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LEGAL ANALYSIS OF FOREST BURNING BY PT HERMES SUGAR INDONESIA FROM A HUMAN RIGHTS PERSPECTIVE

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ABSTRACT

Environmental protection is a fundamental component of human rights, particularly the right to a clean and healthy environment. In Indonesia, forest fires whether due to natural factors or human activity pose serious threats to environmental sustainability and violate the constitutional rights of affected communities. This journal article examines the legal framework regulating forest burning under Law No. 32 of 2009 on Environmental Protection and Management and analyzes the liability of PT Hermes Sugar Indonesia (PT HIS) for forest fires that occurred in Central Kalimantan. Furthermore, it evaluates the case from the perspective of human rights as guaranteed in the 1945 Constitution and Law No. 39 of 1999 on Human Rights.

Keyword: *Enviromental liability, Forest fires, Human rights*

ABSTRAK

Perlindungan lingkungan merupakan komponen fundamental dari hak asasi manusia, khususnya hak atas lingkungan yang bersih dan sehat. Di Indonesia, kebakaran hutan baik yang disebabkan oleh faktor alam maupun ulah manusia menjadi ancaman serius bagi keberlanjutan lingkungan dan merupakan bentuk pelanggaran terhadap hak konstitusional masyarakat yang terdampak. Artikel jurnal ini mengkaji kerangka hukum yang mengatur pembakaran hutan berdasarkan Undang-Undang Nomor 32 Tahun 2009 tentang Perlindungan dan Pengelolaan Lingkungan Hidup serta menganalisis tanggung jawab PT Hermes Sugar Indonesia (PT HIS) terhadap peristiwa kebakaran hutan yang terjadi di Kalimantan Tengah. Selain itu, artikel ini juga mengevaluasi kasus tersebut dari perspektif hak asasi manusia sebagaimana dijamin dalam Undang-Undang Dasar Negara Republik Indonesia Tahun 1945 dan Undang-Undang Nomor 39 Tahun 1999 tentang Hak Asasi Manusia.

Keyword: *Kebakaran hutan, Tanggung jawab lingkungan, Hak Asasi Manusia*



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1. Introduction

The environment (hereinafter referred to as “the environment”) is an inseparable part of life, serving as the foundation for the survival of living beings such as plants, animals, and humans.

According to Munadjat Danusaputro, the environment includes all objects, energies, and conditions including humans and their actions that exist within the space in which humans live and that influence the continuity of

life and the welfare of humans and other living organisms.¹

In practice, the protection of environmental human rights in Indonesia is often confronted with significant challenges. One of the main challenges is the conflict between economic interests such as the exploitation of natural resources and environmental protection. In many cases, development projects that prioritize economic growth have the potential to cause environmental degradation.²

Economic growth interests frequently clash with environmental preservation, resulting in environmental damage due to economic development. This situation is concerning because if economic advancement is prioritized without considering environmental impacts, it may endanger the lives of living beings inhabiting the Earth.

Environmental degradation in Indonesia continues to worsen, and this condition directly threatens human life. The increasing rate of environmental damage also raises the risk of natural disasters. Environmental destruction may be caused by two factors: natural events and human activities.³ In 2023, forest fires occurred due to the actions of PT Hermes Sugar Indonesia (hereinafter referred to as HIS) in Teluk Sampit and Mentaya Hilir Selatan, East Kotawaringin, Central Kalimantan.⁴ These forest fires caused air pollution, disrupting both daily activities and the health of living beings.

According to Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution), “Every person shall have the right to live in physical and spiritual prosperity, to have a home, and to enjoy a good and healthy environment, and shall have the right to obtain health care.” Therefore, the author is interested in writing a paper titled **“Legal Analysis of Forest Fires Caused by PT Hermes Sugar Indonesia from a Human Rights Perspective.”**

2. Research Methods

This research employs a normative juridical method, focusing on an examination of written legal norms within Indonesia’s constitutional and statutory framework. The study analyzes legislation, constitutional provisions, legal doctrines, and relevant judicial decisions related to environmental human rights.

3. Result and Discussion

3.1. Regulation of Forest Burning Under Law No. 32 of 2009 on Environmental Protection and Management

The Law Number 32 of 2009 on Environmental Protection and Management (UU PPLH) regulates who qualifies as the legal subject responsible for environmental damage and pollution, as stipulated in Article 1 paragraph (32) of the UU PPLH, which states: “Every person is an individual or a business entity, whether incorporated or not incorporated.” This means that individuals or business entities are legal subjects responsible for environmental matters, whether in administrative, civil, or criminal aspects.

