

# CHAPTER I

## INTRODUCTION

### 1.1 Background

Since the year of 1982, the Economic and Social Council established the Working Group on Indigenous Peoples to protect the rights of indigenous peoples due to the oppression, marginalization, and exploitation suffered by indigenous peoples. The United Nations defined indigenous peoples as the inheritors and practitioners of unique cultures and ways of relating to the people and the environment.<sup>1</sup> Furthermore, indigenous peoples have retained their social, cultural, economic, and political characteristics distinct from the dominant society where they lived.

The process of the draft was sluggish. In 1994, the first draft of the declaration on the rights of indigenous peoples was submitted and approved by the Sub-Commission on the Prevention of Discrimination and Protection of Minorities. The draft then was discussed by the United Nations Commission on Human Rights (UNCHR) before being submitted to ECOSOC and the UN General Assembly. In 1995, the draft being considered and elaborated by the open-ended inter-sessional working group in the next year. After being revised and considered, the United

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<sup>1</sup> United Nations. (n.d.). Indigenous Peoples at the United Nations. Retrieved February 8, 2022, from Department of Economic and Social Affairs: Indigenous People: <https://www.un.org/development/desa/indigenouspeoples/about-us.html>

Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) was adopted on 13 September 2007 by the General Assembly.

As it is written in the Art. 3 of the declaration, indigenous peoples are acknowledged as collective rights-holders endowed with the rights to self-determination and their rights to pursue their economic, social, and cultural development freely<sup>2</sup>. Moreover, the Art. 4 of the declaration states that indigenous peoples have the right to autonomy in matters relating to their own internal and local affairs in exercising their right to self-determination<sup>3</sup>. Supported by the Art. 23 that states indigenous peoples have the right to determine their priorities and strategies for exercising their right to development<sup>4</sup>. In essence, the UNDRIP was made to emphasize the rights of indigenous peoples to maintain their institutions, culture, and traditions and pursue their actions in keeping with their needs and aspirations. The essential principles of the instrument are to fully express their rights through the discussion of self-determination, rights to lands, territories, and resources, cultural integrity, and respect for existing treaty rights. The declaration reaffirmed the rights of indigenous peoples to be asked for their Free, Prior, and Informed Consent (FPIC) - which became one of the key highlights of the declaration - for any policy-making and decisions that may affect them.

The adoption of UNDRIP with the General Assembly resolution A/Res/6 is a progressive step by international institutions to assess the rights of indigenous

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<sup>2</sup> UN General Assembly, Resolution 61/295. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), 2007.

<sup>3</sup> Ibid

<sup>4</sup> Ibid

peoples for a state as the indigenous peoples are also part of the country that needs to be seen thoroughly for their rights. The principles of UNDRIP then become the minimum standards to shape the state's behavior towards indigenous peoples. The Government of Indonesia was one of the signatories of UNDRIP back in 2007, indicating the government's support for the declaration as well as its principles. With that being said, the practical implementation of UNDRIP would be the commitment of the states to protect, respect, and fulfill the rights of indigenous peoples collectively.

Indonesia is one of the countries that has the most indigenous peoples. According to the International Work Group for Indigenous Peoples (IWGIA, 2020), with an estimated population of 250 million, the government of Indonesia recognizes 1,128 ethnic groups. Furthermore, Indonesia has approximately 50 to 70 million Indigenous Peoples.<sup>5</sup> The Government of Indonesia addresses indigenous peoples by "Masyarakat Adat." Historically, Indonesia has Aliansi Masyarakat Adat Nusantara (Alliance of Indigenous Peoples of the Archipelago) or called by its acronym "AMAN." This independent civil organization was established in 1999 to amplify the call for recognition and protection of the indigenous peoples in Indonesia.

Since the very beginning, Indonesia has acknowledged and recognized the existence of Indigenous Peoples in Indonesia. It is stated in the 1945 Constitution

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<sup>5</sup> IWGIA. (2020, May 11). Indigenous World 2020: Indonesia. Retrieved February 9, 2022, from International Work Group for Indigenous Affairs: <https://www.iwgia.org/en/indonesia/3602-iw-2020-indonesia.html>

of the Republic of Indonesia in Article 18B paragraph (2) and Article 28I paragraph (3).

