

The Possible Impacts of the Law on Job Creation in Respect of the United Nations Declaration on the Rights of Indigenous Peoples

Author:

Istiqomatussalma Inayah Wardana* and Marsudi Triatmodjo**

ABSTRACT

In 2020, the *Dewan Perwakilan Rakyat* passed the Law No. 11 of 2020 on *Cipta Kerja*. Its purpose was to increase human resources in Indonesia to compete against the globalisation of economy. Which was achieved through the revision of many laws in the aspect of licensing as it was over regulated and redundant. However, behind the goal of economic growth, there were concerns that the price to pay would be the sacrifice of the environment and rights of the adat law communities. Whom, may have to compete with businesses over the resources on their land which they depend on for their livelihood. This raises the question whether the Indonesian government had taken into account of the interests of the indigenous peoples when drafting the Job Creation. In which this research assesses the conduct of the Indonesian government in accordance with the UNDRIP.

This Legal Research uses Normative and Empirical, as theories, legal principles, and laws will be used to analyse the Job Creation case. This research relies on laws and regulations, along with journals and articles in its analysis.

The conclusion that this research has found is (1) in the future, the Job Creation would have a negative impact towards the environment and its indigenous peoples. As the Job Creation is more relaxed than the pre-existing laws, where there were still many violations occurring. Therefore, (2) in accordance with the provisions of the UNDRIP, the Indonesian government has failed to respect the rights of its indigenous peoples by publishing the Job Creation which may threaten their livelihood.

Keywords: Job Creation, UNDRIP, Indigenous Peoples, Human Rights, Environment

* Student at the Department of International Law, Faculty of Law, Universitas Gadjah Mada (S1 IUP 2017)

** Lecturer at the Department of International Law, Faculty of Law, Universitas Gadjah mada

Kemungkinan Dampak Undang-Undang Cipta Kerja Sesuai dengan Deklarasi PBB tentang Hak-Hak Masyarakat Adat

Oleh:

Istiqomatussalma Inayah Wardana* and Marsudi Triatmodjo**

INTISARI

Pada tahun 2020, DPR RI mengesahkan Undang-Undang Nomor 11 Tahun 2020 tentang Penciptaan Lapangan Kerja. Tujuannya adalah untuk meningkatkan sumber daya manusia di Indonesia untuk bersaing dengan globalisasi ekonomi. Yang dicapai melalui revisi banyak undang-undang dalam aspek perizinan karena sudah terlalu banyak diatur dan mubazir. Namun, di balik tujuan pertumbuhan ekonomi, ada kekhawatiran bahwa harga yang harus dibayar adalah pengorbanan lingkungan dan hak-hak masyarakat adat. Siapa, mungkin harus bersaing dengan bisnis atas sumber daya di tanah mereka yang mereka andalkan untuk mata pencaharian mereka. Hal ini menimbulkan pertanyaan apakah pemerintah Indonesia telah memperhitungkan kepentingan masyarakat adat saat menyusun Cipta Kerja Dimana penelitian ini menilai perilaku pemerintah Indonesia sesuai dengan UNDRIP.

Penelitian Hukum ini menggunakan Normatif dan Empiris, sebagai teori, asas hukum, dan hukum yang akan digunakan untuk menganalisis kasus Cipta Kerja. Penelitian ini dan peraturan perundang-undangan, beserta jurnal dan artikel dalam analisisnya.

Kesimpulan yang didapat dari penelitian ini adalah (1) kedepannya, Cipta Kerja akan berdampak negatif terhadap lingkungan dan masyarakat adat. Karena Cipta Kerja bersifat lebih lemah dari undang-undang yang sudah ada, dimana masih banyak pelanggaran yang terjadi. Oleh karena itu, (2) sesuai dengan ketentuan UNDRIP, pemerintah Indonesia telah gagal menghormati hak-hak masyarakat adatnya dengan menerbitkan Cipta Kerja yang dapat mengancam mata pencaharian mereka.

Kata Kunci: Cipta Kerja, UNDRIP, Masyarakat Adat, Hak Asasi Manusia, Lingkungan

* Mahasiswa pada Departemen Hukum Internasional, Fakultas Hukum, Universitas Gadjah Mada (S1 IUP 2017)

** Dosen pada Departemen Hukum Internasional, Fakultas Hukum, Universitas Gadjah Mada