

Identification of the Status of Indigenous Peoples: Implications of the Ratification of the Omnibus Law: Critical Review

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ABSTRACT

Identifying indigenous peoples' legal status after the new Omnibus Law was passed is very important to do. Given the several points that govern the existence of existing customary community laws, it has now changed so that local communities' legal rights, particularly the rights to environmental and land management in the regions, have changed. To ascertain the extent of changes that we have analyzed with an in-depth exploratory approach that involves coding and critical evaluation to answer this research question. In the data collection process, we rely on recent data literature studies and present them with a descriptive qualitative design. By considering the literature and review results from several published studies, we can summarize the findings, including that since the Omnibus Law was passed, a series of changes in indigenous peoples' legal rights have also changed. The implication is now that customary rights are fragile because the national law derived from the Omnibus law legally gives privileges to state power, such as points that regulate investment in land and the environment, which no longer side with the legal rights of indigenous peoples. This change is in stark contrast to democratic law in Indonesia.

KEYWORDS

Indigenous Peoples Law, Omnibus Law, Job Creation Law, Legal Qualitative Studies.

Introduction

Indigenous peoples are universally identified as persons or citizens who have the right to respect for peace, as collectively or as individuals, of all human rights recognized in the United Nations charter, the General Human Rights Act, and international law. (Petersmann, 2002; Abdeldayem & Aldulaimi, 2020; Absar et al., 2010; Abuzyarova et al., 2019). This paper will discuss how indigenous peoples are identified at the individual level and as part of the affected community as members based on history. They have lived long enough in the pre-colonial period, a group that has healthy social and cultural strata, clear territories, and Having natural resources socially and politically economically has a robust system long before state or modern life so that indigenous people must be identified as part of the community in that country. Now the question arises how these Papuans identify the legal status of indigenous peoples complete with their socio-culture. We must understand how to understand indigenous peoples' identity to be part of the citizens who have recognition.

There may be many definitions and research evidence that can be taken to answer the identity status of indigenous peoples. Indigenous peoples are the basis of indigenous peoples in society who are often identified as society's origin. Like the name of the ethnic group or nationality they own and what village or city they come from, maybe they have left the area they will leave behind. People will understand the origin so that no people and countries misidentify themselves as having full rights, both in terms of geology and descent of origin. They grew up and grew up in what parts of the country and regions. However, then the origin of their grandmother is the kind of identification and status of indigenous peoples in the state's eyes after the state comes with symbols and regulations that narrow the space for local indigenous peoples to move. (Simmons, 2009; Beitz, 2011; Landman & Carvalho, 2016).

If we want to know the status of the existence of natives in a state community, it will probably be a big major how that person identifies himself as an indigenous person or the originality of a small group in the eyes of state law. What is the status of other groups who come from all corners of the country? This is a study of indigenous peoples' legal metadata to provide information such as understanding a particular group of people whose identities are feared will disappear in the changing socio-political strata. (Canessa, 2007; Sloan et al., 2015). Because this group is included in the area of death, studies are needed to understand indigenous peoples to define the existence of indigenous peoples. The next question is what and how is it related to state-society with how the socio-economic characteristics of a group of people exist in the era of urbanization where people from outside the region continue to come, which impacts the loss of social status of certain indigenous groups.

Some may understand when the term native is something like an offense. When alluding to terms like pribumi or like people, people will try to say it like but exclusive. Some people like to offend that word, whose meaning still does

not seem to have the connotation of a good understanding. Somehow native speakers in that contact are used by many to find good terms. Community groups often say what community the indigenous people are here for. They ask about the adat, which does not mean to say anything slightly harmful or offensive terminology. Scambray, (2013) noted that a *country has its indigenous or native inhabitants, mining, and improvement contestation in remote areas*. Maybe we can say that each of us has a relationship with a particular indigenous community or group of people no matter where we live, and we come from so we all belong to an island, a country somewhere going far before, and then we go to another place so we might lose like our natives to local people, and this is something like we cannot say something and stay and like offensive brats climbing their journey and like taking back their belongings to historical lens cultural heritage and even power and it is politics that when we connect who we are to we have the right to say that we are all indigenous peoples.

