opinions of the community, especially affected communities, should be considered at every stage of the formation of the law. Deviations from this provision then give rise to problems in the law-making process.<sup>54</sup>

Constitutional Court Decision Number 91/PUU-XVIII/2020 also strengthens community participation in law-making, as laws originating from the community are expected to have greater legitimacy and be valid for a longer period. In a democracy, the most important thing is to ensure that everyone has a wide range of participation.<sup>55</sup>

Saldi Isra noted that the issue of law formation, which is still frequently debated, is often ignored and/or violated by the rules of the law formation process, one of which is public participation.<sup>56</sup> In the legislative process, public participation is often silenced. Public participation is the main basis of the law formation process, starting from the initiative to the enactment level. This effort was made to reflect people's willingness as the basis for the working of the social contract in legislative practice.<sup>57</sup>

In this position, the formal review of a law functions as an agent of control and a balance towards the interests of the Government and society. It is on this basis that formal testing of a law is designed at the Constitutional Court. Formal testing is briefly mentioned in Article 51 paragraph (3) letter a of the Constitutional Court Law, which states that the applicant is obliged to explain clearly that the formation of a law violates the provisions based on the 1945 Constitution. If the Constitutional Court accepts a formal review of a law, the law is found to violate the provisions of the 1945 Constitution. As a result, all the contents of this law lost their binding legal force.<sup>58</sup>

After Constitutional Court Decision Number 91/PUU-XVIII/2020, strengthening community participation as a basis for formal review provides legal certainty, as the Constitutional Court stated that the reasons for the lack of community participation in the formation of the law served as the basis for granting the applicant's request. In addition, the Constitutional Court expanded the meaning of participation to include conditions that future lawmakers must fulfil. This is certainly a good correction for the formation of a law in the future.<sup>59</sup>

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<sup>54</sup> Fahmi Ramadhan Firdaus, "Public Participation After The Law-Making Procedure Law Of 2022," *Jurnal Ilmiah Kebijakan Hukum* 16, no. 3 (2022): 495–514, <https://doi.org/10.30641/kebijakan.2022.V16.495-514>.

<sup>55</sup> Bani Pamungkas, "Smart-Legislation For Meaningful Participation In Urban Policymaking: An Overview Post-Issuance Of Act Number 13 Of 2022," *Journal of Interdisciplinary Law and Legal Issues (JILI)* 1, no. 1 (2023): 25–42.

<sup>56</sup> Idul Rishan, "Konsep Pengujian Formil UndangUndang Di Mahkamah Konstitusi," *Jurnal Konstitusi* 18, no. 1 (2021): 12.

<sup>57</sup> Charles Simabura et.al, "Ministerial Authority in Formulating Regulations Related to Presidential Lawmaking Doctrine," *Constitutional Review* 9, no. 2 (2023): 297–326, <https://doi.org/10.31078/consrev924>, 297-326.

<sup>58</sup> Putra Perdana Ahmad Saifulloh, "The Obligation of the Constitutional Court of Indonesia to Give Consideration in the Process of Dissolution of Societal Organisations," *Constitutional Review* 4, no. 1 (2018): 131–156, <https://doi.org/10.31078/consrev416>.

<sup>59</sup> Helmi Chandra SY dan Shelvin Putri Irawan, "Perluasan Makna Partisipasi Masyarakat Dalam Pembentukan Undang-Undang Pasca Putusan Mahkamah Konstitusi," *Jurnal Konstitusi* 19, no. 4 (2022): 766–93, <https://doi.org/10.31078/jk1942>.

For this reason, the author initiates efforts to realise meaningful participation in consumer protection by improving Indonesian society's legal culture, which can be applied in the context of legislation. Then, the author tries to be neutral in his opinion. Legal culture consists of the values and attitudes that together bind the legal system and determine its place in society's culture as a whole. For this reason, discussions of legal culture are often conducted within the realm of sociological legal analysis. However, it is possible to analyse the legal-cultural aspects of a piece of legislation in the normative realm by examining the values hidden behind its formulation. An assessment of these normative values can be carried out by tracing which behaviours and situations are regulated by the relevant laws and regulations, and whose interests they protect or do not.