*The State recognizes and respects traditional communities along with their traditional customary rights as long as these remain in existence and are in accordance with the societal development and the principles of the Unitary State of the Republic of Indonesia, and shall be regulated by law.<sup>6</sup>*

(Article 18B (2))

*The cultural identities and rights of traditional communities shall be respected in accordance with the development of times and civilizations.<sup>7</sup>*

(Article 28I (3))

The article shows that none of the Indigenous Peoples should be forgotten or were left behind in the process of development. In addition, the decision of the government of Indonesia to support and sign for UNDRIP indicates the awareness of the government of the existence of indigenous peoples in Indonesia as well as the issues that Indigenous Peoples face.

The practical implementation of UNDRIP would be the commitment of Indonesia to protect, respect, and fulfill the rights of indigenous peoples collectively. UNDRIP should then become a set of norms and guideline to protect indigenous peoples in Indonesia to reach the minimum standard of principles consisted in the declaration.

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<sup>6</sup> The 1945 Constitution of the Republic of Indonesia

<sup>7</sup> Ibid

However, the implementation of the UNDRIP in Indonesia seems dubious. The state's policy that mainly focuses on and prioritizes the development of natural resource-based industry, has threatened the life of Indigenous Peoples, making them more marginalized and keep losing their rights and access to natural resources. For Indigenous Peoples, the environment and their land have a fundamental role in their lives. The land they lived in is inextricably linked to their identities, cultures, livelihoods, and physical and spiritual well-being. Thus, land grabbing from indigenous peoples is still a common problem in Indonesia. The substance of consultation and free, prior, and informed consent is rarely used and often neglects the role and involvement of Indigenous Peoples.

Out of all regions in Indonesia, Papua is one of the areas that has a lot of indigenous peoples. In connection with the fact, Papua has the most extensive forests in Indonesia, reaching around 34.4 million hectares (ha) or about 82% of the area of Papua, which is within the territory of Indonesia. However, the research shows during 2001 to 2019 Papua lost 2% of its forest or about 748 thousand ha<sup>8</sup>. The same research also estimates that by 2036, the forest loss in Papua will reach 4.5 million ha. This condition of forest loss has put indigenous Papuans in danger. Any agreement regarding the relationship between indigenous peoples and companies has often been neglected and put Papuan Indigenous Peoples at the risk of their lives. This shows the contradiction of the act of the government of Indonesia toward the set of norms and principles in UNDRIP. Therefore, the aim of finding

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<sup>8</sup> Gaveau, D. L. A., Santos, L., Locatelli, B., Salim, M. A., Husnayaen, H., Meijaard, E., Heatubun, C., & Sheil, D. (2021). Forest loss in Indonesian New Guinea (2001–2019): Trends, drivers and outlook. *Biological Conservation*, 261, 109225. <https://doi.org/10.1016/J.BIOCON.2021.109225>

out how far Indonesia implements UNDRIP in the domestic political process after signing the declaration to protect the rights of indigenous peoples in Indonesia, particularly in Papua, is the intention of this research.

## **1.2 Research Question**

Based on the background above, the research problem is formulated in the following question: To what extent is the implementation of UNDRIP as an international norm in Indonesia (specifically towards Indigenous Peoples in Papua)?

## **1.3 The Objective of the Research**

### **1.3.1 General Objective**

The general objective of the thesis is to provide and contribute to a new research study in the field of political and social science, specifically in International Relations studies. Furthermore, the thesis also intends to fulfill the final requirement needed to complete the bachelor's degree in International Relations program at the Faculty of Social and Political Sciences, Universitas Pembangunan Nasional "Veteran" Jawa Timur.

### **1.3.2 Specific Objective**

The thesis's specific objective is to provide an overview of the protection of indigenous peoples in Papua and to examine further to what extent the implementation of UNDRIP in Indonesia as an International Norms.

## 1.4 Conceptual Framework

### 1.4.1 International Norms

International norms matter in world politics. Norms have never been absent from the study of international politics specifically in the area of international relations. It is requisite in shaping the actors' behaviour at different levels from individuals to companies, national governments, and intergovernmental institutions, which are at the heart of human initiation and socialization.<sup>9</sup> International norms are defined as the generalized standards of conduct that delineate the scope of a state's entitlements, the extent of its obligations, and the range of its jurisdiction.<sup>10</sup> Moreover, Axelrod defined another definition of norms, who argues that norms exist in a given social setting to the extent that individuals usually act in a certain way.<sup>11</sup> These definitions simply conclude international norms are an accepted standard of behaviour among a group of actors in the area of international relations.