Then we can connect with indigenous peoples in Indonesia, so how the existence of indigenous peoples because Indonesia has a low level and regulations place these communities as a way of enforcing the same way as part of a fair citizen. (Posey & Dutfield, 1996; Riley, 2004; Tobin, 2014). Everyone understands that Indonesia is a plurality country with a sizeable legal source document consisting of three in Indonesia. For example, colonial law such as the legacy of the colonial nation, then Indonesia has a living community law and talks about the customary law community in controlling the management of natural resources and religious law sources. So live the three laws, each of which has a portion and a variety of problems that can be managed with the three kinds of law sources.

Then how the state treats one of the laws of indigenous peoples in Indonesia as an independent state, Indonesia gets something special. This contradicts Indonesia's spirit to save from colonialism, and we can now see how the state treats each law. Long before the existence of the Omnibus law, the Indonesian government, through the legislature. Indonesia had already drafted regulations on indigenous peoples' laws, which were called the laws of the village but not one and the custom of protecting the community. Then call the regulations of the customary community regulations. These two regulations are united under Article 18 of the 1945 Constitution as customary community law, which is considered one of Indonesia's very special statuses. So this time, we will talk about Indonesia's international situation being the Omnibus law being the regulation by Indonesia of government regulations except to support the protection of customary rights because many citizens live there. (Hamid, 2020; Amin, 2020; GS & Sundoyo, 2021; Anggraeni & Rachman, 2020). All of them are protected by the Indonesian state. The community can see how these indigenous peoples are still in conceptual theory or have been applied. Let us see what we will analyze from different minds and perspectives or contain some literature and some evidence of research conducted by various experts in their fields. For this reason, we try to find out whether this special customary law is only in concept in discussion or reality in the field.

In understanding community law, two things must be recognized: what territorial areas they are and their genealogy so that it becomes a basis for understanding. (Brighenti, 2010). When we talk about how to protect public law, for example, the relationship with the Constitution as the primary law. We have to look at the territory where they live, where they come from in Indonesia, many local people, many laws, religions, and religions in each area. Because people have their systems, and they own the land above their culture and ancestors. So it is a big job for Indonesian law to recognize individual rights and property so that in Indonesia, it has to recognize the laws of specific ethnic communities based on geographic areas they grew up in and other cultural bases. The government will consider how the Indonesian people can manage justice and peace between indigenous peoples' laws, national laws, and the religious laws of thousands of religions in Indonesia.

Duncan, (2007) noted that special autonomy and decentralization on indigenous ethnic minorities in Indonesia have also changed the minority indigenous peoples must have a status such as special autonomy and not conflict with Indonesian national law. So that trinity autonomy in customary law should be given the same autonomy among what powers are given to local communities based on the low concept of recognizing national law improvements. So this such a low perspective must be eliminated and equalized as social change in the local community. The Indonesian state must create a democracy where people can unite, consisting of many different origins and homeland. So this is the duty of the state for Indonesia; it is the duty to follow every other legal difference in every part of society in a region so that in the beginning, it can be diluted based on the community law approach its position is recognized in the nuances of national law. (Tobin, 2014; Bennett, 2015).

However, sometimes problems come where outsiders come, and local people feel disturbed by their customs and habits passed down from generation to generation. (Tamanaha, 2008; De Búrca, 2010). On the other hand, they act

based on the norms of national law, which are often not synchronized with the law of customary placement so that local people feel that their customs and ways of life are being driven out by national policies and laws that have been forced so that even conflicts cannot be avoided. Because government provides legal means and opportunities to destroy nature, it is about how to make Indonesian justice respect the cultural space that belongs to indigenous peoples and become one of the heirloom dishes. There was only a local change in Indonesia's new look, something that went against what the people in the area had been doing for years and what the lowly Indonesian people could do.

