**THE ROLE OF LAW IN FACING GLOBAL TRANSFORMATION**

**OF THE ECONOMIC FIELD**

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## Abstract

The history of people and state of Indonesia has been scarred dynamic seem as a complex life phenomenon That’s the all might god procession. Time running without caring to profit or loss interest, supply and demand, good or bad. To anticipate the progress of free tradeactivities, it’s better to realize the own potency and ability strongly, such as cooperation , tourism, small and medium enterprises. Those sector should be managed systematically and consistenly, supported by available protectable norms, and prepared human developmentas business actor in which global business oriented for national purposes. To face this free trade era should be arraised The Newest Indonesia program such as the concept stated by Kotler.

**Key Words:** Glogal Transformation, Law needs, Economy.

## Introduction

The Indonesian nation has just completed the process of applying democratic principles through general elections (Pemilu), both the Legislative (People's Representative Council and Regional Representative Council), as well as the executive through 2 stages of the Presidential election process. The political response of the Indonesian people is very appreciative, meaning that the freedom of the people in politics, both those who exercise their right to vote and those who exercise their right not to vote, are truly fulfilled. For the holders of this new state power, they will immediately be faced with very tough work in this situation. the less profitable. Internally, the problems of corruption, collusion and nepotism continue to overshadow every movement of development and bureaucracy, the legacy of foreign debt is still very large, high levels of unemployment and the repatriation of illegal workers from Malaysia, which number hundreds of thousands of people, and sluggish investment and the business world. Externally, we are already in a process of regional and international globalization that cannot be stopped.

Many people's hopes for this new government, and the breakthrough of the first 100 days program is a measure of its success. On the political front, there are glimmers of hope for regional harmonization, relations between neighboring countries, with the presence of the Australian Prime Minister and the leaders of Asean countries. However, in the economic field, there are many doubting parties, even the composition of the ministers in the United Indonesia Cabinet, which was announced by the President and Vice President on the night after their inauguration, on 20 October 2004, apparently did not get a positive response from the market and players. economy, especially investment.

## Globalization A Demands To Fulfill

## Economic And Legal Needs

The emergence of the new term Globalization echoed in the late 20th century. According to the author, based on economically oriented thinking, it can be said that globalization has actually started since the French Revolution, which has opened the world's eyes in the interaction between nations in the economic field. Trade relations between countries started by European nations, such as Britain, Portugal, the Netherlands, and others, began to uncover the secrets of natural wealth by conducting trade missions outside Europe, especially to the east, including Indonesia.

Advances in communication and transportation technology have accelerated the penetration of “more” demands than the economic needs that have been considered sufficient. Relations between countries that are limited by geographic boundaries and demographic potential as well as local economic interests are no longer popular, and freedom of trade relations between countries is demanded. The development and changes in the economic sector are very fast, basically running in a parallel process to meet the demands of life in a manner together, and are regulated together which becomes the law for the parties.

However, the original purpose of the agreement was to jointly manage the economic sector, in its development it often turned into an effort to control one party over the other. History has proven that at first the mission of the European nations was to trade spices which were widely available in the Asian region (Southeast), but in its development, it was not only a trade mission but it turned into a colonial mission of domination. Under colonial rule, almost all aspects of people's life were controlled by the colonial government, especially the economy, then politics, law and socio-culture. Conditions like these, according to the author, were destructive to global trade interactions, which created a multi-dimensional impact on these colonies as a result of pressure from colonial rule, either during the colonial period or after the region became independent as a country. What is very prominent is the backwardness and poverty, which creates conditions for dependence of a former colony on developed countries.

For Indonesia, the history has proven. As a very wide and strategic area, stretching from Sabang to Merauke, between two continents and two samodra, and under the horizon with two seasons equally every year, is a source of endless wealth. With such potential it is not surprising that the Dutch Colonial Government, which entered Indonesia in the XVII century, tried in various ways to dominate Indonesia. In the economic field it was controlled by the VOC, in the political field it was implementing "de vide et impera" which was very effective to divide the Indonesian people in fighting against the colonial power. The impact of the implementation of this strategy greatly influenced the socio-cultural life of the people, namely causing divisions between the kings who existed at that time, as well as divisions within the kingdom and royal family, as well as among the people. One area that is very strong and still applies after Indonesia's independence is the field of law, namely the Civil Code, the Commercial Code, and the Criminal Code. Even though at this time the government of the Republic of Indonesia has made efforts to replace the aforementioned statute books.

