The Impact of International Agreements on Indigenous People In Indonesia

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Abstract

Inter-state relations and interdependence, whether economic, political, defence, etc., are essential for the welfare of the citizens of a state. The implementation of inter-state relations is done by using international agreements between a country and other countries or international organisations and must be subject to international law. Foreign investment has a great influence on the economic growth of a country and is a determinant factor for the growth and welfare of the society. However, with respect to foreign investment issues, indigenous and tribal peoples are marginalized when dealing with rulers as well as foreign businessmen (foreign investors). As a result, the opportunity for indigenous peoples to participate in public decisions on economic, socio-cultural and political issues that affect their existence is limited. Nonetheless, law enforcement and investment policies should be aimed at financing the development and welfare of the people, and foreign investments should only be viewed as a complement and should neither be allowed to cause disharmony nor harm the rights of citizens and the national interests.

Keywords: International Agreements; Indigenous People

Introduction

The Government of Indonesia in exercising its foreign policy has always made efforts to fight for its national interests. It attempts to achieve this, among other ways, by reaching international agreements with other countries and international organisations, and such agreements must be subject to law. International agreements are the main instruments for the implementation of international relations between countries. International agreements have several terms or names, such as convention, final act, declaration, memorandum of understanding (MOU), agreement, protocol, etc. These terms are mere names with no juridical effect. Increasing the intensity of relations and inter-state independence lead to increased international cooperation as outlined in various international treaties.

According to Article 2 of the Vienna Convention of 1969 on the Law of Treaties, an international treaty is an agreement made between states in written form and governed by international law, whether it consists of one or more instruments and whatever its name. The Vienna Convention of 1969 is only used in disputes concerning treaties established between states, and such treaties must be in written form. For disputes involving non-state parties, for example international organisations, the arrangements are defined in the Vienna Convention of 1986 on the Law of Treaties between States and International Organisations or between International Organisations. An important requirement for an agreement to be regarded as an international treaty is that the treaty is subject to the international legal regime even though its parties are states (Himahanto Juwana; 2010: 16).

International agreements in Indonesia are regulated by Law Number 24 Year 2000 on International Agreements. According to Law No. 24 Year 2000, international agreements are agreements in certain forms and names, subject to international laws, made in writing as well as incurring rights and obligations in the field of public law. Also, Regional Autonomy Law Number 24 Year 2000 gives regional authorities the authority to enter into international agreements, as regulated in Article 5 of Law Number 24 Year 2000. International agreements may take the form of bilateral, trilateral, regional, multilateral or global agreements, based on the number of participants (Selfriani; 2016:7).

Based on law, international treaties can be differentiated into treaty contract and law making treaty. A treaty contract is a closed agreement that does not give opportunity to a party who did not participate in the negotiation to become a participant in the agreement. Treaty contracts exist as bilateral, trilateral, and regional agreements, for example the border agreement between Indonesia and Malaysia. Law making treaties are agreements that create legal principles that are not only binding on the participants of the agreement but can also be binding on a third party. Law making treaties are commonly found in open, multilateral agreements. This type of agreement is a codification of customary law that is already applicable and contains progressive development in international law accepted as customary law or as a universal law principle, for example the Vienna Convention of 1961 on Diplomatic Relations.

Some important principles in international treaty law are as follows:

1. Voluntary: no party shall be bound by a treaty through any of the recognised means, such as signing, ratifying or accessing, without his consent.
2. *Pacta Sunt Servanda*: binding treaties are like laws for the parties.
3. *Pacta tertiis nec nocent nec prosunt*: the agreement does not grant rights and obligations to third parties without their consent.