As the new Omnibus law, how can the Indonesian government make customary law a priority in certain areas so that the national law cannot fully enforce local customary law to surrender to the new law without agreement at the community and local government levels? The orthodox community must respect the laws of their ancestors' heritage while respecting others' laws. (Chechi, 2014). This requires understanding in certain regions to not be fully controlled by the forces of national law and local customs, which are considered lowly. Sometimes this can affect the regulation of national or state systems for the use of local resource management. The results include socio-political economy and culture so that everything must have a specific body to control the law making it like special autonomy for local communities with everything attached to costumery. In addition, community law or customary law must exist about the 1945 Constitution and other articles that did not exist before the amendment, before the ratification of customary law. (Butt & Lindsey, 2008; Butt & Edward Siregar, 2013).

Every law in Indonesia must be as good as possible under the necessary conditions of article 18 of the 1945 Constitution. This is public supervision that must be carried out precisely, as there are legal products that are already following the people's wishes. Do not even use this law to become a strong excuse for destroying natural resources in indigenous communities in the regions.

However, since the Omnibus law came, the regional law pairs disappeared and were slowly being replaced by the Omnibus law derivatives. (Dodson, 2015; Clopton, 2018; Sudipa et al., 2021; Grzega, 2021; Li & Huan, 2019). This makes it unusual for indigenous peoples if they are forced to accept it so that gradually in the future, they will violate the state's laws. This is what not all of us want to happen. Rakta is often forced to admit their land was taken after the pretext of investors in areas where the central government has controlled these resources under the new law is; something like that is happening today, and all adat communities are very objectionable to adat resistance.

Many think that this law is trying to overcome and revoke this special or customary autonomy in the DPR's omnibus law regulations, which causes the local community law to lose its rights. (Razi, 2020). To control the extent to which the state treats indigenous peoples' laws, in the next section, the author will discuss how this community law has not been very good at regulating something even they do not have protection from the state anymore. In indigenous peoples living in areas with natural resources no longer benefit from community culture. The Omnibus Law has been passed, and the local indigenous peoples have lost their balance in Indonesia, which many parties have highly opposed. (Sihombing & Hamid, 2020).

How can the Omnibus law contradict the local community in the process of being ratified? Should no people get, their rights to be forced. They should have been invited to come here for a local dialogue on copyright work. Through the local indigenous people saying something, it should become clear why this happened in the democracy of the Indonesian state. This is one thing that has damaged democracy why the Omnibus law is gradual without any more participation in the local community.

So the Omnibus Law can consider the new law that goes back to the 1945 Constitution and human rights law in this democratic country. (Davis, 2008; Putrayasa, 2021; Khamari, 2021). There should not be such objections through respect to the 1945 Constitution towards these indigenous peoples. This is indicated by the number of regulations to protect environmental, and ecosystem management ignored in the Omnibus Law so that no local wisdom approach is applied here. So that local community law is far from being in existence which previously became something of great benefit for indigenous peoples and strengthening for national law and local government law. In this case, the community has tried to recreate a law for indigenous peoples. This could provoke instability in Indonesia's democratic future. (Henley & Davidson, 2008). In the book in the name of adat, a sectoral and regional understanding on reform, value traditional, and democratic practice in Indonesia.

Many examples of derivatives from this Omnibus law do not exist to support indigenous peoples' law because this new law article number has changed so that its function has changed a lot because there is no discussion between the government and indigenous peoples this is a contradiction. (Sihombing & Hamid, 2020). National law does not respect community law customs in various sectors. This should not happen more like a lack of recognition of the existence of local communities. It can be said that national law has taken over everything from the locals. It is as if the local indigenous community has lost something only for the central government's sake, the national interest that controls all natural resources owned by all marine natural resources potential due to the presence of the Omnibus law, which only gives sunshine to specific groups. When indigenous peoples' laws are lost, the meaning of administration in the eyes of national law, which considers it not a full crime against local communities who do not save this change.

