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The Impact of a Legally Flawed Court Decision on a Good and Healthy Environment for the Awyu Tribe (Study of Decision Number 6/G/LH/2023/PTUN.JPR)

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Abstract: The 5th rank held by Indonesia regarding the number of children with stunted growth is a reflection of the unfulfilled right to a good and healthy environment for the community, healthy and cheap food and adequate nutrition for pregnant women. The State's obligation to guarantee the fundamental rights of Indonesian citizens as mandated by the constitution Article 28 H Paragraph 1 of the Constitution of the Republic of Indonesia tends not to be felt, especially by people living in remote lands of Indonesia, especially Papua. This article will analyze whether in substance the environmental impact analysis document of PT. Indo Asiana Lestari in line with the laws and regulations in Indonesia? In addition, the Potential Impact of the Legitimacy of the Environmental Impact Analysis Document on Substance Defects through Decision Number 6/G/LH/2023/PTUN. JPR? In the discussion section, it will be examined in depth regarding the alignment between the substance of the AMDAL of PT. Indo Asiana Lestari with environmental regulations in Indonesia and how the potential impact of the Jaya Pura PTUN decision Number 6/G/LH/2023/PTUN. JPR for the right to a healthy environment of the Awyu Tribe. This research is a normative research using the library research method to examine legal materials, legal principles to answer the legal issues faced. This type of research is qualitative descriptive. The research approach used is a statute approach to study and study all laws and regulations related to legal issues regarding the harmonization of environmental impact analysis documents of PT. Indo Asiana Lestari with environmental regulations in Indonesia and the potential impact of the Legitimacy of the Substance Defect Environmental Impact Analysis Document through Decision Number 6/G/LH/2023/PTUN. JPR.

Keyword: AMDAL, Good and Healthy Environment, Indigenous Peoples.

INTRODUCTION

Indonesia holds the 5th position globally in terms of the number of children experiencing stunted growth. This condition is primarily caused by malnutrition among many children under five years old. Stunted growth is also influenced by the poor nutritional status of pregnant mothers, which leads to the production of low-quality breast milk. Additionally, complementary foods for breastfed babies (MP-ASI) derived from animal and plant-based

proteins are becoming increasingly difficult to obtain due to climate variability . The food crisis has been further exacerbated by economic downturns resulting from the COVID-19 pandemic . Beyond COVID-19, various diseases affecting humans, such as lung cancer, respiratory infections (ISPA), and skin cancer, have become more prevalent due to the rapid decline in trees that help neutralize air pollution. Emissions from motor vehicles and factory waste pollute the air, releasing harmful gases like carbon dioxide and carbon monoxide . These pollutants contribute to the greenhouse effect, obstructing sunlight penetration and deteriorating air quality. Rising temperatures caused by deforestation have also led to wildfires in various regions of Indonesia and worldwide. In 1982, at least 3.2 million hectares burned in East Kalimantan, with 2.7 million hectares being tropical forest . In 1997, forest fires in Kalimantan and Riau destroyed approximately 19.7 million hectares, affecting 1,000 people with lung disease and causing 240 fatalities. In 2019, multiple provinces in Indonesia experienced severe wildfires, resulting in economic losses amounting to IDR 75 trillion .