Whether the norms on formal legal standards like treaties or informal customs and principles, norms are influential in shaping the behaviour of states.<sup>12</sup> In the very beginning, norms have played a role in International Relations as

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<sup>9</sup> Crowley-Vigneau, A. (2020). Norm Implementation: the Achilles' Heel of Constructivist Theory? *MGIMO Review of International Relations*, 13(4), 199–215. <https://doi.org/10.24833/2071-8160-2020-4-73-199-215>

<sup>10</sup> Gregory A. Raymond, 'Neutrality Norms and the Balance of Power', *Cooperation and Conèict*, vol. 32, no. 2, 1997, pp. 123–46, see p. 128.

<sup>11</sup> Axelrod, *An Evolutionary Approach to Norms*.

<sup>12</sup> Paul White, *Implementation and World Politics: How International Norms Change Practice*. Edited by Alexander Betts and Phil Orchard, *Journal of Refugee Studies*, Volume 28, Issue 4, December 2015, Pages 599–601, <https://doi.org/10.1093/jrs/fev027>

international institutions and attempts of cooperation. It is a social structure consisting of knowledge and intersubjective understanding that shape the constituted interests and motivate the action of the actors. Norms have guided international behaviour (non-intervention) and free trade as economic principles. Moreover, attention started to be paid to norms as a means for explaining changes taking place in the international arena; integration, cooperation, and peaceful transitions.<sup>13</sup> Nevertheless, international norms need to be not only institutionalized or adopted by the national governments for it to be mattered, but rather it also has to reach compliance or a specific level of domestic salience.<sup>14</sup>

#### **1.4.2 Domestic Salience**

The concept of salience in international norms helps to highlight the strength of international norms as the prescriptions for action in situations of choice in the context of domestic politics. International rules and norms indeed have important effects by way of the domestic political process.<sup>15</sup> Domestic salience helps to define the international norms on the domestic impact which first started with its appearance in the domestic political discourse. Norms can be said to be salient when the norms are presumptively accepted as a guide to appropriate behaviour.<sup>16</sup> This

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<sup>13</sup> Crowley-Vigneau, A, loc. cit.

<sup>14</sup> Cortell, A. P., & Davis, J. W. (2000). Understanding the Domestic Impact of International Norms: A Research Agenda. 2(1), 65–87.

<sup>15</sup> Abram Chayes and Antonia Handler Chayes, *The New Sovereignty: Compliance with International Regulatory Agreements* (Cambridge Mass.:Harvard University Press, 1995), p.113.

<sup>16</sup> Cortell, A. P., & Davis, J. W. (2005). When norms clash: International norms, domestic practices, and Japan's internalisation of the GATT/WTO. *Review of International Studies*, 31(1), 3–25. <https://doi.org/10.1017/S0260210505006273>



approach measures the norm salience with a four-value scale; high, moderate, low, and not salient.<sup>17</sup>

For the norm to be considered to enjoy a high degree of salience, the norm's objectives and prescriptions need to be uncontested in the domestic discourse, institutions, and policies, as well as the effort of the domestic actors to promote their interest regarding the norms. Norm enjoys moderate salience when it is uncontested in the domestic discourse and produces changes in the national agenda but still confronts the institutions, procedures, and normative claims. When the norms fail to produce a national agenda or institutional change but indicate an entrance of the norms into the national discourse, or only remain nominally on the policy agenda, the norms are considered in the low-degree of salience stage. The norms are not considered salient when there are no or lacking domestic advocates to justify any actions of the norms. This concludes that the international norm's implementation in the domestic sphere could be measured by the analysis of national discourse, state institutions, and policies. Moreover, how international norms are introduced and embedded into the measurements of the state's domestic policies (national discourse, state institutions, and policies) are structured around five key factors; cultural match, national political rhetoric, domestic interests, domestic institutions, and socializing forces.<sup>18</sup>

The first factor contributing to the salience of an international norm is a cultural match. Cultural match tends to drive the domestic actor's behavior to treat