In other words, indigenous peoples must continue to defend their rights while the local community protection policies have slowly disappeared. In comparison, they imagine that there will be more central government regulations that block local rights regarding investment reason regulations that can undermine the recognition of local community laws so that this will again cause problems in the future, where the tendency or district government does not have substantial power to manage its territory. If the central government has more control over the new Omnibus in the future, this is missing for the local community. (McAdam, 2019).

Perhaps this can determine the regional government law because every legal product can get significant legality from the central government to reduce the regional government's authority. This should look again at the regulations of the high commission in the central government, and any provincial regulations can be controlled by the high commission of the omnibus supreme court, which exploits the reasons for future investment. In other words, this new law is very detrimental to the community as they continue to live well in the project (Suryasa, 2019; Werdistira&Purnama, 2020). Moreover, many should know that the best community customary laws have generally governed and given more welcome to other investors by making regulations. On the other hand, foreign investors recognize the process of recognition to local communities is given to local governments. Local leaders do not have the power to do so, rejecting the government. In this case, Garnaut, (2015) study on Indonesia's resources boom from an international perspective: policy dilemmas and options for continued strong growth.

In contrast, in the uncertainty of legal instruments for society, the Indonesian government has made regulations to welcome foreign investors quickly and pass them on to its people and make opportunities for local people gradually disappear. The right to community law is based on international law. This organization has been ratified by the Indonesian government seeing the new omnibus law being implemented in Indonesia, so this research needs to prove our claim that the past omnibus law has manipulated the weather community's customary laws. From an experience perspective, evidence from research conducted by experts in the field would be used in this project because funding is a new understanding to see this problem. Cahyono et al., (2020) said that the community needs more resolution to end the national conflict movement to save the country's natural resources from unfair political practice.

Method

Recognizing the lawful status of native people groups of Indonesian people after the new Omnibus Law was passed is vital to do. Given the few focuses that administer the presence of existing standard local area laws, it has now changed, so the legitimate privileges of nearby networks, especially the rights to natural and land the districts' executives, have changed. To discover the degree of changes, we have broken down with an inside and out an exploratory methodology that includes coding and basic assessment to discover answers to this examination question. We depend on late information writing studies in the information assortment measure and present them with an engaging subjective plan. The thought of the writing and survey results from a few distributed investigations is to fix the question. This design followed the qualitative experts such as Bradley et al., (2007; Yanow, 2006; Raskind et al., 2019; Hancock et al., 2001).

Result

Nugroho, (2021) in a book review: 90 years of Prof. Emil Salim; studies towards Indonesia have just taken off in 2045, appointed Prof. Salim as a person of sustainable development towards Indonesia. His study said the impact of the distribution of the KEHATI Foundation in 2020. The book examines the challenges of progress in Indonesia's organizations, such as center pay traps and the nature of Indonesian human resources, whose profitability must also

be improved. The procedure used to achieve this is school change that produces graduates with a developmental attitude.

Orinaldi, (2020) the Relationship Between Omnibus Law in the Covid-19 Pandemic Era and the Economy in Indonesia. This exploration expects to decide the connection between the omnibus law in the Covid-19 pandemic time and Indonesia's economy. The law was drafted without a satisfactory public meeting, leaving associations, everyday society gatherings, and scholastics ignorant of its substance. Indeed, even now, the law has started to be executed in the country's financial exercises. Perhaps the most harmful parts of the law are its arrangement inside the ecological family. Scientists trust it is intended to extend the focal government's job and altogether lessen public investment in dynamic cycles.

Jordan-Bychkov & Kaups, (1989) examined the Omnibus Law's ratification and its impact on agriculture and the environment. They say Indonesia is a law-dependent country, so all state organizations must be established under the law. Law is also influenced by financial variables, which have reasons for government assistance, making deliberate social demands, making demands, equilibrium and equity. The technique used in this examination is juridical standardization. Omnibus law actions can undermine agricultural and climate areas, the lack of regional support is financial backers as long as they use land rights, this arrangement looks top down so that local areas are in a weak position and have no share. In any way, although what is consistently underlined is the framework of financial support for the use of land rights and identified with natural administration.

