

ABSTRAK

KETENTUAN HAK-HAK MASYARAKAT ADAT DI BIDANG EKONOMI, SOSIAL, DAN BUDAYA DALAM *UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES* (UNDRIP) DAN KAITANNYA DENGAN PERATURAN PERUNDANG-UNDANGAN INDONESIA

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Eksistensi masyarakat adat semakin terancam dengan maraknya pengabaian hak yang dimiliki oleh masyarakat adat. Hal tersebut bertentangan dengan salah satu resolusi Perserikatan Bangsa-Bangsa (PBB) yang bernama *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP) yang telah memberikan pengakuan kepada hak-hak masyarakat adat yang harus dihormati oleh seluruh Negara anggota PBB, termasuk Indonesia. Penelitian ini akan membahas tentang pengaturan mengenai hak-hak masyarakat adat yang diatur di dalam UNDRIP dan bagaimana ketentuan UNDRIP di bidang ekonomi, sosial, dan budaya diatur di dalam peraturan perundang-undangan Indonesia. Penelitian ini diperlukan untuk melihat sejauh mana komitmen Indonesia diterapkan sebagai Negara penandatangan UNDRIP ketika terjadi diskriminasi kepada masyarakat adat.

Penelitian ini dilakukan dengan metode normatif dengan pendekatan perundang-undangan. Hasil dari penelitian ini menemukan bahwa dalam UNDRIP terdapat 4 hak ekonomi (hak perburuhan, hak atas pembangunan, hak atas sumber daya alam, dan hak atas akses bantuan keuangan), 2 hak sosial (hak untuk tidak didiskriminasi, hak untuk menjalin hubungan dengan kelompok masyarakat lain), 5 hak budaya (hak untuk bebas dari pengrusakan budaya, hak untuk dihormati budayanya, hak perlindungan dan pemberdayaan wujud kebudayaan, hak untuk membuat media pers, hak untuk melestarikan budaya) dan hak ekonomi-sosial. Adapun ketentuan dalam UNDRIP di bidang ekonomi, sosial, dan budaya telah banyak diatur di dalam peraturan perundang-undangan Indonesia. Ketentuan yang telah diatur secara spesifik dalam peraturan perundang-undangan Indonesia terdapat sebanyak sebelas hak, sedangkan ketentuan yang belum diatur dalam peraturan perundang-undangan Indonesia adalah delapan hak. Pemerintah hendaknya segera mengesahkan Rancangan Undang-Undang Masyarakat Hukum Adat demi kepentingan kepastian dalam perlindungan hak masyarakat adat.

Kata Kunci: Hak Masyarakat Adat, Pengaturan, Peraturan Perundang-undangan Indonesia, UNDRIP.

ABSTRACT

THE PROVISIONS OF THE RIGHTS OF INDIGENOUS PEOPLES IN UNITED NATIONS DECLARATIONS ON THE RIGHTS OF INDIGENOUS PEOPLES (UNDRIP) WITH INDONESIAN LEGISLATION PROVISION IN THE ECONOMIC, SOCIAL, AND CULTURAL FIELDS

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The existence of indigenous peoples is increasingly being threatened by the rampant neglect of the rights of indigenous peoples. This is contrary to one of the resolutions of the United Nations (UN) called the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) which has given recognition to the rights of indigenous peoples that must be respected by all UN member states, including Indonesia. This research will discuss the arrangements regarding the rights of indigenous peoples regulated in the UNDRIP and how UNDRIP provisions in the economic, social and cultural fields are regulated in Indonesian laws and regulations. This research is needed to see how far Indonesia's commitment is implemented as a country signing the UNDRIP when there is discrimination against indigenous peoples.

This research was conducted using a normative method with a statutory approach. The results of this study found that in UNDRIP there are 4 economic rights (labor rights, rights to development, rights to natural resources, and rights to access financial assistance), 2 social rights (rights to not be discriminated against, rights to establish relationships with community groups others), 5 cultural rights (the right to be free from cultural destruction, the right to respect their culture, the right to protect and empower cultural forms, the right to make press media, the right to preserve culture) and economic-social rights. The provisions in the UNDRIP in the economic, social and cultural fields have been regulated in many Indonesian laws and regulations. There are eleven rights that have been regulated specifically in Indonesian laws and regulations, while the provisions that have not been regulated in Indonesian laws and regulations are eight rights. The government should immediately pass the Draft Indigenous Peoples Law in the interest of certainty in protecting the rights of indigenous peoples.

Keywords: Indigenous People's Right, UNDRIP, Legislation