This condition is very strongly embedded in the life of the Indonesian people, because it was almost three and a half centuries colonized by the Dutch, then three and a half years by the Japanese, as a result of which Indonesia is very weak. Independence of the Republic of Indonesia, on August 17, 1945, continues to be overshadowed by the gloomy historical journey in various fields. During the post-independence era, later known as the Old Order era, it was still preoccupied with the struggle to defend independence as a result of wanting to return the colonial state to control Indonesia, and domestic upheavals that culminated in 1965 with the G30S / PKI rebellion. This situation meant that during the Old Order era, there was no time to think about development in various fields, including the economy

The end of the Old Order government was then replaced by a new government, which was born from an active military role, and was known as the “New Order” government. At first the New Order government showed a new hope for the life of the state and nation of Indonesia, namely with a well-planned and clear development program. However, the planned development program is not supported by good funding and management capabilities, so that its implementation depends on foreign aid and loans. In this case, the problem is increasing because it is not supported by an orderly management, so that there are many leaks (corruption) caused by collusion and nepotism.

So strong was the New Order government that it was able to rule for 35 years. However, as the New Order government came to power, the practices of KKN (Corruption, Collusion and Nepotism) developed as if they were a new culture that was legal under the law. Legal products are made for the interests of the authorities, starting from the process of issuing legal products in the legislative body, where at that time the “single majority” system was successfully implemented by the ruling government-owned political parties in political life in Indonesia. On the other hand, namely the hegemony of the executive sector is very strong compared to the legislative and judicial fields. Sectors of life which concern the livelihoods of the people at large, which should be regulated by law in the sense that they are subject to legislative approval, are sufficiently regulated by a presidential decree. Likewise in the judiciary, the judiciary is in a difficult position because it is shackled politically by the executive power, namely administratively and financially under the auspices of the Ministry of Justice. With the political management of government like that, the way the government runs out of control, KKN has become entrenched in the life of the government apparatus, and foreign debts continue to grow.

The arrogance of the New Order government caused a strong reaction from the people, and at its peak, driven by the students, it could be overthrown, so that the reform era emerged. Unfortunately, the hard struggle towards improving the life and life of the state and nation of Indonesia has not been responded wisely and intelligently by various levels of society. Political life became popular and became an exaggerated euphoria. However, the new order developed by political and government elite actors has not yet been able to break away from the national orientation, but has instead concentrated on the interests of groups (read: political parties), regionalities and individuals. Thus, until the age of 59 years, the Indonesian state has not been able to escape from difficulties on a global scale as a result of the lack of concentration on development (economic) patterns that have brought prosperity to the people.

### **Global Transformation in Economic Law**

The Indonesian state is still preoccupied with domestic affairs in various unresolved fields, but nevertheless does not realize that in other parts of the world a new phenomenon in the economic sector has developed, namely the demand for free trade between countries. It seems that Indonesia is shocked by the changes and demands of this era, especially when it is accompanied by accusations of unhealthy trading practices, including pirates of Intellectual Property Rights (especially Copyright), a safe place for “money launderers”, and so on. . This surprise can be seen from the ratification of various international conventions without careful preparation in their implementation, be it human resources, legal instruments or supporting instruments.

In connection with the description above, in facing the era of free trade, the author tries to examine Indonesia's economic interests in a macro perspective, from a juridical point of view, namely the policies taken by the government in the form of statutory regulations and the behavior of the people. This is important because sometimes a legal product (legislation) is only based on practical considerations, and neglects the phenomenon of society a little, so it is contradictory and difficult to implement.

As we know, at this time there have been agreements and international trade organizations, both global and regional, such as the General Agreement on Tariffs and Trade (GATT) which was later agreed to be changed to the World Trade Organization (WTO), and Indonesia has ratified the establishment of the WTO. The global ball of international trade will continue to roll to all countries, including regional ones, such as in the scope of the Asia-Pacific Economic Cooperation Forum (APEC) it has been agreed to start in 2020, even the European Free Trade Association (AFTA) has started in 2003 ago. In several fields, for example regarding Intellectual Property Rights, Indonesia has ratified the convention regarding this matter. As a juridical consequence of the ratification of an international convention, the ratifying country adheres to the provisions of the convention. The problem is whether the country is ready to implement the provisions in the convention, both human resources or other capabilities and potentials? Or even before that, has the country understood the meaning of the provisions in the convention? This is due to the fact that the sound of a statutory regulation, regardless of its form, is not complete, clear and perfect, so there is an open interpretation for each interested party. With regard to free trade, we need to pay attention to some conclusions from the legal seminar on the “Marrakech Agreement and its Implications for National Law”, that in building an adequate national legal system in order to strengthen Indonesia's position in the international market, there are 7 (seven) aspects that must be considered. , that is

1. law making
2. aplication of the law
3. dispute resolution, alternative dispute resolution
4. formal, non-formal, dan informal human resource development

5. to increase the collection of legal information and the effectiveness of the dissemination of legal information through the legal information network system

6. research into the legal language used in international treaties, in particular the WTO agreement and the standardization of legal language through a comparison of legal languages ​​internationally and nationally, and

7. development of legal interpretation methods, especially the legal interpretation of the WTO agreement clauses.