4. When all the articles of a treaty constitute a custom codification of international customary law, the entire contents of the treaty shall be binding on all international societies, including those who do not ratify it; a state that has not ratified it is bound not by its covenant but because of its international customary law.
5. If a treaty is a mix between customary law and progressive development, the participating countries shall be bound by the whole of the treaty; the non-participating countries shall be bound only by the contents of the treaty that are a codification of customary law; and the non-participating states may also be bound by the provisions that are related to progressive development when the progressive development has become a new customary law

The authority of the government of Indonesia to enter into international agreements is contained in Article 11 of the 1945 Constitution of the Republic of Indonesia (UUD NKRI 1945), which states as follows: The President has the authority to enter into international agreements with the approval of the People's Legislative Assembly. The creation and ratification of international agreements between the Indonesian government and the governments of other countries and international organisations according to international law is a very important legal act, since it binds the state to other international legal regimes. Therefore, making and validating an international agreement is based on law (Himahanto Juwana; 2010: 30).

The signing of a treaty shall not necessarily be interpreted as binding on the parties to the treaty. The signing of an international agreement requires approval to be binding. The treaty shall not be binding on the parties unless the agreement is ratified. Approval of international treaties by the government shall be done as long as it is required by the treaty. The ratification of an international agreement shall be done on the basis of the provisions agreed upon by the parties. International agreements requiring ratification shall enter into force upon the fulfillment of the legal procedures stipulated by law.

Through international agreements, each country outlines the basis of cooperation, organises various activities, and solves various problems for the sake of community survival. In addition, international agreements also serve as a means to enhance international cooperation, which ultimately is expected to improve the welfare and prosperity of the people. In reality, however, agreements made with governments of other countries, for example in the investment sector, often result in conflict/dispute between the government and indigenous peoples because of the investments made in indigenous peoples' territories. These conflicts occur due to

indigenous peoples' rights over customary land / ulayat land, which ultimately limits access to natural resources.

The issues affecting indigenous peoples are regulated at the international and national levels. At the international level, there is the UN Declaration on the Rights of Indigenous Peoples, which provides international arrangements to safeguard the basic rights of indigenous and tribal peoples and to promote peace and good relations between each group and the state. Article 2 of the declaration states that indigenous peoples and individuals should be free from all forms of discrimination in exercising their rights. It should be recognised that indigenous and tribal peoples are a group of people who recognise themselves as different from other people, and this distinction must be respected. The declaration takes into account the rights of indigenous peoples existing in the world to freely practise the activities they are known for.

Furthermore, the Indigenous Peoples Convention 1989 (No. 169) by the International Labor Organisation states as follows:

a. Customary law community refers to descendants of the residents inhabiting a particular geographic area of a country at the time of conquest, colonization or the establishment of the present state boundaries and regardless of its legal status, retains some or all of the social, economic, cultural and political institutions.
b. International declarations and conventions recognise the existence of customary law communities located across the world. This recognition acknowledges the aspirations of indigenous and tribal peoples to exercise control over institutions, ways of living and economic development as well as maintain and develop identity, language and religion within the country.

Assessed from a human rights perspective, the state's responsibility is to recognise, respect, protect and fulfil the rights of indigenous peoples. By its conception and laws, a state acknowledges the legitimacy and rights of citizens, either as individuals or groups. The concept of respect, as used above, requires states not to violate the rights of indigenous peoples and to enact laws that guarantee that non-state actors respect the rights of indigenous peoples, by enforcing the applicable laws. However, the concept of fulfil, as used above, requires governments to evaluate, plan and implement policies and regulations for the benefit of indigenous peoples (Rafael Edy Bosko; 2004: 16).

The existence of indigenous peoples is recognised in the 1945 Constitution of the Republic of Indonesia (UUD NKRI 1945) and related laws, such as Law Number 5 Year 1960 on Basic Provisions of Agrarian Principles (UUPA), Law

Number 39 of 1999 on Human Rights (UU HAM), Law No. 41 of 1999 on Forestry (Forest Law), and Law No. 25 Year 2007 on Foreign Investment (Foreign Investment Law). Therefore, equitable development is needed to accommodate the rights of indigenous peoples.