Human behavior, particularly activities that dominate and exploit nature, significantly contributes to climate-related disasters. According to a report by the United Nations Population Fund (UNDP), human actions are a dominant factor in environmental degradation, increasing the risk of extreme disasters . Mass deforestation is occurring across Indonesia, with vast areas of tropical forests—crucial for carbon storage and clean air—being cleared for the benefit of a few individuals. Ironically, forest destruction is not primarily caused by natural factors or accidental fires but rather by deliberate land-use conversion for factories, extractive industries, and plantations. A study by Cahyoko Edi Tando, Sudarmo, and Lina Herlina Heryanti (2019) found that approximately 47% of Kalimantan's total land area has been converted into plantations, while Sumatra has lost around 53% of its forests to plantations . The forests in these two major Indonesian islands are becoming increasingly difficult to save. Meanwhile, Papua, the last stronghold of Indonesia's forests, is now under threat from investors seeking to expand their businesses. The deforestation in Papua is alarming, endangering Indigenous communities who have sustainably lived in and preserved the forests for generations. Global Forest Watch recorded that Merauke Regency has suffered the most severe forest destruction in Papua. From 2001 to 2019, land-use conversion in Papua Province surged by 87% . Additionally, conflicts have emerged in Arso District between Indigenous communities and palm oil companies that entered the area without approval from the tribal leader (Ondofi). Residents of Arso District have rejected the planned conversion of 1,310 hectares of land into a palm oil plantation . Similar conflicts have arisen in Mandobo District, Boven Digoel Regency, where disputes between Indigenous communities and corporations—or even government actors—have resulted from a lack of community participation in land-use changes. Greenpeace Indonesia data shows that two Indigenous tribes, the Marind and Mandobo, are engaged in conflicts over land occupied by PT. Bio Inti Agrindo . Additionally, since October 2017, tensions have divided the clans of the Awyu Tribe due to the presence of PT. Indo Asiana Lestari, further exacerbating land disputes and environmental destruction .

The environmental permit granted by the Papua Provincial Government for a 36,094-hectare area is suspected of having substantial flaws in its environmental impact analysis document. The environmental impact analysis document had expired as of September 18, 2021 . Additionally, PT. Indo Asiana Lestari allegedly used intimidation tactics to force approval from Indigenous communities . Such actions reflect an unfair decision-making process for Indigenous peoples, lacking true consensus and violating the *padiaptapa* principle . Furthermore, the vast forestlands covering most of Papua are classified as high conservation value forests . Their biodiversity is deeply interconnected with Indigenous communities' lives and cannot be separated from their existence. Any damage to biodiversity directly threatens the right to live in a healthy environment, which is a fundamental right of Indigenous Papuans.

As a member of the international community, Indonesia is expected to comply with agreements made at the global level. The United Nations Conference on the Human

Environment held in Stockholm in 1972 emphasizes in Principle 1 that: "Man has the fundamental rights to freedom, equality, and adequate conditions of life, in an environment of quality that permits a life of dignity and well-being, and he bears a solemn responsibility to protect and improve the environment for present and future generations." This principle asserts that freedom, equality, dignity, and a healthy environment for both present and future generations are fundamental human rights. Meanwhile, Principle 2 of the Stockholm Declaration states: "The natural resources of the earth, including the air, water, land, flora, and especially representative samples of natural ecosystems, must be safeguarded for the benefit of present and future generations through careful planning or management, as appropriate." Broadly, Principle 2 focuses on environmental protection, including air, water, land, and natural resources, for the well-being of both current and future generations. On a national scale, the Indonesian Constitution—as the highest legal authority based on the hierarchy of laws—enshrines in Article 28H(1) of the 1945 Constitution that every Indonesian citizen has the right to a good and healthy environment, proper housing, physical and mental well-being, and adequate healthcare services. Regional governments, which hold delegated authority from the central government, should act as *khalifah* (stewards) who wisely lead and implement the constitutional mandate for the benefit of the people. It is clearly stated that a good and healthy environment is a fundamental human right. However, the Governor of Papua, through the Investment and One-Stop Integrated Service Office (DPMPTSP) of Papua Province, still issued an environmental permit for PT. Indo Asiana Lestari despite the fact that the deliberation and initial approval processes failed to adhere to proper norms and ethical standards. Consequently, the absence of genuine consensus in the decision-making process, along with the permit's potential to accelerate biodiversity destruction, makes this policy deeply flawed.