The issues raised above are formal juridical issues, namely the enactment of international / regional conventions for member countries or those submitting themselves by means of ratification or secretly, the enactment of laws and regulations of each country, and the making of international trade agreements by the actors. trade independently. At the macro level, the aforementioned problems will be of concern to the government as public policy makers who have an obligation to protect the trading activities of their citizens. Moreover, the government's policy to ratify an international trade convention will have legal consequences, not only for the state but also for every citizen who carries out international trade business activities.

We need to be critical and alert to the transformation of economic law with the globalization label put forward by developed countries, because it is possible that the mission will change, no longer to fulfill and protect economic interests collectively and proportionally, but to become a monitoring tool for progress and freedom of developing countries. As one example, the Indonesian Chancellors Forum did this by issuing a declaration of rejection of the provisions of GATS and education trade, stating that education, especially higher education, as a national commodity is included in the international trade in services. The reason for its rejection is that higher education has a noble task, namely maintaining and developing the nation's civilization and culture, therefore it should not be seen as a commodity or service, therefore the regulation of higher education is the authority of each country which is under the authority appointed by the state. Exports of education are supportive, not destructive, internationalization of higher education must be an integral part of efforts to improve the quality and relevance of academics and research missions to answer the challenges of the 21st century.

### **The Role of Law in Facing Economic Transformation**

Wether Like it or not and under any circumstances, the door to regional and international trade must be opened, geographic and territorial boundaries must be exposed, ego-centric and territorial sentiments must be made aware of, intro-vets must be replaced with extroversion. Opposition to changes in the phenomenon of international trade relations above will have negative consequences for the country concerned. This is the change that has occurred, according to Sri Redjeki Hartono, the developments and changes that have occurred in the last decade are the realization of a global society. With the birth of the global community, it encourages countries in this world to become a part of the good and even the best in it, with the aim of being equal with other countries and to achieve common prosperity. To achieve this, especially Indonesia, a legal instrument that is capable of meeting the needs and protecting the interests of the Indonesian people is needed in this global era.

The rapid development of the economic world actually includes a legal need. Until now there are often disputes between the two fields of science, on the one hand stating that the law is always left behind by economic development, and on the other hand it states that the economy develops by abandoning the law. However, at this time it is no longer the place to argue between the two, because between the two of them complement and need each other. A study of this problem, as if it had happened, was seen in a formal manner, namely law as a statutory regulation made by an authorized state power. For example in Indonesia, laws are made by the government with the approval of the House of Representatives (DPR), this sometimes takes a long time because it goes through deliberations at the DPR trial. the inside has expired or is no longer suitable.

Legal issues are not only limited to normative provisions, because the object is a human being either in his position as an individual (individual) or as a social being, namely being a member of a society. This is as expressed by Radburch, quoted by Satjipto Rahardjo, that law contains abstract ideas or concepts, which include justice, legal certainty, and social benefits, must be realized in reality. The process of translating abstract ideas into reality is actually a process of law enforcement.

Converting abstract ideas into reality, apart from being law enforcement, according to the author, is also a responsibility towards social phenomena concerning the diversity of significant forms of social relations. Sociologically, basically, the law which contains abstract basic ideas is part of the tools for regulating social relations. Thus, legal and sociological studies are both needed in discussing the issues raised in this study. This means that it is not enough just to study the laws and regulations but also to study the reality in society. According to Cotterrell, as intellectual disciplines and forms of professional practice, law and sociology are the same in scope even though in their entirety they contradict each other and the methods and objectives. As a discipline, law concerns the description of the practical art of government through regulations, whereas sociology concerns scientific research on social phenomena, and its importance is to explain (expalanate) and describe (descriptive).

Based on the study of law in the form of statutory regulations against social realities, Cotterrell, based on the theory of Legal Positivism, states that law is often said to have "double-faceted characters" which can be expressed in various ways, namely the law consists of provisions (" the proposition which should be the way legal subjects behave ”), and at the same time law is a social phenomenon that only“ exists ”if the rules of conduct actually have some effect on the way people think and behave. Furthermore, it is said that, what is considered justice or injustice, wisdom or efficiency, significance or politics of law is not a basis for understanding law as long as legal regulations can be clearly stated. Only when “legal data” is difficult to understand, when the regulations are unclear or their application to a new case is in doubt, these “non-legal elements” have to be considered.