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<sup>17</sup> Ibid

<sup>18</sup> Cortell and Davis, Loc.cit

the international norm as a given and instinctively felt associated with the norm. On the contrary, the appeals toward international norms wouldn't be effective when the international norm clashes with the understandings, beliefs, or obligations established in the domestic sphere. Moreover, in numerous cases, the recognition of international norms might be likened to cultural imperialism or colonialism and cause domestic resistance or rejection.<sup>19</sup> Precisely, cultural match states the background of the culture will affect the effective and ineffective of international norms in domestic policy. The cultural match is dynamic and malleable as a condition mediating the domestic salience of international norms, as the discussion of rhetoric clarifies.<sup>20</sup>

Hereinafter, political rhetoric elaborates that declarations or pronouncements of national leaders on the legitimacy of the obligations that an international norm places on states usually raise the norm's salience in the national area.<sup>21</sup> It is believed that political rhetoric-or persuasive discourse generated the collective comprehension that evolves and leads to the domestic salience of international norms. Moreover, the pronouncements then become a part of the legitimating discourse of the society which signifies the public and society's attention that establishes the intersubjective understandings and expectations at either domestic or international level.

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<sup>19</sup> Ibid

<sup>20</sup> Ibid

<sup>21</sup> Ibid

The third factor is domestic interests. The norms are built with the intersubjective understanding that shapes the constituted interests and motivates the action of the actors. That makes international norms are more likely to be salient if the norms perceived to support the important and particular domestic material interests, whether economic or security, general beliefs, and any durable national priorities.<sup>22</sup> In short, international norms would be more acceptable and more likely to be salient when the norms are in line with the national interests.

As the fourth factor of international norm salience, domestic institutions provide and establish the rules, as well as the rights and obligations for domestic actors in determining domestic and international interests. When there is an incorporation of the international norm into domestic institutions, it enhances the salience. As argued by Louis Henkin:

*“When international law or some particular norm or obligation is accepted, national law will reflect it, the institutions and personnel of government will take account of it, and the life of the people will absorb it.”<sup>23</sup>*

This factor is indicated by the emergence of a domestic institution that specifically monitors the implementation of international norms at the domestic level. When there is an institutional change, then the norms can be considered salient.

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<sup>22</sup> Ibid

<sup>23</sup> Louis Henkin, *How Nations Behave: Law and Foreign Policy* (New York: Columbia University Press, 1979), p.60.