Seeing that numerous provisions in legislation comprehensively regulate environmental protection, the Indigenous Awyu Tribe believes that justice can be achieved in a dignified manner. The Awyu people have taken administrative measures to verify the legitimacy of PT. Indo Asiana Lestari's permit through relevant government agencies and discovered that the Environmental Impact Assessment (AMDAL) document had expired. The Awyu Tribe is one of the Indigenous groups that bravely voiced their opposition in an honorable way by filing a lawsuit against the Investment and One-Stop Integrated Service Office (DPMPTSP) of Papua Province at the Administrative Court (PTUN) in Jayapura, under Case Number 6/G/LH/2023/PTUN.JPR. However, the court's response to the lawsuit was a rejection, despite the case involving environmental concerns that directly affect the fate of the Awyu Tribe. Judges, as the extension of divine justice, are mandated to uphold fairness as stated in Article 5(1) of Law Number 48 of 2009 on Judicial Authority, which requires judges to explore, follow, and understand legal principles while prioritizing the sense of justice that prevails in society. Therefore, in seeking the ultimate truth, judges must apply legal principles. In environmental cases, the most relevant principle is *In Dubio Pro Natura*, which obligates judges to conduct an in-depth examination to ensure ecological justice and prevent environmental destruction. The *In Dubio Pro Natura* principle is rooted in the Precautionary Principle, as stated in Principle 15 of the 1992 Rio Declaration, which asserts that the lack of full scientific certainty should not be used as a reason to postpone measures to protect and preserve the environment. Indonesian law also validates the Precautionary Principle in Article 2 and Article 88 of Law Number 32 of 2009 on Environmental Protection and Management (UUPPLH). Article 2 establishes that environmental protection must be based on precautionary principles, while Article 88 introduces strict liability, which imposes absolute responsibility on environmental offenders without requiring proof of fault.

The injustice experienced by the Indigenous Awyu Tribe highlights a critical issue that warrants further investigation, including: Does PT. Indo Asiana Lestari's Environmental Impact Assessment (AMDAL) document substantively comply with Indonesian environmental regulations? Additionally, what is the potential impact of the ruling in Case Number

6/G/LH/2023/PTUN.JPR? The discussion section will provide an in-depth analysis of the alignment between PT. Indo Asiana Lestari's AMDAL document and Indonesian environmental regulations, as well as the potential consequences of the PTUN Jayapura ruling (Case Number 6/G/LH/2023/PTUN.JPR) on the Awyu Tribe's right to a healthy environment.

METHOD

This study is a normative legal research employing the library research method to analyze legal materials and principles in order to find answers to the legal issues under investigation. The research follows a descriptive qualitative type. The research approach used is the statute approach, which involves reviewing and studying all laws and regulations related to the legal issue concerning the alignment of the substance of PT. Indo Asiana Lestari's Environmental Impact Assessment (AMDAL) document with Indonesia's environmental regulations. Additionally, this article will examine the potential impact of the legitimacy of a substantively flawed Environmental Impact Assessment (AMDAL) document through the ruling in Case Number 6/G/LH/2023/PTUN.JPR.

RESULTS AND DISCUSSION

Harmony of Judge's Decision Number 6/G/LH/2023/PTUN.JPR with Indonesian Legislation.

The issuance of the palm oil plantation permit for PT. Indo Asiana Lestari, which has become a controversy, constitutes a state administrative dispute, as it was issued within the jurisdiction of the One-Stop Investment and Integrated Services Office of Papua Province. Referring to Decision Number 6/G/LH/2023/PTUN.JPR, PT. Indo Asiana Lestari's activities, starting from the socialization process on August 19, 2017, which did not adhere to the principle of *padiaptapa* and conducting a survey using heavy equipment in March 2022, were still not 100% operational.