Based on the theory presented above, especially for the State of Indonesia, in facing the era of globalization, it is necessary to look at the potential conditions of the Indonesian people, by looking at their capabilities and weaknesses, so as not to drown in the very big and strong current of globalization. Issues that are very prominent but are a threat to Indonesia, including being left behind in technological advances in developed countries, high levels of unemployment and poverty and large foreign debt.

By understanding the current condition of Indonesia, we try to explore future prospects in facing globalization. History has shown a series of causes for Indonesia's condition as a developing country in relation to too long control by the colonial government (colonialism) so that it slumped into a state of backwardness and poverty. In the social sciences, there have been developments that discuss various problems (development, elite, poverty, women's inequality and so on, as expressed by Sunyoto Usman. From several kinds of social theories, the author refers to two theories in the sociology of rural development, namely:

1. Modernization Theory, development activities essentially revolve around efforts to completely transform from a traditional society into a society that has the characteristics of technology and social organization as in the Western World. Rural development activities are related to the process of structural differentiation, the integration process which was originally primodial to organizational and the adaptation of community members to a new, more objective-rational order. Rural development activities in Ketia World are a peaceful process and are fully adhered to by a sense of tolerance (non-contentious), in which there is no apparent conflict of interest and no structural connection with developed countries (dualism). The obstacles to the development journey (acting against or being conservative towards change) mainly lie in the internal conditions of society itself, such as ignorance, insensitivity to innovation, resignation, authoritarian power structures and so on.

2. Structural Dependency Theory, in fact this theory criticizes the modernization theory by assessing that the modernization theory is too simple to explain the development journey in the Third World, and is considered to pay less attention to the socio-historical aspects, especially those related to the world of Western industrial capitalism. Developing countries are the result of historical forces that were born as the expansion of colonies. The western invaders did not "meet" developing countries, but "created" developing countries. From an economic and political perspective, developing countries are always controlled by external forces and only function as satellites for Western countries. The result is the creation of internal domination mechanisms and social inequality.

Of the two theories of rural development, which Sunyoto Usman said, in several ways seemed contradictory. If we use it as a reference for finding the main problems faced by the Indonesian nation, which is 59 years old, both will be able to show the social phenomena that occur. The author refers to this rural development theory with the consideration that the concentration of life for the Indonesian population is in the countryside, urbanization is pseudo-occurring, meaning that the city is only a place to make a living but domicile and social interactions remain in the countryside. From the Modernization Theory, it can be seen that the direction of change is in the same direction as in Western countries, such as demands for transparency in administration and government management, equality of women and men, protection of human rights, and so on.

However, this demand is followed by constraints that are indeed internal to society itself, for example an increase in the unemployment rate as a result of not meeting educational targets, a resigned attitude that tends to be indifferent to advances in science and technology and even tends towards a skeptical attitude with many human resources productive trapped in the use of illegal drugs and liquor and gambling. Although there were efforts to lead to the creation of civil society as a form of resistance to military domination, authoritarian rule continued to dominate. This can be seen in the excessive political euphoria, with the orientation of the parties rather than the interests of the nation and state, marked by the emergence of emotional sentimental phenomena. Referring to the structural dependency theory, the data show the fact that even though Indonesia has been independent since 59 years ago, but until now it still has not come out of the crush of foreign debt. The Indonesian state has become a consumptive, not productive country, that is, it has become a target for fertile marketing. Human resources that are owned in large numbers are more likely to have the position as craftsmen (tools) of production and not as industrial players, the threat is that by opening the doors of globalization, it will compete with human resources from other countries that have more intellectual abilities, as well as progress. technology will very likely once the means of production are replaced by machines that are more efficient and faster. In such conditions the unemployment rate is getting higher and our human resources will only be spectators in our own country, so that what happens then is that the social inequality is widening, and crime increases in both quality and quantity.