In the 1945 Constitution, the recognition and regulation of indigenous and tribal peoples is stipulated in Article 18 paragraph (2) and Article 28 I paragraph (3) as well as other related laws, especially in the field of natural resources. However, in reality, instead of recognising and protecting the rights of indigenous peoples, the law actually "seizes" the rights of indigenous peoples regarding their sources of livelihood and generally limits the rights of indigenous peoples. In many cases, it must be admitted that indigenous peoples and governments are in an unequal relationship, although philosophically, there is a principle of equality before the law. The unbalanced relationship often impacts negatively on the development of indigenous peoples, especially when the government uses the "right of control" as referred to in Law Number 5 of 1960 on Basic Agrarian Principles (UUPA).

Indigenous peoples are a part of the society that is often overlooked in development activities. However, for a country like Indonesia, where the vast majority of people live in very remote areas within their own communities and continue to occupy a common region for generations, it is essential to ensure the involvement of indigenous and tribal peoples in the prevention and resolution of conflicts, building of a more democratic governance and reduction of poverty.

As in many other developing countries, Indonesia faces many challenges in achieving decent work opportunities for indigenous and tribal peoples. However, in recent times, the government of Indonesia has made efforts to support the development of indigenous and tribal peoples and has recognised the need to enact special legislations governing the rights of indigenous and tribal peoples. Generally, indigenous and tribal peoples are not effectively protected by the existing laws and policies. National law often does not address the special circumstances, characteristics and needs of indigenous peoples.

In addition, the government has a responsibility to advance the rights of indigenous peoples through government programmes that seek legal recognition and by allowing existing legal recognition to be implemented to promote the rights of indigenous peoples. Government agencies dealing with indigenous peoples, e.g. Ministry of Home Affairs, Ministry of Law and Human Rights, Ministry of Culture and Tourism, Ministry of Forestry, Ministry of Agriculture, Ministry of Social Affairs, Ministry of Fisheries and Marine Affairs, Ministry of Public Works and National Defence Agency, specifically focus on the recognition and protection of the rights of indigenous peoples. Generally, the recognition of indigenous peoples' rights as a whole is difficult to implement.

Implementation of International Agreements in Indonesia

International agreements made with other countries and international organisations subject to the international legal regime have been signed and ratified by the government, whether bilateral, trilateral, regional or otherwise. Indonesia already has a law on international treaties, which is Law Number 24 Year 2000 on International Treaties. International agreements pursuant to Law Number 24 Year 2000 are agreements in certain forms and names governed by international law, are in writing and creates rights and obligations in the field of public law.

The creation and ratification of international agreements between the Indonesian government and the governments of other countries and international organisations subject to international law are very important legal acts because they bind the state to other international legal regimes. Therefore, the making and ratification of an international agreement is subject to law.

According to Darmos Dumoli Agusman, international agreements in Indonesia have experienced three different legal phases. The first period was 1945-1960, where international treaties were based on three constitutions, namely, the 1945 Constitution, the 1945 Constitution of RIS 1949 and the 1950 Constitution. The second period was 1960-2000, where although based on the 1945 Constitution, international treaties was subject to the Letter of the President No. 2826 / HK / 1960 dated August 22, 1960 (Presidential Letter 2826 in 1960). The third period is from 2000 until now, where international treaties are subject to Law No. 24 of 2000 on International Treaties. The international treaty law is essentially a codification of Indonesian practices guided by the Presidential Letter No. 2826/1960 (Damos Dumali Agusman; 2012: 1).

Prior to the enactment of Law Number 24 Year 2000 on International Treaties, the authority to make international treaties was contained in Article 11 of the 1945 Constitution, which states that the President has the authority to make international agreements with the approval of the People's Legislative Assembly. This provision does not explain the procedure. The Presidential Letter 2826 of 1960 tried to elaborate Article 11 of the 1945 Constitution of the Republic of Indonesia and became a guide in the process of ratification of international agreements. Approval of international treaties by the government shall be done to the extent required by the international treaties and the fulfillment of the procedures of ratification provided by law. Legal approval requires the approval of the House of Representatives, while approval by the President's decision only requires a notice to the Parliament (Selfriani; 2016: 20).