However, given the vast land area of 36,094 hectares, the potential environmental damage is also significant. Hendrikus Woro, the head of the Woro clan—one of the major clans of the Awyu Tribe—was not involved in the preparation of the Environmental Impact Assessment (AMDAL). This contradicts the provisions of the Stockholm Declaration, Principle 1, which states that every person must be free from discrimination, and the Paris Agreement, Principle 5, which primarily emphasizes efforts to mitigate deforestation. At the national level, legal regulations have mandated environmental rights in Article 28H Paragraph (1) of the 1945 Constitution of the Republic of Indonesia, ensuring the right to a good and healthy environment.

Furthermore, Article 26 Paragraph (2) of Law Number 6 of 2023 stipulates that directly affected communities must be involved in the preparation of the AMDAL document. Beyond international and national levels, at the regional level, Law Number 21 of 2001 on Special Autonomy for Papua Province contains provisions on the rights of local communities to participate in economic development in Papua.

Article 42 Paragraph (1) emphasizes a people-based economy involving indigenous or local communities. Paragraph (2) states that investors must respect the fundamental rights of indigenous communities. Paragraph (3) broadly explains the obligation of the regional government and project proponents to establish a consultation platform with local indigenous communities. Meanwhile, Paragraph (4) outlines the obligation to empower indigenous communities.

Community participation from affected groups is an absolute requirement in the preparation of the AMDAL document, as AMDAL serves as a preventive measure against the environmental impacts of development where humans live and carry out their lives. If community participation is excluded, the content (substance) of the AMDAL document is automatically incomplete or flawed.

In accordance with Article 37 of Law Number 32 of 2009 (Environmental Protection and Management Law - UUPPLH), if there are violations of AMDAL regulations, business licenses may be revoked. Specifically, Article 36 Paragraph (4) states that an environmental permit may be canceled if the requirements contain legal defects, errors, misuse, falsification, or inaccuracies in data, documents, and information. From both international and national legal perspectives, discrimination in the form of coercion and the deliberate exclusion of directly affected communities constitutes a legal violation. Furthermore, issuing an environmental permit without the consent of the affected communities does not qualify as genuine public participation.

According to Sherry R. Arnstein's theory, such an approach falls under "manipulation," which is the lowest level of participation (Level 8). In Decision Number 6/G/LH/2023/PTUN.JPR, the lawsuit filed by the Awyu Tribe was dismissed on the grounds that there was a written statement from the Papua Indigenous Peoples' Institution (Lembaga Masyarakat Adat Papua).

However, Hendrikus Woro, as the head of the Woro Clan, did not approve the AMDAL. This contradicts the role of indigenous institutions, which are supposed to facilitate the aspirations of indigenous peoples to the government and regional authorities, as well as manage indigenous wealth to improve the welfare of indigenous communities. This situation places the judge in a dilemma with two significant implications. Firstly, the signature of the head of the indigenous institution is formally valid.

However, if the decision of the indigenous institution was made while disregarding the aspirations of the Awyu people, then it is fundamentally flawed. Furthermore, the vegetation cover and the pristine waters of the Digoel River, which stretches across several districts, were not considered by the judge. In environmental disputes, there is an established legal maxim that serves as a foundation for administrative court judges to achieve holistic justice—this maxim is called *In Dubio Pro Natura*.

The principle of *In Dubio Pro Natura* is the antithesis of *In Dubio Pro Reo*. When *In Dubio Pro Reo* is applied to environmental cases, polluters often escape liability for environmental damage. Therefore, as the paradigm shifts from anthropocentrism to ecocentrism, *In Dubio Pro Reo* has been replaced by *In Dubio Pro Natura* as the basis for resolving environmental cases. Judges, as representatives of justice, should adjudicate cases carefully and meticulously, as the quality of their decisions is fundamentally influenced by the principles of good and bad.

The principle of *In Dubio Pro Natura* clearly states that when a judge faces uncertainty regarding evidence in an environmental case, they should prioritize ecological safety. The lack of scientific evidence should not prevent the judge from delivering justice for the environment. According to this principle, any doubts or issues before the court, administrative bodies, or decision-makers should, whenever possible, favor environmental conservation as the least harmful alternative.

