

# Pengelolaan Hulu Migas di Indonesia: Kajian Regulasi dan Institusi Berdasarkan Pasal 33 UUD NRI 1945 = Upstream Oil and Gas Management in Indonesia: Regulatory and Institutional Review Based Article 33 of the 1945 Constitution of the Republic of Indonesia

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## Abstrak

Negara penghasil minyak dan gas (migas) sangat ditopang oleh regulasi dan institusi. Baik regulasi dan institusi dibutuhkan dalam rangka membangun iklim investasi industri termasuk industri migas yang memiliki karakteristik high risk, high technology dan high cost. Tingginya nilai investasi dan risiko di industri migas khususnya sektor hulu migas menjadikan regulasi sebagai landasan kegiatan usaha dibutuhkan kestabilannya. Apalagi bisnis migas merupakan bisnis dengan durasi kerja sama hingga puluhan tahun. Sementara institusi berkaitan erat dengan negara tempat sumber daya berada yang di beberapa wilayah, negara merupakan pemegang hak penguasaan atas sumber daya alam. Institusi inilah yang kemudian menjadi wakil negara sebagai pemegang hak penguasaan sumber daya dalam menyelenggarakan kegiatan hulu migas. Kehadiran institusi pada pengelolaan hulu migas memiliki peran penting karena dengan fungsi dan kewenangannya institusi dapat menjadikan migas sebagai penggerak kemajuan negara atau justru sebaliknya. Hal ini dikarenakan institusi terdiri dari beragam karakteristik sumber daya manusia sehingga dimungkinkan terjadinya mis-management atau perilaku koruptif yang dapat menjadikan kelimpahan sumber daya alam sebagai resource curse (kutukan sumber daya) bagi negara pemilik sumber daya. Oleh karenanya penelitian ini menjawab pertanyaan mengenai: 1. Bagaimana pengelolaan sektor hulu minyak dan gas di sejumlah negara dalam perkembangan regulasi dan institusi?; 2. Bagaimana pengelolaan hulu minyak dan gas di Indonesia dalam perkembangan regulasi dan institusi berdasarkan Pasal 33 UUD NRI 1945?; dan 3. Bagaimana optimalisasi regulasi dan institusi dalam pengelolaan hulu minyak dan gas untuk kesejahteraan rakyat?. Penelitian ini merupakan penelitian yuridis normatif dan deskriptif kualitatif. Perbandingan juga dilakukan terhadap perkembangan pengelolaan hulu migas khususnya regulasi dan institusi di negara penghasil migas lain yakni Venezuela, Arab Saudi, Malaysia, Rusia, dan Norwegia. Dari penelitian ini diketahui bahwa pengelolaan sektor hulu migas di negara penghasil migas terus mengalami perkembangan sebagai wujud adaptasi terhadap kondisi sosial, politik, ekonomi dan terutama perubahan di industri migas global. Indonesia sebagai negara penghasil migas mengalami perkembangan regulasi dan institusi dalam usaha mewujudkan kesejahteraan sosial dan mencapai tujuan pemanfaatan migas yakni untuk sebesar-besarnya kemakmuran rakyat sesuai Pasal 33 UUD NRI 1945. Namun demikian terdapat tantangan yang masih perlu dituntaskan dalam rangka mendorong perkembangan industri hulu migas nasional terutama berkaitan dengan implementasi regulasi dan kepastian mengenai lembaga pengelola hulu migas. Usaha optimalisasi regulasi dan institusi sudah dilakukan dalam rangka mengatasi tantangan dalam pengelolaan hulu migas untuk kesejahteraan rakyat meskipun implementasi regulasi belum simetris dengan kinerja institusi sehingga kesejahteraan sosial belum tercapai.

.....Oil and gas producing countries are strongly supported by regulations and institutions. Both regulations and institutions are needed in order to build an industrial investment climate, including the oil and gas industry, which has the characteristics of high risk, high technology and high costs. The high investment

value and risk in the oil and gas industry, especially the upstream oil and gas sector, means that regulations as a basis for business activities require stability. Moreover, the oil and gas business is a business with a collaboration duration of up to decades. While institutions are closely related to the country where the resources are located, in some areas, the state is the holder of control rights over natural resources. This institution then becomes the state's representative as the holder of resource control rights in carrying out upstream oil and gas activities. The presence of institutions in upstream oil and gas management has an important role because with their function and authority institutions can make oil and gas a driver of the country's progress or vice versa. This is because institutions consist of various characteristics of human resources so that it is possible for mis-management or corrupt behavior to occur which can make the abundance of natural resources a resource curse for resource-owning countries. Therefore, this research answers questions regarding: 1. How is the management of the upstream oil and gas sector in a number of countries in terms of regulatory and institutional developments?; 2. How is upstream oil and gas management in Indonesia related to the development of regulations and institutions based on Article 33 of the 1945 Constitution of the Republic of Indonesia?; and 3. How to optimize regulations and institutions in upstream oil and gas management for people's welfare? This research is a normative and descriptive qualitative juridical research. Comparisons were also made with the development of upstream oil and gas management, especially regulations and institutions in other oil and gas producing countries, namely Venezuela, Saudi Arabia, Malaysia, Russia and Norway. From this research it is known that the management of the upstream oil and gas sector in oil and gas producing countries continues to experience development as a form of adaptation to social, political, economic conditions and especially changes in the global oil and gas industry. Indonesia as an oil and gas producing country is experiencing developments in regulations and institutions in an effort to realize social welfare and achieve the goal of utilizing oil and gas, namely for the greatest prosperity of the people in accordance with Article 33 of the 1945 Constitution of the Republic of Indonesia. However, there are challenges that still need to be resolved in order to encourage the development of the national upstream oil and gas industry. especially related to the implementation of regulations and certainty regarding upstream oil and gas management institutions. Efforts to optimize regulations and institutions have been carried out in order to overcome challenges in upstream oil and gas management for people's welfare, although the implementation of regulations has not been symmetrical with institutional performance so that social welfare has not been achieved.