Within the mechanisms of function and authority, the DPR may examine statements from the government on the international treaties that have been made.

If it is deemed to be detrimental to national interest, the treaty may be annulled at the request of the People's Legislative Assembly, in accordance with the provisions of Law Number 24 Year 2000, which states as follows:

> "The ratification of the international agreement referred to in paragraph (1) shall be made by law or by the President's decision"

Law Number 24 Year 2000 regulates aspects related to the making, validation, enforcement and storage of international agreements. Related to the issue of ratification, Law Number 24 Year 2000 does not use the term "approval" but "ratification" of international agreements. Law Number 24 Year 2000 states that ratification is a legal act for the confirmation of an international agreement. The ratification of the international agreements is divided into four categories:

a. Ratification: This is a situation when a country authorizing an international agreement signs it.
b. Accession: This is a situation when a country accepts to become a party to an international treaty already signed by other parties.
c. Acceptance or approval of a statement by a contracting state of an international treaty on the amendment of that treaty.
d. There are also international agreements that are self-executing (directly applicable at the time of signing).

Article 10 of Law Number 24 Year 2000 stipulates that the ratification of an agreement shall be the law when it concerns the following matters:

a. Political issues, peace, defence and state security
b. Change of territory / state boundary setting
c. Sovereignty / sovereign rights
d. Human rights & environment
e. Establishment of a new law
f. Foreign loans / grants

The approval of an international treaty by law is done on the basis of the content of the treaty and not the form and name of the agreement. The mechanisms and procedures of foreign loans and/or grants with the approval of the People's Legislative Assembly will be regulated by a separate law.

International agreements in accordance with Law No. 24 of 2000 are ratified through an Act of Parliament and the President's decision. The ratification does not necessarily make international treaties an Indonesian national law but makes

Indonesia tied to those international treaties. The entry into force of international agreements need to be made more specific by the laws ratifying them, such as those made on 30 September 2005, when during the plenary session of the House of Representatives, two draft laws (RUU) concerning the ratification of two international covenants in the field of human rights (HAM) became Law. The two Covenants are the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. The ratification of these two covenants was carried out by making declarations affirming and placing the position of Indonesia as a state that affirms the promotion and protection of human rights. Thus, Indonesia will have a stronger basis for the implementation of human rights promotion and protection.

International agreements that do not require ratification in its enactment usually involve technical issues or the execution of an agreement. Such international agreements may enter into force immediately after the signing or exchange of diplomatic agreements or documents, or any other means agreed in the agreement by the parties. Agreements falling under this category include agreements whose content regulates technical cooperation in education, social life, culture, tourism, health information, agriculture, forestry and inter-provincial or city cooperation. International agreements shall enter into force and bind the parties after they have complied with the provisions of such agreements.

Regarding ratification of treaties, the signing or accepting of a treaty shall not necessarily be interpreted as binding on the parties to the treaty. The signing of an international agreement requires approval to be binding. The treaty shall not be binding on the parties before the agreement is ratified.

A person appointed to represent the government for the purpose of accepting or signing a treaty requires a power of attorney. Officials who do not require a power of attorney are the president and the ministers. If an international agreement concerns technical cooperation regarding the implementation of an existing agreement and if the content is within the scope of the authority of a government institution, whether departmental or non-departmental, the signing is conducted without the need for a power of attorney.

The Impact of International Treaties on the Rights of Indigenous Peoples in Indonesia

1. International Treaties in International Relations

In the current era of globalization, no country is self-dependent in meeting its needs, which include maintaining its survival and improving the welfare of its citizens. In the execution of international relations, a country needs international treaties. International agreements have several names, such as convention, treaty,

charter, covenant, final act, declaration, memorandum of understanding (MOU), agreement, protocol, etc. These names all have the same binding force on their parties (I Yoman Nurjana; 2008: 53).