(Zuhri, 2021) examines Omnibus Law in the corner of innovation in the legal tradition. The Job Creation Law is framed using the omnibus law technique during a pandemic condition due to Covid-19. Multiple laws encompassing and asynchronous make it necessary for public authorities to improve by reducing several guidelines to one guideline so that there is an appropriate environment to contribute. The explanation of the public authority behind the improvement of state customs today is to remove the disgrace of disharmony, over-guideline, and cover up the guidelines in several areas. Utilization of the Omnibus law is a decision by the public authority in making guidelines for financial repairs, he said. The Indonesian people's legal customs are curious about this strategy so that when the Job Creation Law is passed, it gets a very large dismissal.

Likewise, Corputty, (2020) research (2020) states that the Omnibus law is an alternative sector for curing regulatory obesity. The state of sectoral guidelines in Indonesia is already healthy; the issue of concrete sectoral guidelines will impact the demise of economic development and progress. With the idea of the omnibus law that rearranges the general guidelines that cover one law, the state of stoutness guidelines can be lightened. This study tries to see from the legal perspective of state organizations in explaining the solid-state in sectoral regulations in Indonesia by breaking down optional information as laws and libraries identified with sectoral laws.

Nahak, (2019) examines the consequences of the land law on relocating the Republic of Indonesia's capital from Jakarta to East Kalimantan and choosing a right in the Agrarian Law for a business that depends on local area assumptions and closest insights. Studies show that the direct contribution of land law in moving the nation's capital is directed at the regional government's power, the Central Government, individual community groups (standard / ancestral), legal elements of the government, and the private sector. The game plan of discord and dark norms is directed based on. At the stage of detail (authoritative strategy), planning, formation, and enactment of the Law on Implementation Stages (legal/legal approach) and actualization guidelines.

Hayati, (2020) conducted a juridical review of the Omnibus Law's idea in integrating legal guidelines in Indonesia as a country that adheres to common law. Indonesia has many legal guidelines, from vital to territorial. Some many laws and guidelines surround them, both vertically and evenly. Unify and encompassing law; harmonization is required. The idea of Omnibus law has been effectively implemented in several countries, but Indonesia is still relatively new to this term. Harmonization of enforcement is essential for a legal turn of events and for making legal certainty in Indonesia. However, to make a law with the idea of Omnibus Law requires an in-depth and extraordinary study and contains various meetings so that the drafting is straightforward.

Puspitasari & Okitasari, (2021) analyzed corpus-based notifications about the standardization of Omnibus law. This examination is based on a corpus taken from the statement of a Twitter client who made use of the Omnibus Law rejection hashtag. Collocation logs and checks are used to see examples of hashtags used by individuals in communicating dismissal of the Job Creation Law. There are 38 different hashtag usage styles, most of them exploiting the thing behind the hashtag "tolakomnibuslaw." There are also five essential theme hashtags, including

the 'tolkomNibuslaw' hashtag. The research is that there are five types of discourse that emerge and are flooded by confident discourse and types of analysis.

Wardhani, (2020) examines the disharmony between the Land CiptaKarya Bill and the principles of Law Number 5 the Year 1960 concerning Agrarian Principles (UUPA). This research intends to examine the critical issues in the Land Copyright Bill, which are comparable to the standards contained significantly in the UUPA, and investigate the negative impacts that might arise if the Job Creation Bill is implemented in local life activities. This investigation uses a standardization strategy by leading archives that combine essential, optional, and tertiary materials. The final results of this examination show that the Job Creation Bill is not aimed at all Indonesians in acknowledging legal certainty and cannot be seen as an "applicant" for halal goods totally and comprehensively because its readiness is outside the standards of the UUPA. Whenever realized, the Land Chapters' Creation Bill may ignore the privileges of small individuals with weak bargaining positions.