In the context of forest fires under the UU PPLH, Article 69 paragraph (1) letter h states: “Every person is prohibited from clearing land by burning.” If the provisions of Article 69 paragraph (1) letter h are violated, criminal sanctions are imposed as regulated in Article 108 of the UU PPLH, which states: “Every person who clears land by burning as referred to in Article 69 paragraph (1) letter h shall be punished with imprisonment for at least 3 years and at most 10 years and a fine of at least Rp3,000,000,000.00 (three billion rupiah) and at

¹ Munadjad Danusaputro, *Environmental Law, Book I: General*, (Jakarta: Binacipta, 1985), p. 67.

² Siti Mardiyati, *Environmental Human Rights Protection in the Indonesian Constitutional Law System*, (Disiplin: Civitas Akademika Journal of the Sumpah Pemuda College of Law, Volume 31, Issue 2, June 2025), p. 124.

³ Taufiq Ramadhan et al., *Environmental Damage in Ecosystems from a Legal Perspective (Case Study of Environmental Damage by PT DPM Dairi)*, (Ladalah: Journal of Politics, Social, Law, and Humanities, Vol. 2, No. 3, July 2024), p. 2.

⁴ See also: “PT Jakarta Upholds Rp 266 Billion Compensation Against PT HIS Due to Forest Fires,” available at: dandapala.com/article/detail/pt-jakarta-kuatkan-hukuman-ganti-rugi-rp-266-miliar-pt-his-gegara-kebakaran-hutan.

most Rp10,000,000,000.00 (ten billion rupiah).”

The formulation of environmental offenses is always associated with criminal sanctions because, theoretically, criminal sanctions aim to enforce legal (environmental) norms. These criminal sanctions arise as a reaction to non-compliance with legal (environmental) norms.⁵

3.2. Legal Analysis of PT Hermes Sugar Indonesia (PT HIS) from a Human Rights Perspective

The protection of environmental human rights in Indonesia has become an increasingly relevant issue in line with the development of globalization and the growing threat of climate change to human life. Indonesia, as one of the countries with the greatest biodiversity in the world, bears a significant responsibility in preserving and protecting environmental sustainability. Therefore, discussing the protection of environmental human rights within the framework of Indonesia’s constitutional law is essential to understand and examine in greater depth.⁶

Before proceeding further, it is important to understand what is meant by environmental human rights. In general, this right refers to the inherent right of every individual and community to live in a clean, healthy, and sustainable environment. This right arises from the awareness that environmental quality greatly affects human quality of life. Consequently, the protection of environmental human rights cannot be separated from the broader protection of human rights.⁷

Article 28H paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that “Every person shall have the right to live in physical and spiritual prosperity, to have a home, and to enjoy a good and healthy environment, and shall have the right to obtain medical care.” This provision is further reinforced by Article 9 paragraph (3) of Law No. 39 of 1999 on Human Rights, which affirms that “Every person has the right to a good and healthy environment.” Environmental human rights are also recognized in the Environmental Protection and Management Law, as seen in Article 65 paragraph (1), which provides that “Every person has the right to a good and healthy environment as part of human rights.”

PT HIS has fulfilled the elements of a human rights violation, as evidenced by its act of causing environmental pollution through forest burning. Living beings, including humans, suffered losses as a result of the fire. A clean environment is a fundamental human right that must be safeguarded to ensure the continuity of life. PT HIS has deprived the residents of Teluk Sampit and Mentaya Hilir Selatan, East Kotawaringin, Central Kalimantan, of their right to enjoy a clean environment free from destruction and pollution. Therefore, PT HIS is obligated to restore the environment that has been damaged.

4. Conclusion

Based on the legal framework under Law No. 32 of 2009 on Environmental Protection and Management, any individual or business entity that engages in land burning is subject to strict administrative, civil, and criminal liability. Forest burning is expressly prohibited, and violations carry severe criminal sanctions intended to reinforce environmental norms and prevent harmful practices.

From a human rights perspective, the actions of PT Hermes Sugar Indonesia (PT HIS) constitute a violation of environmental human rights, as guaranteed by the 1945 Constitution, the Human Rights Law, and the Environmental Protection and Management Law. By causing forest fires that resulted in environmental pollution, PT HIS deprived local residents of their fundamental right to a clean, healthy, and sustainable environment. Consequently, PT HIS bears responsibility not only under environmental law but also for

⁵ Suparto Wijoyo, *Reflection on the Integrated Environmental Management Regulatory Chain (Case Study of Air Pollution)*, (Surabaya: Airlangga University Press, 2005), p. 526.

⁶ Philipus M. Hadjon, *Legal Protection for the People in Indonesia*, (Surabaya: Bina Ilmu, 1987), p. 45.

⁷ Sumaryono, *Environmental Ethics*, (Yogyakarta: Kanisius, 2004), p. 22.

violating constitutionally protected human rights, and is therefore obligated to restore the damaged environment.

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