Based on the description above, we are in a dark shadow of entering the era of globalization. However, we must not be pessimistic about the existing reality, the opportunity is still wide open to anticipate and enter it steadily, as long as there is a will and ability from various parties. One of them is trying to know the capabilities and potential of our own nation in the trade and industry sectors. The potential for our trade and industry is still small and medium scale, while on a large scale it is still controlled by the Multy National Cooperative which is supported by foreign investments. In addition, the cooperatives are managed in mutual cooperation which are expected to become the pillars of the Indonesian economy, and tourism which is very potential for Indonesia. The existence of cooperatives, tourism and small and medium enterprises must be maintained and protected, as said Sri Redjeki Hartono, that the existence, role and contribution of small businesses cannot be ignored in order to achieve the ultimate goal of development, namely a just and prosperous society, therefore it must be maintained systematically and consistent. It is further said that, for practical as well as ideological purposes for the benefit of the small business itself, it is necessary to have an adequate set of regulations, which includes provisions which :

1. regulating the existence of small businesses;

2. regulating the continuity of small business activities;

3. regulates protection against fraudulent competition and business opportunities and so on.

With the protection of cooperatives, tourism and small and medium enterprises that are actually controlled by business people in Indonesia, it will become a major force for trade activities in this era of globalization. This of course does not rule out other factors which are closely related. Another factor that must be done immediately is the restoration of foreign confidence in Indonesia as a result of the “Bali Bombing” case, and finally the bombing in front of the Australian Embassy, ​​which greatly affected the tourism and investment sectors. This is as expressed by Kotler that, before the crisis, Indonesia was very successful in attracting foreign investment and tourists, but after the crisis the Indonesian government had to find new ways to market its country in exchange for the old ways that were no longer effective, in two ways, namely:

1. Indonesia must position itself as a “New Indonesia” and introduce changes thereof. Kotler explained that, *“Indonesia government officials and business operators need to focus on providing timely and unique invesment opportunities for would-be investors, especially those from Europe, the United States, and the Midle East. These opportunities should be backed with incentives such as tax holidays and effective bureaucratic procedures. At the same time, Indonesia should promote its differentiation, including its huge market, abundant natural resources, cultural and natural attractions, and the fiendliness of the Indonesian people. Tourist products should also be promoted to foreign tourist. Bali should be promoted to tourist from Australia and New Zealand, Manado to Japanese tourists, and Batam to Singaporeans. Finally, the Indonesian government should provide investment and travel security for investors and tourists, to overcome concerns about personal safety”.*
2. Indonesia must end the era of corruption, collusion and nepotism, and replace it with free, transparent and professional coruption, colution and nepotism. It is clear that the concept offered by Kotler and Hermawan regarding the New Indonesia with a clear difference from the old concept which he considered was no longer very effective.

**Conclusion**

The history of the life of the nation and state of Indonesia has been dynamically scratched as a complex phenomenon of life. That is God's secret procession which is all-everything. Time is shifting regardless of the calculation of profit and loss, supply and demand, good and bad. To anticipate the development of free trade activities, we should know our potential and abilities steadily, namely Cooperatives, Tourism, and Small and Medium Enterprises Units. This sector must be worked on systematically and consistently, supported by the availability of regulations / laws that can protect it, and the readiness of human resources as business actors with global business orientation for the national interest. Facing this era of free trade, the “New Indonesia” program should immediately be introduced as the concept put forward by Kotler.

**Literarture**

Cotterrell, Roger. 1984. *The Sociology of Law An Introduction.* London : Butterworths.

Kotler, Philips & Hermawan Kartajaya. 2000.“*Repositioning Asia, From Bubble to Sustainable Economy*”.Singapore : John Wiley & Sons (Asia) Pte. Ltd.

Rostow, W.W., 1985, “*The Stages of Economic Growth*”, dalam Peter Worsley (ed.), “*Modern Sociology”*, Harmondsworth : Penguin Books Ltd.

Satjipto Rahardjo.1983. *Masalah Penegakan Hukum .Suatu Tinjauan Sosiologis*. Bandung: Sinar Baru.

Sri Redjeki Hartono. Perlindungan Bagi Pengusaha Kecil Dalam Perspektif Hukum dan UndangUndang tentang Usaha Kecil.*Makalah* Seminar Nasional Peranan Hukum Dalam Pembangunan Ekonomi Untuk Mengantisipasi Peluang dan Tantangan Usaha Kecil

Memasuki Era Pasar Bebas, Fakultas Hukum Universitas Sebelas Maret, Surakarta, 16 Januari 1996

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. 2000. *Kapita Selekta Hukum Ekonomi, Pembinaan Cita Hukum dan AsasAsas Hukum Nasional (Ditinjau dari Aspek Hukum Dagang dan Ekonomi*).Bandung : Mandar Maju.

Sunyoto Usman, dalam tulisannya berjudul “*Kedudukan Teori Dalam Penelitian Sosial*”. Harian Kedaulatan Rakyat, 30 Oktober 2004, Tahun LX No.34.