The same thing was done by Rahmawan & Cetera, (2020) where they studied the theory of public belief doctrine in environmental cases. The case study of the doctrine of public trust (PTD) The New Minerba Law stipulates that public bodies are obliged to manage standard assets for the public interest. Entry to the characteristic asset (SDA) of the host has been allowed to meet specific. PTD can be applied if: SDA has a vital role in controlling many individuals' work and the SDA guidelines in the Act fulfill the "rapidly developing individual" component. However, investigations in Article 22, 169A paragraph (1), and section 169B (5) of the UUMB show irregularities with the idea of PTD.

Hamid, (2020) in his study, examines the importance of the Omnibus Law "Job Creation" in Indonesia, conducted a study that seeks to describe the juridical and chronic parts of the implementation of the Manpower Law. The bill is considered to abuse the rights of citizens guaranteed by the constitution possibly. Critical efforts are expected to improve Indonesia's labor law concerning Law Number 12 of 2011 regarding Law Number 15 of 2019. The government and the House of Representatives (DPR RI) must have high political responsibility and will so far legal arrangements and work guidelines depend on standards of clarity of purpose and candor.

Likewise, Jatmika, (2020) states that legal principles are legal medicines that have implications for implementing Omnibus law. According to them, the Omnibus law is another law that contains various administrative substances, which revises several laws without a moment's delay. The omnibus law seems tyrant because one law can cut the remaining laws, while each district's traditional culture is entirely different. The decline and economic vulnerability occurred because the monetary financial framework was difficult to anticipate due to monetary congestion worldwide. The more innovation develops, the more human progress is drawn, wrote Jatmika. This can be envisioned by transforming and strengthening indigenous economies, managing fair market competition without limiting infrastructure, and rearranging spending frameworks.

Discussion

As we have stated above, this study paper aims to identify the legal status and indigenous peoples after introducing the Omnibus Law. We can answer this question with high valid and reliable values through a review of legal literature and legal journals. By considering the findings above, we can discuss law and justice for indigenous peoples who hope for legal justice. So through this discussion, we can explain the importance of the data generated by dozens of legal studies as the new Law Onibus law recently passed. We say these findings have answered our questions supported by the majority of the findings of previous studies. Previous researchers deeply regretted the government's lack of assertiveness in impersonating and validating the Omnibus Law. Whereas the findings data above, many say that the government should teach indigenous peoples and all society levels before this law is passed to the community. According to most of these findings, they think that the application of the Omnibus law only extends and strengthens the central authority over the power of local governments over the management of natural resources and the environment. The same finding was also conveyed by An'Amta et al., (2020) which states that indigenous peoples in the Balai Kiyi area face threats to existing in their hometown areas. Because the points derived from the Omnibus are utterly impartial to the local customary community [pat. While another all also did the same thing Santosa, (2021) who asked for corporate criminal responsibility for environmental pollution and the impact on customary law (A Comparison of the PPLH Law with the Environmental Cluster Omnibus Law).

Behind the study questioning the legality and harmony of Omnibus law for efforts to save the environment through strengthening customary law, some of these findings do not see this Omnibus as a threat to continued environmental protection and the diminishing legal role of indigenous peoples. They even see that the existence of the Omnibus law is an alternative and is responsible for the past ineffectiveness of Indonesia's law. This is also supported by Kharisma's (2020) findings data in his study of the Omnibus law and environmental permits in the context of sustainable development relations. Other opinions are, for example, Fitryantika, (2019) who says there is a need to harmonize the Invitation and Indonesian law through the concept of Omnibus Law.

Conclusion

Based on the discussion of this study's findings, we can summarize that the identification of the status of indigenous peoples implications of the Omnibus Law has answered our hypothesis. The majority of findings confirm the Omnibus law's presence has contributed to weakening indigenous peoples' law, which has been passed down from generation to generation and very aspirational in protecting the environment and preserving natural resources in Indonesia. Most of the studies are deeply concerned about the rush to pass the Omnibus law in a hurry, and the law is very disinterested with the wishes of the indigenous people. Some of them openly say that the Omnibus is a new way for the central government authority to local governments, only because uncontrolled investment increases which can end up destroying the balance of the environment and the harmonization of law between customary law, national law, and religious law which is the legal force in the country.

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