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PELAKSANAAN PEMENUHAN HAK PENDIDIKAN DASAR DAN MENENGAH BERDASARKAN
KETENTUAN THE INTERNATIONAL
COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS DI KAWASAN PERBATASAN
NEGARA DI PROVINSI KALIMANTAN
BARAT

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BERDASARKAN KETENTUAN THE INTERNATIONAL COVENANT ON
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INTISARI

Penelitian Disertasi dengan judul “Pelaksanaan Pemenuhan Hak Atas Pendidikan Dasar dan Menengah Di Kawasan Perbatasan Berdasarkan Ketentuan *the International Covenant on Economic, Social and Cultural Rights* (ICESCR) di Provinsi Kalimantan Barat”, bertujuan untuk menganalisis kepatuhan hukum Indonesia terhadap pemenuhan kewajiban yang diatur dalam Kovenan khususnya di kawasan perbatasan negara Indonesia dan Malaysia karena munculnya wilayah-wilayah yang tak berkeinginan untuk sekolah. Tujuan penelitian memiliki kebaharuan studi baik dalam khasanah praktis dan akademis, yaitu: pertama, mengetahui apakah indikator pemenuhan hak pendidikan dasar dan menengah dalam ICESCR telah diimplementasikan dalam pembuatan dan pelaksanaan hukum, kebijakan, program, kegiatan dan pendanaan baik di level pusat dan daerah (Provinsi dan Kabupaten). Kedua, mengetahui faktor penentu pelaksanaan pemenuhan hak atas pendidikan dasar dan menengah menurut ICESCR dari tahun 2005-2017.

Penelitian Disertasi ini merupakan penelitian hukum normatif empiris. Data yang digunakan adalah data primer dan data sekunder. Data primer diperoleh dari nara sumber dan responden penelitian, sedangkan data sekunder digunakan bahan hukum primer, bahan hukum sekunder dan bahan hukum tersier. Analisis dilakukan dengan menggunakan identifikasi dan sistematisasi peran dan fungsi hukum, kebijakan, program, kegiatan dan pendanaan di sekolah dasar dan menengah di lima Kabupaten di kawasan perbatasan dengan Malaysia di Provinsi Kalimantan Barat. Eksplikasi atau kritisasi terhadap data penelitian dilakukan sehingga diperoleh kajian mendalam terkait dengan jawaban atas permasalahan.

Penelitian Disertasi ini menyimpulkan dua (2) kesimpulan. **Pertama**, pelaksanaan pemenuhan hak atas pendidikan dasar dan menengah di kawasan perbatasan di Provinsi Kalimantan Barat dari tahun 2005 sampai 2017 telah secara bertahap dipenuhi oleh pemerintah pusat dan daerah. Faktor kesesuaian telah diusahakan untuk dapat dilaksanakan menurut ketentuan atau standar internasional seperti dalam Kovenan Hak Ekonomi, Sosial dan Budaya. Namun, regulasi, kebijakan dan program yang telah dibuat banyak yang belum harmonis di level vertikal dan horizontal sehingga memperlambat proses tersebut. **Kedua**, faktor teknis dan faktor geografis menjadi faktor penentu utama rendahnya pemenuhan hak pendidikan dasar dan menengah. Faktor-faktor tersebut memunculkan *status quo* “daerah tak berkeinginan sekolah” di kawasan perbatasan di lima kabupaten, khususnya di wilayah Kabupaten Kapuas Hulu. Kedua faktor penentu tersebut telah mereduksi secara sistematis pelaksanaan hukum, kebijakan, program dan pendanaan pendidikan dasar dan menengah baik di level vertikal dan horizontal.

Kata Kunci : Indikator hukum, yurisdiksi, kepatuhan hukum, dan HAM

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THE IMPLEMENTATION OF THE FULFILMENT OF ELEMENTARY SCHOOL ACCORDING TO THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS IN THE STATE BORDER AREAS BETWEEN INDONESIA AND MALAYSIA IN WEST KALIMANTAN PROVINCE

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ABSTRACT

This doctoral research on “The Implementation of the fulfilment of Elementary School According to the International Covenant on Economic, Social and Cultural Rights in the State Border Areas Between Indonesia and Malaysia in West Kalimantan Province” aims to find out relevance of state compliance toward international obligations contained therein in terms of law, policy, program, action and funds to overcome or to minimize emergence of “areas of unwilling to school” since Indonesia ratified the ICESCR in 2005. Furthermore, it also aims to reveal determinant factors for its effective fulfilment carried out by central as well as local governments.

This research is a empirical normative legal research conducted through an extensive and in-depth analysis of relevance legal data, i.e. primary and secondary data. Primary data were obtained through interviews and delivering in-depth list of questions directed to those who have authority in terms of planning, making and executing law, policy, programs, actions and funds for fulfilment of elementary school in the area. Secondary data were obtained through literature reviews on education as fundamental rights, state obligations under international human rights laws and other relevant international law. Analysis was conducted by identification and systematization of the data justifying their relevance roles, functions and contribution. While at the end, they were completed through in depth analysis of legal logic to sustain their correlation and attribution to the said indicators of availability, accessibility, adaptability and acceptability enshrined in the ICESCR based on localities’ contexts and perspectives.

This research reveals two conclusions. First, since 2005, the fulfilment of the primary education has been progressively fulfilled by introducing new laws, approaches and new concepts of increasing accessibility to basic or primary education’s infrastructures and incentives. However, these initiatives is still far more to go in accordance to the ICESCR objectively verified indicators of availability, accessibility, adaptability and acceptability. Second, technical and geographical factors has played as determinant roles of reducing fulfilment of right to primary education on border areas of Sambas, Sintang, Sanggau, Kapuas Hulu, and Bengkayang. They formed areas of unwillingness to go to school even though government has introduced new legislations, policies, programs, actions and appropriate funds vertically and horizontally as realization of sovereignty as responsibility taken by central and local governments.

Keywords: *Indicators, jurisdiction, state compliance, and human rights*

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