Consumers' freedom to provide reviews is not absolute. Consumers remain bound by legal restrictions aimed at maintaining a balance between freedom of expression and respect for others' rights. To further understand the legal restrictions governing consumers' freedom to provide reviews, particularly through social media, an analysis of the elements of defamation under the Electronic Information and Transactions law can be conducted. These elements are outlined below.<sup>60</sup>

### ***Intention (Opzet)***

In the consumer context, the element of intention refers to the consumer's intent in providing a review on social media. Consumers who provide reviews based on honest personal experiences, without the intention of harming others, do not meet the prohibited element of intention. However, if the review is submitted with the conscious intention of damaging the business actor's reputation or defaming the business through false or misleading information, then the element of intention (*Opzet*) as stipulated in Article 27A of the Electronic Information and Transactions law may be deemed fulfilled. Therefore, it is important to understand whether consumers are acting in good faith, namely providing information or constructive criticism, or whether their actions are potentially unlawful due to an intentional intention to harm others.<sup>61</sup>

### ***Without Rights***

Consumers have the right to be heard, as stipulated in Article 4 letter d of the Consumer Protection Law, including the right to provide reviews or opinions on products or services they have used. Therefore, consumer reviews based on actual experiences with a product or service cannot be considered "without rights." Conversely, if the reviews are not based on actual experiences or contain elements of slander, they may be considered unlawful.<sup>62</sup>

### ***Distributing, Transmitting, and Making Electronic Information Accessible***

Consumers who write and provide reviews on social media are engaging in the distribution of electronic information to the public. Reviews submitted to provide clear, accurate, and factual information are legally protected. However, if the reviews contain false or misleading information that could harm others, distributing them may be unlawful. In this case, consumers' boundaries lie in the obligation to provide honest and fact-based reviews, which is the

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<sup>60</sup> Daffa Rizqy Naufal et.al, "Pelindungan Hukum Bagi Konsumen Dalam Menyampaikan Pelindungan Hukum Bagi Konsumen Dalam Menyampaikan Ulasan Atas Suatu Produk Melalui Platform Media Sosial Ulasan Atas Suatu Produk Melalui Platform Media Sosial."

<sup>61</sup> Daffa Rizqy Naufal et.al.

<sup>62</sup> Daffa Rizqy Naufal et.al.

foundation of consumer legal protection. Therefore, consumers must understand that while they are free to express their opinions, the information they disseminate must be accountable.<sup>63</sup>

### ***Containing Content that Attacks and/or Defames***

According to Article 27A, reviews that attack or defame another person's reputation may be subject to criminal sanctions. In this context, constructive, evaluative, and fact-based reviews cannot be considered defamatory. However, if the review includes offensive language, baseless accusations, or insults against specific businesses or individuals, this can be considered defamatory. Therefore, consumers' boundaries for providing reviews lie in the obligation to maintain ethical communication, refrain from using derogatory language, and remain objective when offering criticism or suggestions. In this regard, consumers need to be careful not to overstep societal norms.<sup>64</sup>

Based on the analysis of the two cases discussed, there are at least three limitations that consumers need to consider when providing product reviews on social media to avoid the risk of being caught in criminal defamation under the Electronic Information and Transactions Law:<sup>65</sup>

- 1) Acting in good faith, namely, providing honest reviews based on real experiences without any motive to harm others.
- 2) Ensuring the accuracy of the information so that the reviews provided do not contain elements of slander or misleading information.
- 3) Avoiding unethical language, namely, not using insulting, rude, or otherwise offensive language.

By paying attention to these three limitations, consumers can exercise their right to share reviews responsibly on social media. This effort needs to be supported by comprehensive education regarding consumer rights and obligations. Businesses also need education regarding their obligation to accept consumer criticism or reviews with an open attitude. This education will foster a collective awareness that critical reviews delivered in good faith are an essential element of a healthy relationship between consumers and businesses.

By understanding which legal subjects are only regulated and which interests will be protected, it is hoped that we will be able to determine the values the legislators actually intend to build into the legal relationships between subjects. The laws are regulated therein. In order to understand the above, at an early stage in this chapter, we will discuss which strategies are actually prioritised by consumer protection law makers in their efforts to protect consumers. The determination of which strategy is preferred will be seen in whether there are many legal norms that support it, and which legal subjects are more regulated under it. The discussion will then continue with the discovery of the values actually contained in the formulation of existing norms.

As explained above, consumer protection laws that aim to protect consumers by creating conditions that enable business actors to engage in healthy competition, at first glance, offer great hope for consumer protection efforts. However, it is necessary to realise that such efforts will not necessarily yield optimal results and are not the only, or even the best, option for

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<sup>63</sup> Daffa Rizqy Naufal et.al.

