

CHAPTER ONE

INTRODUCTION

A. Background of Research

The implementation of ASEAN Economic Community (AEC) was implemented in the end of 2015. The AEC is one of the pillars of the ASEAN Community that was set out in the Bali Concord II. ASEAN hopes to establish a single market and production at the end of 2015.¹ The ASEAN Economic Community shall be the goal of regional economic integration by 2015. AEC envisages the following key characteristics: (a) a single market and production base, (b) a highly competitive economic region, (c) a region of equitable economic development, and (d) a region fully integrated into the global economy.²

The first AEC characteristic seeks to create a single market and production base through free flow of goods, services, investment, skilled labor and freer flow of capital. The second characteristic helps to create a business-friendly and innovation-supporting regional environment through the adoption of common frameworks, standards and mutual co-operation across many areas, such as in agriculture and financial services, and in competition policy, intellectual property rights, and consumer protection. It also supports improvements in transport connectivity and other infrastructure

¹ Ana Syukriah, 2013, Peningkatan Eksistensi UMKM Melalui *Comparative Advantage* dalam Rangka Menghadapi MEA 2015 di Temanggung, *Economics Development Analysis Journal*, Vol.2 No.2 2013, p. 111.

² ASEAN, "ASEAN Economic Community", <http://www.asean.org/communities/asean-economic-community> Jakarta, accessed on Wednesday, October 28, 2015, at 12.30 a.m.

networks. The third characteristic seeks to achieve equitable economic development through creative initiatives that encourage small and medium enterprises to participate in regional and global value chains and focused efforts to build the capacity of newer ASEAN Member States to ensure their effective integration into the economic community. The fourth characteristic envisages ASEAN's full integration into the global economy pursued through a coherent approach towards external economic relations, and with enhanced participation in global supply networks.³

Indonesia's readiness to face the ASEAN Economic Community 2015 can be seen from the comparison aspect of economic growth, the national export growth and Gross Domestic Product (GDP). The readiness of Indonesia can be viewed from the aspect of economic growth. Based on the economic growth report that was launched by the International Monetary Fund (IMF) in 2012, it appears that in the last 10 years of economic growth in Indonesia is very stable in the range of 5.5 percent, \pm 1 per cent with an average growth of 6.11 percent, from 2007 to 2012.⁴

Yogyakarta is a city in Indonesia where a lot of citizens are involved in the business, actually in small and medium enterprises (SMEs). Based on the data obtained from the Industry and Commerce Bureau of Yogyakarta in 2015, there were 230.047 SMEs industries.⁵ The increasingly fierce

³ ASEAN, 2015, "Fact Sheet on ASEAN Economic Community (AEC)", December 2015, Jakarta, ASEAN Secretariat, p. 2.

⁴ AbduRofiq, Atep, 2014, Menakar Pengaruh Masyarakat Ekonomi ASEAN 2015 Terhadap Pembangunan Indonesia, *Jurnal Filsafat dan Budaya Hukum*, Jakarta, Vol. 1 No.1 2014. p. 251.

⁵ See, small and medium enterprises data from Industry and Commerce Bureau of Yogyakarta on 2015.

competition as a result of the single market of the ASEAN Economic Community will very likely have an impact on the survival of these SMEs because imported products will flood the domestic market.

Small and medium enterprises play a vital role in the development and economic growth. It is because small and medium enterprises can intensively employ labors in all locations, especially in rural areas. Moreover, small and medium enterprises are more dependent on local raw materials, and they become the main provider of goods and services that have a low-income.⁶ Based on these conditions, the protection of Economic, Social, and Cultural (ESC) rights of small medium enterprises is very needed to anticipate free market in ASEAN Economic Community in Yogyakarta.

The opinion that Economic, Social, and Cultural rights are vague, inherently of a positive nature which required positive measures for their implementation, and resource dependent⁷ becomes the departure point in discussing the justiciability of these rights in this article. Although international law recognizes ESC rights as genuine rights, a lively and contentious debate over the ideological and technical nature of these rights is still ongoing.⁸ The debate about the justiciability of ESC rights has become an issue since the development of human rights.