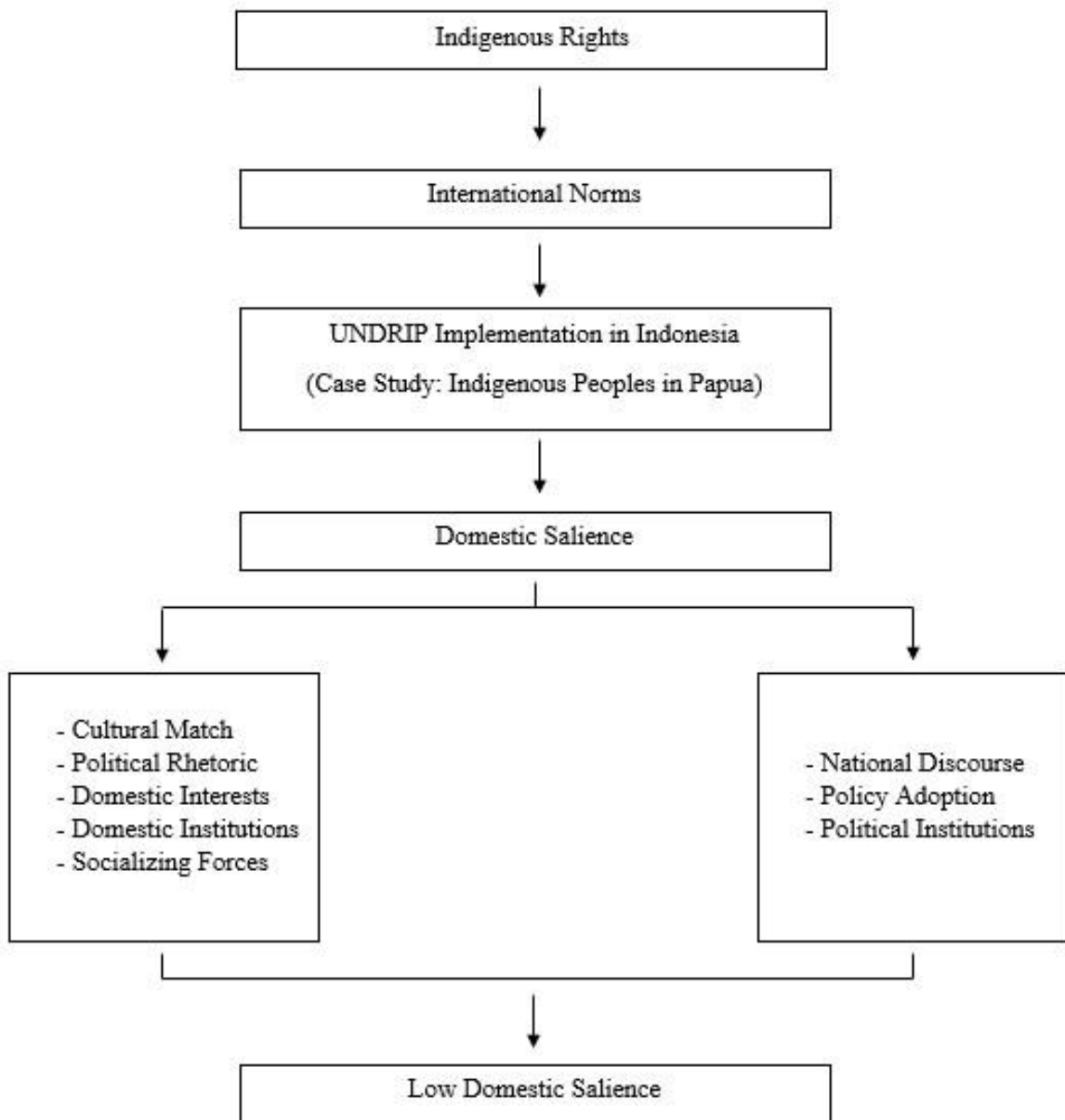
Socializing forces are the last factor that contributes to the salience of an international norm. The international interaction of the actors tends to elaborate the influence of international norms in the domestic area which makes socialization provides an additional mechanism for international norms to be salient in the domestic sphere. The process of socialization at the international level then demonstrated the stable patterns of state interaction that make the international norms then become way more relevant.<sup>24</sup> Moreover, the socialization effect isn't one way nor irreversible. In addition, socializing forces how an international norm can become salience domestically because there is an influencing actor in the domestic sphere. Numerous scholars have pointed out that "internal reconstruction" is one method of socializing states to a particular international order. Gradually, to what extent the domestic actors perceive an international norm as legitimate may hinge upon how much other states adhere to the norms or how influential the domestic actor socializing the norms.

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<sup>24</sup> Cortell & Davis, loc. cit

## 1.5 Logical Flowchart

Figures 1.1 Logical Flowchart



Source: Writer

Based on the background, research question, and the conceptual framework before, the logical flowchart was formed as attached above. The discrimination

faced by indigenous peoples throughout the world opened the eye that it is important to have specific norms and principles regulated to protect the lives of indigenous peoples. UNDRIP then was adopted by the UN General Assembly as a set of minimum standards of norms that would protect indigenous peoples in the hope states take all necessary measures to implement the declaration without discrimination.

Domestic salience will be used to answer the research question. There are five key factors of domestic salience contributing to the salience of an international norm; cultural match, political rhetoric, domestic interests, domestic institution, and socialization forces. These five key factors will help to analyze the status of UNDRIP as an international norm in terms of the country's domestic policies which consist of national discourse, state policies, and changes in national institutions that led to a four-value scale; high, moderate, low, and not salient.

## **1.6 Main Argument**

The hypothesis offered by the author against The Implementation of UNDRIP in Protecting Indigenous Peoples in Papua from the international norm perspective is still in the stage of low-domestic salience. This article argues that Indonesia has not thoroughly implemented the principles of UNDRIP and has not been ready and severe regarding the protection of Indigenous peoples in Papua. The international norm's implementation in the domestic sphere could be measured by the analysis of national discourse, state institutions, and policies. Based on initial observations, there is an entrance of UNDRIP into the national discourse, however

UNDRIP fails to produce a national agenda or institutional change. The norm only remains nominally on the policy agenda.