International treaties under Article 2 Paragraph 1 Sub-paragraph A of the Vienna Convention 1969 on the Law of Treaties are agreements made by States in written form and governed by international law. The Vienna Convention of 1969 can only be used in disputes concerning treaties established between states. Disputes concerning treaties involving non-state actors, for example international organisations, shall be governed by the 1986 Vienna Convention on the Law of Treaties between States and International Organisations or between International Organisations. According to Mochtar Kusumaatmadja, the agreement is held between members of the community of nations and aims to inflict certain legal consequences. Further, under Article 1 Sub-Article 1 of Law No. 24 of 2000 on International Agreements, international treaties shall be agreements in certain forms and names, subject to international laws, made in writing as well as giving rise to rights and obligations in the field of public law.

From the definitions given by these sources, it appears that the important requirement for an agreement to be called an international treaty is that the treaty is subject to international legal regime. International agreements play an important role in international relations, as they are the main instrument of international transactions or relations. Cooperation in various aspects of the life of a state is manifested in the form of international agreements, such as international trade, defence and security, environment, human rights, etc., which may be bilateral, trilateral, regional and global. Through international agreements, each country outlines the basis of cooperation, organises various activities, and solves various problems for the sake of community survival. In addition, international agreements serve as a means to enhance international cooperation, which ultimately is expected to improve the welfare and prosperity of the people. International agreements are very important for a country to protect its interests in international relations.

A special law should be enacted to reorganise the relationships between indigenous peoples and the state in the future by prioritizing the principles of justice, transparency, upholding human rights, non-discrimination and pro-environment treatment. This special law must also be able to overcome the issue of sectionalism that has been going on. The law will recognise and protect indigenous peoples as well as acknowledge adat communities as full citizens of Indonesia. Legal recognition is done by giving flexibility to indigenous peoples. The stages in the process of recognising the rights of indigenous peoples are as follows (I Yoman Nurjana; 2008: 53):

1. Identification is done by the indigenous peoples (self-identification) but must also be confirmed by the community around the indigenous peoples.
2. Verification is done by the Indigenous Peoples Commission located in a regency and at the provincial level. The results of the verification shall be made available by the Regional Commission of Indigenous Peoples to the governor to be confirmed as the basis for the government to establish cooperation relations with other countries, international organisations and other legal subjects.

One of the key principles in recognising and protecting indigenous peoples' rights is principle of participation (Rafael EdyBosko; 2004: 45). Participation is the involvement of indigenous peoples in every process of recognition and protection of their rights. Ideal participation is "full and effective participation" in development where everyone in the community is involved in all stages and becomes the decisive party in decision-making concerning all programmes or projects undertaken that affect the livelihoods of indigenous peoples through the following:

a. Supervision of policies and programmes of other state agencies in recognising and protecting the rights of indigenous peoples.
b. Facilitate resolution of conflicts between indigenous peoples and state institutions and companies with principles.

2. International Treaties and Rights of Indigenous Peoples

Developments in the implementation of international relations are concluded by the process of international agreements. In the implementation of international relations, countries mostly consider three things, namely freedom, equality and effectiveness. In international relations, there are at least five basic social values that are expected to be safeguarded by every country, and they are security, freedom, order, justice and prosperity. These five values are the very fundamental social values of human beings that must be protected or guaranteed. Security is a fundamental value in terms of realist theory. To obtain national security, a state arms itself in various ways and participates in alliances with other countries.

Freedom is a basic social value that is also pioneered by liberal theorists, which means that international relations can be characterized as a world in which states work together to maintain peace and freedom and pursue progressive change. Order and justice as developed by adherents of the theories of the international community means that the state is an actor responsible for maintaining order and

advancing international justice. Similarly, the welfare value developed by adherents of the theories of international political economy means that countries now try to form and implement economic policies that can maintain the stability of the international economy.

Indigenous peoples of the world, who inhabit about 20 percent of the earth's surface, accept these basic values without realizing their importance. In addition to other visible challenges, social and political issues, government, large enterprises and non-governmental groups influence the access of indigenous groups to resources and cause human rights abuses. Some indigenous peoples in Indonesia and around the world have suffered greatly, since they experience difficulty in obtaining their rights to land and the environment, conducting sustainable economic activities, protecting their original languages and gaining traditional identity and resources commonly provided by nature. This is due to uneven economic, infrastructural and social developments (Bernadius Steni; 2009: 30).