A holistic judicial decision serves as a pillar for nature, which in turn sustains human life, making nature's rights as valuable as human rights. Arne Naess, a philosopher born in Holmenkollen near Oslo, Norway, affirmed that the only way to combat the climate crisis is by fostering empathy and fundamentally and radically changing humanity's perspective on the natural world. The judicial perspective, as represented by law enforcement officials, should embody the role of environmental guardians through fair and holistic rulings.

It is evident that Indonesia has comprehensive environmental regulations that should serve as a concrete legal foundation for environmental protection. The signing of the approval by the Papua Indigenous Peoples' Institution without considering the Awyu Tribe's opposition is erroneous and contradicts both the constitution and its derivative regulations. Moreover, the Governor of Papua's approval of PT. Indo Asiana Lestari's flawed and expired environmental permit is in direct conflict with statutory mandates. Thus, it is clear that the environmental

impact assessment document for PT. Indo Asiana Lestari, which was contested in Decision Number 6/G/LH/2023/PTUN.JPR, does not align with Indonesia's environmental regulations.

Impact of the Legally Flawed Decision Number 6/G/LH/2023/PTUN.JPR

High Conservation Value (HCV) refers to forest areas of adequate size and high-quality cover. HCV encompasses biological, ecological, social, and cultural values of extraordinary significance that are crucial to human life. The HCV categories include endemic species diversity, naturally distributed ecosystems and mosaics, ecosystem and habitat services, fundamental community needs such as essential natural resources, and cultural values such as archaeological sites, religious significance, traditional customs, and local community heritage. According to the directive in the Circular Letter of the Minister of Environment and Forestry No. INS.1/MENLHK/SETJEN/KUM.1/6/2022 concerning the Protection of Wildlife and the Threats of Trapping and Illegal Hunting Inside and Outside Forest Areas, the Natural Resources Conservation Agency (BKSDA) has made efforts to preserve the habitat of the bird-of-paradise (Cendrawasih), including designating certain areas such as Boven Digoel Regency as conservation zones. Additionally, well-preserved forest cover contributes to carbon sequestration, and forests can, in fact, be managed integrally and sustainably. The sustainable practices historically implemented by indigenous communities as their right to benefit from forests are now being overridden by the conversion of 36,206 hectares of customary land and forest by PT. Indo Asiana Lestari. This transformation threatens the traditional ecological balance and indigenous livelihoods, contradicting the principles of environmental sustainability.

Oil palm is a water-intensive plant with a shallow root system that lacks the ability to firmly grip the soil. As a result, erosion in the Digoel River region is one of the most significant potential impacts. Soil particles that are not securely held by the shallow roots of oil palm trees will be washed away by water, forming sediment. Erosion leads to the degradation of the physical and chemical properties of fertile topsoil, which is then replaced by infertile subsoil. Naturally, medicinal plants (toga) with strong stems and roots will struggle to grow beneath oil palm trees, making it difficult for the Awyu Tribe to cultivate their essential food sources. In addition to erosion, palm oil processing wastewater contains high levels of Biological Oxygen Demand (BOD). High BOD reduces the amount of dissolved oxygen in the water, increasing suspended solids, which in turn affects sunlight penetration into water bodies. This disrupts the growth of primary producers and aquatic organisms that serve as a vital and healthy food source for humans.

Another equally alarming environmental threat is the damage caused by the presence of nickel deposits in Boven Digoel Regency. According to data from the Supreme Audit Agency of the Republic of Indonesia (BPK RI), in addition to significant gold deposits, the Mandobo District of Boven Digoel Regency also contains unexploited reserves of iron ore, nickel, and coal. The findings from the exploration phase may shift land-use objectives from oil palm plantations to mining areas. The resulting issues will no longer be limited to land degradation due to monoculture plantations but will escalate to the destruction of entire ecosystems, as extensive open-pit mining for iron ore and nickel leaves gaping holes in the landscape. Pollution in the Digoel River will no longer be limited to chemical fertilizers from oil palm plantations but will be exacerbated by mining particles contaminating aquatic habitats. The processing of nickel slag waste will have negative health impacts on local communities, contaminating rivers, soil, and air while posing significant risks to flora and fauna.

