

**PENERAPAN PRINSIP *FREE, PRIOR AND INFORMED CONSENT*
SEBAGAI UPAYA PERLINDUNGAN HAK ULAYAT MASYARAKAT ADAT
BERDASARKAN *UNITED NATIONS DECLARATION ON THE RIGHTS OF
INDIGENOUS PEOPLES*
(STUDI KOMPARASI ANTARA INDONESIA DAN AUSTRALIA)**

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INTISARI

Penelitian ini mengkaji serta membandingkan bagaimana penerapan prinsip free, prior and informed consent sebagai upaya perlindungan hak ulayat masyarakat adat di Indonesia dan Australia. Penelitian ini menggunakan batu uji *United Nations Declaration on the Rights of Indigenous Peoples* (UNDRIP), khususnya pada Pasal 10 dan Pasal 19 Deklarasi tersebut.

Jenis penelitian ini adalah penelitian kualitatif dengan pendekatan yuridis-normatif, dengan sifat penelitian komparatif-deskriptif, yang menjabarkan fakta-fakta empiris dengan pisau analisis normatif, dengan membandingkan pelaksanaan prinsip free, prior and informed consent di Indonesia dan Australia, khususnya dalam kaitannya dengan perlindungan hak ulayat di kedua negara tersebut. Penelitian ini mengangkat studi kasus proyek *Merauke Integrated Food and Energy Estate (MIFEE)* di Papua, Indonesia, dan proyek tambang uranium di Taman Nasional Kakadu, Northern Territory, Australia. Data penelitian ini diambil melalui studi kepustakaan dan data-data sekunder lainnya.

Hasil penelitian menunjukkan bahwa pertama, baik Indonesia maupun Australia tidak memiliki peraturan yang secara eksplisit menyebutkan prinsip *free, prior and informed consent*. Kedua, pelaksanaan prinsip FPIC di lapangan masih jauh dari kata ideal sebagaimana diatur dalam UNDRIP.

Kata kunci: prinsip FPIC, masyarakat adat, hak ulayat, *United Nation Declaration on the Rights of Indigenous Peoples*

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***THE IMPLEMENTATION OF FREE, PRIOR AND INFORMED CONSENT
PRINCIPLE AS AN EFFORT TO PROTECT THE RIGHTS OF THE LAND BY
INDIGENOUS PEOPLES BASED ON THE UNITED NATIONS
DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES
(COMPARATIVE STUDY BETWEEN INDONESIA DAN AUSTRALIA)***

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ABSTRACT

This research examines and compares the implementation of the free, prior and informed consent (FPIC) principle as an effort to protect the customary tenure rights (hak ulayat) in Indonesia and Australia. This research analyses the implementation based on the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), particularly with respect to Article 10 and Article 19 of the Declaration.

The type of this research is qualitative with a juridical-normative approach, with the nature of comparative-descriptive research, which describes empirical facts analysed with normative analysis and comparison of the existing regulation of FPIC principle in Indonesia and Australia in relation to the protection of the customary tenure rights in both countries. The data were collected through literature researches on secondary data.

This research analyses the case study of Merauke Integrated Food and Energy Estate (MIFEE) in Papua, Indonesia and a uranium mining project in Kakadu National Park, Northern Territory, Australia. This research shows that first, neither Indonesia nor Australia have regulated the FPIC principle explicitly in their existing national law. Secondly, the implementation of the FPIC principle is still far from the ideal concept of the principle as stipulated within UNDRIP provisions.

Key words: *FPIC principle, indigenous peoples, customary tenure rights, United Nations Declaration on the Rights of Indigenous Peoples*

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