Opposition to the law and tradition is usually the main problem. The state represented by the government regulates its inhabitants, including indigenous peoples, and has tried to enforce the rule of national law to accommodate the community in order to balance and actualize the sociological approach in making laws and legislations. The legal function in national development needs to be taken into account by the government in regulating indigenous groups.

At the international level, there is the UN Declaration on the rights of indigenous peoples, which provides international arrangements to safeguard the basic rights of indigenous peoples and to promote peace and good relations between each group and the state. Article 2 of the declaration states that communities and individuals have the right to be free from all forms of discrimination in exercising their rights, in particular on the basis of the origin of indigenous peoples as well as their identities. Therefore, equitable development is needed to accommodate the rights of indigenous peoples in their own land.

The various cases relating to the international treaties affecting the rights of indigenous and tribal peoples in Indonesia are as follows:

1. Contract of work agreement between PT Freeport Indonesia and the Indonesian government. PT Freeport Indonesia is a company in Indonesia; majority of its shares are owned by Freeport-McMoRan Copper & Gold Inc. of the United States. Freeport is the largest gold producer in the world because of the Grasberg mine in Papua. Conflicts between firms and indigenous peoples occur due to the neglect of indigenous peoples' rights and limited access to natural and the environmental resources.

2. Mining dispute between Samawa communities and PT. Newmont Nusa Tenggara. The rights of indigenous peoples to the land and the environment are neglected. Exploration activities in Batu Hijau and Dodo have been carried out since the contract between PT. Newmont Nusa Tenggara and the Indonesian government was approved. In practice, the contract caused a dispute between the indigenous people of Samawa and PT. Newmont Nusa Tenggara due to investment in oil palm plantations in Riau Province and bush burning in Sumatra Island and Kalimantan every year. Forest and land fires are used to clear the plantation area, which leads to indigenous peoples losing land meant to sustain their lives. The various problems affecting indigenous and tribal peoples are related to the various licenses granted by the central and regional governments based on agreements with other countries and international organisations, with or without regards to international law, without the consent of the indigenous peoples and involving the use of local territory.

The goal of the implementation of international agreements is to enhance international relationships, which promote the development and welfare of communities. However, the development is still one-sided and has not touched the indigenous people. Indigenous peoples also have not been used as legal subjects. The conflicts due to the management of natural and agricultural resources have the potential to continue unless certain steps are taken: First, there should be a moratorium on all permits of companies in the fields of plantation, forestry, mining and coastal areas. Second, handling of conflict by violent means should be stopped. Third, a special institution that works to resolve agrarian conflicts by issuing recommendations should be established. Indonesia should not only pursue financial benefits, such as taxes, dividends or royalty sharing from the mining sector, but must also focus on economic benefits and social welfare of the society. The government must have a clear vision in managing natural resources. In this regard, the government must have a clear policy on how to utilise all natural resources owned for the economic progress of the Indonesian nation.

Indigenous peoples need a special law that provides recognition and protection of their rights. The special law should be able to monitor the relationship between indigenous peoples and the state in the future by prioritizing the principles of justice, transparency, upholding human rights, non-discrimination and pro-environment treatment. This special law must also be able to overcome the issue of sectionalism that has been happening in various government agencies in dealing with indigenous peoples, so that indigenous peoples will be treated as full citizens of Indonesia. Recognition should be done by allowing the customary communities

to perform self identification and verification through the Indigenous Peoples Commission in the regency and at the provincial level (Decision of Constitutional Court No: 35/PUU_X/2012 on Inauguration of Indigenous Forests).

The existence of indigenous and tribal peoples has not been fully recognised in relation to natural resource management and community rights to the environment. Access to the environment by indigenous people is often in conflict with government policies in the field of investment. Recognition must be accompanied by regulations and legislation supporting the rights of indigenous and tribal peoples as well as paying attention to several approaches that accommodate the interests of indigenous and tribal peoples in Indonesia as a whole (District Law No.16 Tahun 2008 on Dayak Indigenous Institutions).