<sup>64</sup> Daffa Rizqy Naufal et.al.

<sup>65</sup> Daffa Rizqy Naufal et.al.

increasing the dignity and worth of consumers, because, in any case, potential methods may turn out to be precisely this very vulnerable in achieving that goal. This is mainly due to:

Firstly, so far, business actors in Indonesia have mostly conducted their activities based on the principles of logic that have developed within the liberal-capitalist economic system, so it is not easy to expect business actors to develop awareness of the need to pay proportional attention to consumer interests. The saying that the consumer is king is just a myth to lull consumers to sleep, so that they are always the ones to pay attention, so that consumers lose their critical attitude, and so that business actors can shape and direct consumers according to what they expect to be desired unilaterally by business actors.

Second, efforts to protect consumers through regulating the behaviour of business actors assume that economically strong parties can improve the situation of weak parties. Thus, this law seems to aim to build a model of interaction between business actors and consumers grounded in the morality and ethics of "compassion". By relying on consumer protection to create a healthy business climate, the view is implied that consumers are parties unable to protect themselves and remain third parties in various economic activities, so that their fate depends on the behaviour of other parties. In fact, the three things mentioned above seem to be the values (legal culture) that the creators of consumer protection laws want to build into the legal relationships between consumers and business actors, and into their efforts to protect consumers.

It cannot be denied that the Consumer Protection Law contains norms intended to foster and increase consumer awareness, concern, ability, and independence, to protect themselves, as can be seen in the substance of articles 8 to 14, which emphasise empowerment efforts. Consumers to the Government and non-governmental consumer protection institutions, through guidance and education (vide article 29 jo 44). However, if we examine it further, this problem is actually accommodated by vague, unclear, and incomplete norms, with an unclear and incomplete mechanism. This, of course, raises questions about the seriousness of the legislators in empowering consumers.

Ideally the transformation of society (which in Indonesia is engineered by statutory regulations) should be able to empower the potentials contained in civil society, through interest groups that are independent from the influence of external powers - the government and business actors - a group/organisation that not only is it able to accommodate consumer aspirations and foster critical awareness effectively, but it is also able to put pressure on existing power structures, so that it will produce decisions that benefit them. This is precisely what consumer protection laws do not accommodate, because in this way the Government's role is dominant in efforts to protect consumers (where the Government is involved at almost every stage and in the existing structure, namely as a business actor, supervisor, and part of the body). consumer protection, as well as an institution with the authority to impose sanctions), this may strengthen the State's position even further or result in weakening society's potential and creativity.

Apart from all that, however, this law can still serve as an entry point for various parties who feel they care about consumer protection issues. Hopefully, this law, which was originally intended to protect consumers, will not turn out to actually do so. towards business actors and strengthen the State's position.

In this way, the balance between the right to information and SLAPPs must be maintained for the benefit of all Indonesian people. Therefore, everyone must submit to the principles of democracy, justice, and the supremacy of law. In other words, the right to information and the SLAPP cannot operate without respecting the democratic process or without paying attention to justice and upholding the supremacy of the law. Its implementation must also be based on the principles of popular sovereignty, justice, and the supremacy of law. Press freedom cannot be separated from three elements: democracy, justice, and the supremacy of law. In the context of democracy, the right to information and SLAPPs must provide colour and meaning, opening up space for differences of opinion and serving as a place to convey criticism and information. Space for differences of opinion exists only if the right to information is not shackled but remains subject to ethical laws. In other words, the right to information and SLAPP are two things that need each other and even support each other. The right to information must not be misused in the name of public interest to injure democracy, privacy, self-respect, and the honour of members of society.

## CONCLUSION

Anti-SLAPP is a provision that provides legal protection to people who fight for public interests recognised in legislation, usually in the environmental sector; however, this study examines the projection of Anti-SLAPP for consumer protection. This study examines legal protection for consumers when submitting reviews on social media, highlighting the freedom of opinion guaranteed by legislation. The results of this study led to a balance of rights to information, and SLAPP was implemented to benefit all Indonesian people and foster meaningful participation in consumer protection. This study provides suggestions to lawmakers for issuing regulations that specifically address Anti-SLAPP. These regulations are important to protect consumers from all threats, especially criminal entanglements, and as a guide for law enforcement officers in handling SLAPP cases in Indonesia. Lawmakers can issue regulations that, in revising the Consumer Protection Law, include anti-SLAPP provisions.

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