Meanwhile, poverty levels in Papua remain concerning, with Boven Digoel ranking high in poverty at 9.23%, and stunting affecting 37.2% of children in the province. With the court ruling in favor of PT. Indo Asiana Lestari in Case Number 6/G/LH/2023/PTUN.JPR, the risk of increased stunting rates will rise even further. In this case, both central and regional governments have failed to work in synergy to support indigenous communities in managing

forests sustainably. Instead, they have allowed corporations to seize fundamental rights that should inherently belong to every member of the Awyu Tribe.

The Constitution, specifically Article 33(3) of the 1945 Constitution of the Republic of Indonesia, clearly states that land, water, and natural resources are to be managed by the state for the greatest benefit of the people. Each region has diverse natural resources that can be utilized by local communities through social forestry schemes, as outlined in Article 29A(1) and (2) of Law No. 6 of 2023 on Job Creation.

This law broadly states that the utilization of protected and production forests can be implemented through social forestry programs managed by individuals, forest farmer groups, or cooperatives. Considering the existing potential of the Digoel River, various species of highly nutritious freshwater fish are found in its waters, including the *Channa striata* (snakehead fish), an endemic species from Sumatra that is also abundant in the Digoel River.

The rich nutritional content, including protein, fat, minerals, and water, can serve as an affordable and nutritious food source for children in Boven Digoel. The extensive vegetation in the region could also be developed into demonstration plots for the conservation of Papua's endemic birds and wildlife. Beyond its fauna, the forest also holds valuable resources such as agarwood (gaharu), which has a high market value alongside gold and ironwood.

Indonesia supplies 70% of the global agarwood (aloeswood) trade through Singapore, with the remaining 30% sourced from other Asian countries. The abundant natural resources should be utilized carefully and sustainably so that the indigenous people of Awyu Tribe can directly obtain useful results without having to go through the company first. Thus, the right to obtain healthy and affordable food is not compromised by the presence of oil palm companies that damage the ecosystem in Boven Digoel.

The micro economy from the utilization of forest products such as agarwood and other potential forest products that should be utilized by the people of Boven Digoel, especially the Woro clan, is threatened with destruction.

CONCLUSION

The approval of directly affected communities and a consensus-based deliberation process are absolute requirements for the validity of an environmental impact analysis document in a business permit. Indonesia's environmental regulations have meticulously outlined the framework for business licensing that has significant environmental impacts. Judges, as part of the law enforcement apparatus, should take concrete steps to holistically adjudicate environmental cases, particularly those in Boven Digoel, Papua Province, which serves as Indonesia's last tropical forest stronghold.

The ruling in Case Number 6/G/LH/2023/PTUN.JPR failed to apply the *In Dubio Pro Natura* principle, thereby directly legitimizing PT. Indo Asiana Lestari's environmental impact analysis document, which is substantively flawed. It is evident that the legitimization of this document by the court has made the potential destruction of biodiversity and the violation of the indigenous rights of the Awyu Tribe even more tangible.

Legitimizing a flawed Environmental Impact Assessment (AMDAL) document is equivalent to recognizing misguided environmental policies, which may result in severe pollution of the Boven Digoel River and the destruction of biodiversity. The collapse of biodiversity will lead to a scarcity of affordable and nutritious food sources for indigenous communities.

The loss of forest areas deprives the Awyu Tribe and other indigenous groups of opportunities to implement social forestry programs, which would provide direct benefits to them by applying sustainable practices. These issues are closely linked to rising poverty levels and increasing stunting rates among young children, particularly in Boven Digoel, Papua.

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