⁶ Tambunan, Tulus, 2012, *Pasar Bebas ASEAN: Peluang, Tantangan dan Ancaman Bagi UMKM Indonesia*, Jakarta, Kementrian Koperasi dan UMKM. p.32.

⁷ Malcolm Langford, "The Justiciability of Social Rights: from Practice to Theory", in: Malcolm Langford (ed), *Social Rights Jurisprudence, Emerging Trends in International and Comparative Law*, Cambridge: Cambridge University Press, 2009, pp. 3-45.

⁸ Jackbeth K. Mapulanga Hulston, Examining the Justiciability of Economic, Social and Cultural Rights, *The International Journal of Human Rights*, Vol 6, No. 4, 2002, pp. 29-48.

This study will assess the role of International Covenant on Economic, Social and Cultural Rights (ICESCR) in the protection of small and medium enterprises in Yogyakarta towards the ASEAN Economic Community 2015. This study will focus on the role of ICESCR, government and the small and medium enterprises in Yogyakarta.

B. Research Problems

1. What is the role of International Covenant on Economic, Social and Cultural Rights (ICESCR) to protect small and medium enterprises in Yogyakarta towards ASEAN Economic Community 2015?
2. How is the government protection to small and medium enterprises in Yogyakarta towards ASEAN Economic Community 2015 based on International Covenant on Economic, Social and Cultural Rights (ICESCR)?

C. Objectives of Research

This research will lead us to know how the role of International Covenant on Economic, Social and Cultural Rights (ICESCR) in the protection of small and medium enterprises in Yogyakarta towards ASEAN Economic Community 2015 and would like to know how government protect small and medium enterprises.

D. Benefits of Research

The advantages which could be reached from this research include:

1. Theoretical Benefits

This research will give benefits to know deeply the role of International Covenant on Economic, Social and Cultural Rights (ICESCR) in the protection of small and medium enterprises in Yogyakarta towards ASEAN Economic Community 2015 and lead to know how government protect small and medium enterprise.

2. Practical Benefits

This research would give better understanding on how the role of International Covenant on Economic, Social and Cultural Rights (ICESCR) in the protection of small and medium enterprises in Yogyakarta towards ASEAN Economic Community 2015. In other side will be critical and suggestions to government.

E. Systematic of Writing

This research consist of five chapters, namely: Chapter I Introduction, Chapter II Literature Review, Chapter III Research Methods, Chapter IV Finding and Analysis, Chapter V Conclusion and Recommendation.

Chapter One: Introduction

The research tries to explain about the role of International Covenant on Economic, Social and Cultural Rights (ICESCR) to protect small and medium

enterprises in Yogyakarta towards ASEAN Economic Community 2015. In this introduction, the researcher also delivers the research problems which will be discussed in the next chapter. The objective and advantages of this research are also explained in this chapter.

Chapter Two: Literature Review

Chapter two would explain about ASEAN Economic Community 2015, Small and Medium enterprises, Economic, Social and Cultural Rights, and the state responsibility on economic, social and cultural rights as the foundation of thinking .

Chapter Three: Research Methods

Chapter three will discuss about the research method used in this research. The research method in this study consists of type of research, legal materials, method of collecting data and method of data analysis. Type of this research is a normative legal research combined to socio-legal research. The research approach use statute approach and case approach to conduct this study. Also this research will use research materials taken from some literatures including primary legal materials, secondary legal materials, and tertiary legal materials. Then, the methods of collecting data in this research will be conducted through library research, and will be analyzed systematically through qualitative and quantitative descriptive method.

Chapter Four: Finding and Analysis

In Chapter four researcher will analyze the consideration of the role of International Covenant on Economic, Social and Cultural Rights and analyze how is government protection to small and medium enterprises in Yogyakarta towards ASEAN Economic Community 2015 based on International Covenant on Economic, Social and Cultural Rights.

Chapter Five: Conclusion and Recommendation

In Chapter five the researcher will conclude what has been discovered in previous chapters about the role of International Covenant on Economic, Social and Cultural Rights and how government protect small and medium enterprises in Yogyakarta towards ASEAN Economic Community 2015.