## **1.7 Research Methodology**

### **1.7.1 Research Type**

The thesis used descriptive methods as the research type to elaborate on the related topics. A descriptive method is an approach to elaborate more on the specific events, who were involved, what was involved, and where did things take place.<sup>25</sup> The descriptive method was used in the thesis to explore and explain while providing additional information about the condition of Indigenous Peoples in Papua. The author tries to describe the topic in more detail, trying to fill the missing parts and expanding the understanding through the method.

### **1.7.2 Research Scope**

The scope of the research is from the year of 2007 to 2021. The thesis used 2007 as it's the year when the UNDRIP was adopted by UN General Assembly as well as to be signed by Indonesia. Furthermore, the year 2021 was chosen due to the last year of the Papuan Special Autonomy Law which was made to protect indigenous communities in Papua.

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<sup>25</sup> Doyle, L., McCabe, C., Keogh, B., Brady, A., & McCann, M. (2020). An overview of the qualitative descriptive design within nursing research. *Journal of Research in Nursing*, 25(5), 443–455. <https://doi.org/10.1177/1744987119880234>

### **1.7.3 Method of Data Collection**

The research used both primary and secondary data as the data collection method. Primary data are first-hand data which means the data are collected and generated by the researcher himself.<sup>26</sup> It has not been published yet and more reliable and objective.<sup>27</sup> Secondary data means that the author does not take the data collected directly through the informant but through earlier research that has been done by the first party.<sup>28</sup> The data in the thesis was collected from interviews, several journals, official news, books, official reports, and various online articles sources that are valid and reliable.

### **1.7.4 Method of Data Analysis**

The paper used a qualitative descriptive approach and a case study approach to explain the related topic discussed in the research. Lamont (2015) elaborates on the qualitative data approach as a method that uses the form of expressions through words and sentences that describe a situation under study in order to systematically and accurately describe facts and phenomena.<sup>29</sup> Generally, the qualitative descriptive approach is used in this paper to analyze the documented information that has been collected to help answer the "why," "what," and "how" questions regarding a topic related. The method is also often used in empirical studies that

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<sup>26</sup> Hox, J. J., & Boeijs, H. R. (2005). Data Collection, Primary vs. Secondary. In Utrecht University, Utrecht, The Netherlands (p. 4). [http://www.joophox.net/publist/ESM\\_DCOL05.pdf](http://www.joophox.net/publist/ESM_DCOL05.pdf)

<sup>27</sup> Buchanan, M. E. (1981). Methods of data collection. *AORN Journal*, 33(1). [https://doi.org/10.1016/S0001-2092\(07\)69400-9](https://doi.org/10.1016/S0001-2092(07)69400-9)

<sup>28</sup> Hox, J. J., & Boeijs, H. R. Loc.cit

<sup>29</sup> Lamont, C. K. (2015). Research Methods in International Relations. *Research Methods in International Relations*, September, 11–29.



help to narrate and explain the issue elaborately. Moreover, the case study approach is used to allow the in-depth exploration of related phenomena<sup>30</sup>.

### **1.7.5 Structure of Chapters**

The discourse structures within this research would be divided into four chapters, as follows:

#### **Chapter I Introduction**

This chapter consists of the background of the problem, the research questions, the objectives of the research, conceptual frameworks, logical flowchart, research methods, and structures of the chapters

#### **Chapter II**

The second chapter of the research consists the further explanation as well as supporting data that will be divided into 2 sub-chapter, as follows: UNDRIP as an International Norms and The Factors Contributing to The Domestic Salience of International Norms.

#### **Chapter III**

This chapter consists of the explanation and the analysis of the topic regarding the implementation of UNDRIP in Indonesia, particularly using the case of indigenous people in Papua. This chapter will be divided into 2 sub chapters; The Indicators of

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<sup>30</sup> Crowe, S., Cresswell, K., Robertson, A., Huby, G., Avery, A., & Sheikh, A. (2011). The case study approach. *BMC medical research methodology*, 11, 100. doi:<https://doi.org/10.1186/1471-2288-11-100>

Domestic Saliency of UNDRIP in Indonesia and The Level of Implementation of UNDRIP as an International Norms in Indonesia.

#### **Chapter IV**

This chapter concludes the last statement and conclusion of the topic.