

## ABSTRAK

Pengetahuan Tradisional (PT) merupakan pengetahuan yang dimiliki masyarakat adat atas hasil dari interaksi dengan wilayahnya. Dewasa ini, PT dianggap sebagai komoditas bagi pihak asing seperti perusahaan untuk pengembangan produk yang dapat mengurangi operasional riset dan biaya. Kerap kali, hak masyarakat adat atas PT diabaikan untuk kepentingan komersial perusahaan. Secara internasional, pengaturan untuk mengakomodir PT belum terbentuk, tetapi hak masyarakat adat telah diatur dalam beberapa instrumen hukum.

Permasalahan yang dibahas dalam penelitian ini adalah pengaturan hak masyarakat adat atas PT dalam hukum internasional dan undang-undang negara Brasil dan Indonesia dengan metode pendekatan yuridis normatif.

Hasil penelitian menunjukkan bahwa hak masyarakat adat atas PT diakomodir dalam instrumen hukum internasional seperti ICCPR, UNDRIP, CBD, dan Nagoya Protocol. Sejauh ini, upaya Indonesia dalam mengatur PT yang dimanfaatkan oleh pihak asing secara jelas diatur dalam UU Pemajuan Kebudayaan dengan metode pencatatan PT, sedangkan Brasil telah menetapkan hukum positif melalui *Law No. 13.123, of May 20, 2015* dan *Decree No. 8.772, of May 11, 2016* untuk PT yang terkait dengan sumber daya genetik yang mengakui dan melindungi hak-hak kepada masyarakat adat atas PT dan harus dihormati oleh segala pihak termasuk pihak asing.

**Kata kunci: Hak Masyarakat Adat, Pengetahuan Tradisional, Pemanfaatan Pengetahuan Tradisional, Hukum Internasional, Indonesia, Brasil**

## **ABSTRACT**

*Traditional Knowledge (TK) is the knowledge that indigenous peoples own over the results of interactions with their territories. Today, TK is considered a commodity for foreign parties such as companies for product development that can reduce research operations and costs. Oftentimes, the rights of indigenous peoples to their TK are ignored for the commercial interests of companies. Internationally, regulation to accommodate TK has not yet been established, but the rights of indigenous peoples have been regulated in several legal instruments.*

*The problem discussed in this study is the regulation of the rights of indigenous peoples to PT in International Law and the laws of Brazil and Indonesia with a normative juridical approach.*

*This research showed that the rights of indigenous peoples to TK has been accommodated in international legal instruments such as the International Covenant Civil and Political Rights, United Nations Declaration on the Rights of Indigenous Peoples, Convention on Biological Diversity, dan The Nagoya Protocol on Access to Genetic Resources and the Fair and Equitable Sharing of Benefits Arising from their Utilization to the Convention on Biological Diversity. So far, Indonesia's effort to regulate TK that are utilized by foreign parties is explicitly regulated in the The Law 2017 No. 5 concerning Cultural Advancement with TK registration method, whereas Brazil has established positive laws through Law No. 13.123, of May 20, 2015 and Decree No. 8,772, of May 11, 2016 for TK related to genetic resources that recognizes and protects the rights of indigenous peoples to TK and must be respected by all parties, including foreign parties.*

***Keywords: Rights of Indigenous Peoples, Traditional Knowledge, Traditional Knowledge Utilization, International Law, Indonesia, Brazil***