3. Involvement of Customary Law Community in International Treaties

Various conflicts affecting indigenous peoples can be prevented or resolved by implementing the mechanism of prior informed consent, an important procedure. The concept is rooted in the traditions and customs of rural communities in Indonesia. In the context of natural resources, this clause provides assurance that affected people should be consulted without coercion, before permission is granted by the government. The provision of information should disclose the advantages and disadvantages and legal consequences of a particular activity.

Policies relating to recognition and respect for indigenous and tribal peoples' rights over their ulayat area are still more political rather than focusing on technical and economic issues. Efforts to strengthen community capacity in institutional, business and technical management have not been a top priority. A policy that requires foreign investors to involve community members in the process of technology transfer and ensure the development of the capabilities of indigenous peoples is needed.

The issuance of Decision of Constitutional Court No.35 / PUU-X / 2012 on Inauguration of Indigenous Forests gives greater encouragement to customary communities to enter the legal arena, i.e. using the law as a means to fight for its existence and rights over land and other natural resources. The establishment of a local regulation to govern community involvement through customary institutions will provide access for indigenous peoples to participate in agreements made by the government regarding the management of its natural resources and land. One example is the formation of local regulations, such as indigenous institution in Dayak of Central Kalimantan Province.

Kedamangan Province of Central Kalimantan Law No. 16/2008 on Dayak Indigenous Institutions (hereafter referred to as the Dayak Indigenous Institutional Regulation) is a substitute for District Law (*Perda*) No. 14/1998, and it regulates the existence of customary institutions that have grown within communities and

customary institutions formed at various levels according to the level of government administration. The Dayak indigenous institution legislation states as follows:

> The Dayak Indigenous Institution is a social organisation that developed naturally and evolved along with the history of Dayak indigenous community and its customary law territory and is entitled and authorized to organise, manage and solve various problems of life by referring to custom.
> Mechanism:
>
> a. Dayak customary institutions start from the national level down to the village/*kelurahan* level and have hierarchy and coordination relationship.
> b. Customary institutions comprise traditional Dayak adat assemblies, Provincial Dayak customary councils, Dayak customary councils of districts/municipalities, customary councils of Dayak sub-districts, and customary councils of Dayak villages.
> c. The village level is called the *mantir*, and a higher level is called the "peace".
> d. The priesthood is led by the Adat Chief, who is the adat leader.
> e. The Adat Chief is authorized to uphold Dayak customary law in an adat territory.

The establishment of customary institutions in each region of indigenous people in Indonesia should continue, so as to provide empowerment and fulfillment of customary community rights in order to achieve the implementation of development goals for prosperity as much as possible for the community.

Conclusion

Through international agreements, each country outlines the basis of cooperation, organises various activities, and solves various problems for the sake of community survival. In addition, international agreements also serve as a means to enhance international cooperation, which ultimately is expected to improve the welfare and prosperity of the people. International agreements are very important for a country to protect its interests in international relations.

Indonesia's geographical location between two continents and two oceans makes it a crossroad of world traffic, both air and sea traffic. Indonesia is a crossing point of world economic activities regarding trade between industrialized countries and developing countries.

The entry of foreign investment into Indonesia is instrumental for economic growth and national development, but various regulatory laws and government-specific investment policies set forth in treaties constitute a serious threat to

indigenous peoples because investment is taken as a priority at the detriment of societal welfare.

It should be understood that the survival of indigenous and tribal peoples is closely linked to land, territory and natural resources, and government policies and programmes should recognise this fact. However, in reality, the continued existence of indigenous and tribal peoples is threatened by rulers as well as foreign business actors because of the complicated procedures of treaties and the limited number of indigenous people that understand the logic in law. The result is that the participation of indigenous peoples in public decisions on all economic, socio-cultural and political issues is limited.***

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