

# Legal Higher Education in Indonesia in Facing ASEAN Economic Community

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## **Background of the Study**

The society's need for law in the modern era is increasing; therefore, the need for Law graduates is increasing as well. Professions in the field of law are professions that appeal to many people in Indonesia. One of the reasons is because this profession is considered a profession with an income that belongs to the highest five income in Indonesia.

One of the important aspects of realizing ASEAN Economic Community is the law aspect. Legal higher education becomes an essential supporting element in producing law experts.

Legal higher education in Indonesia as well as in other ASEAN countries must prepare themselves in the era of ASEAN Economic Community. This must be done because the law systems which are applied in the ASEAN countries are different from one another<sup>1,2</sup>. The law applied in one country is definitely different from that in another country. This will cause a particular problem in the era of the ASEAN Economic Community.

## **Problems**

Various life aspects, such as sciences, politics, law, economics, socio-culture should be carefully observed in the application of the ASEAN Economic Community. The law aspect is one essential element in making a strong country<sup>3</sup>. It is time that law problems should be given a serious attention from each ASEAN country. How do we solve the different law systems in the ASEAN countries? This ought to be seriously taken into account by legal higher education in preparing the graduates to be able to give their contribution to the community. The



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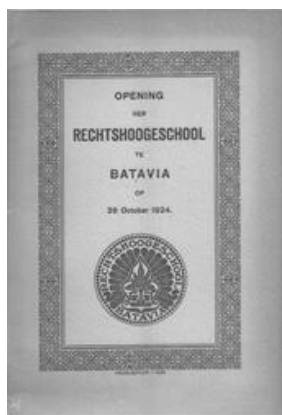
legal higher education always contributes to the existence of a peaceful and prosperous ASEAN community<sup>4</sup>. Hence, it should be considered what kind of legal higher education which can make universities produce graduates that are ready for the ASEAN Economic Community.

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## Discussion

At the beginning the legal education in Indonesia was known in 1909, marked by the establishment of *Rechtsschool* (Law School) by the general governor J. B. van Heutsz and it was operated based on such law as *Reglement voor de Opleiding voor Inlandsche Rechtskundigen* (Regulatory for the School of the Local Law Experts), issued in Stb. No. 93/1909.

*Rechtsschool* is not a university, but of the same level as a vocational high school, or to be more precise, it is the merging of 3 years of junior high school and 3 more years of vocational high school. Based on *Ethische Politiek* and Dutch economic development, which forced the Dutch government to open its colonies for private investment, the establishment of *Rechtsschool* was intended to educate Indonesian people to become *Landraad* judges that were in the daily trials (first level) for the local people and those who were equal. Therefore, the purpose of education was to produce technicians or experts in law (educated)<sup>5,6</sup>. Yet, the meaning and political purpose of the establishment of *Rechtsschool* basically is for the sake of the Netherlands in keeping peace and order (*rust en orde*) in its colony so that it was good for investment and industry development.<sup>7</sup>



Booklet of the establishment of *RH te Batavia*<sup>8</sup>

The Law School in Jakarta (*Rechtshoogeschool te Batavia*) was founded on 28 October 1924 the Dutch East Indies. The Constitution of Education/Higher Education in the Dutch East Indies is called *Hooger Onderwijs Wet 1924 Ordonnantie* 9 October 1924 No. 1 (Stb. No. 457/1924), which becomes the first base of the arrangement of the legal higher education in Indonesia.



Law School in Jakarta<sup>9</sup>

In brief, the constitution sets the materials given in the education of bachelors of law in RHS Batavia, which are:

1. *Inleiding tot de rechtswetenschap* (Introduction to Law Science);
2. *Staatsrecht van Ned.-Indie in Verband met at van Nederland* (State Administration Law in the Dutch East Indies);
3. *Ned. -Indisch Burgerlijk Recht en Burgerlijk Procesrecht* (Civil Law and Civil Procedure Law in the Dutch East Indies);
4. *Ned-Indisch strafrecht en strafprocesrecht* (Criminal Law and Criminal Procedure Law in the Dutch East Indies);
5. *Adatrecht* (Adat Law);
6. *Mohammedans Recht en instellingen van den Islam* (Islamic Law and its institutions);
7. *Ned.-Indisch handelsrecht* (Trade Law **Error! Not a valid link.**);
8. *Sociologie* (Sociology);
9. *Staatshuishoudkunde* (Economic Development Studies);
10. *Volkunde van Ned-Indie* (Ethnology in the Dutch East Indies);
11. *Melech* (Malay Language);
12. *Javaansch* (Javanese Language);
13. *Latijn* (Latin Language);
14. *Wijsbegeerte van het Recht* (Law Philosophy);
15. *Beginselen van het romeinsch privaatrecht* (Roman Civil Law Principles);
16. *International privaatrecht* (International Civil Law);
17. *Intergentiel recht* (Intergroup Law);
18. *Criminologie* (Criminology);
19. *Psychologie* (Psychology);
20. *Gerechtelijke feneeskunde* (Forensic Medicine);

21. *Volkenrecht* (International Law);
22. *Buitenlansch colonial Recht* (Colonial Law of Other Countries);
23. *Geschiedenis van Ned.-Indie* (History of the Dutch East Indies);
24. *Statistiek* (Statistics).<sup>10</sup>

Up to now the curriculum of legal higher education has undergone a number of system changes since RHS Batavia was founded. Indonesian higher education had a new system in about 1982 when the credit system was first applied. Before this, what was applied is that the whole year of learning with all the subjects in that level have to be retaken even when only one subject fails. This is different from the semester credit system; for example, if one subject with 3 credits gets an E, the student has to retake that particular subject only. He or she does not need to retake all the subjects in that semester. This, of course, causes a positive impact because students will only need to retake one subject and not all the subjects.

At the moment the system of legal higher education encourages the active participation from students. Students become the centre of the teaching and learning activities, while teacher only serves as facilitators and tutors. At present the curriculum that is being applied in Indonesia is the Indonesian National Qualification Framework (INQF).

In 2012 with the Presidential Decree Number 8 of 2012 About Indonesian National Qualification Framework which is further elaborated in the Ministerial Regulation of the Minister of Education and Culture Number 73 of 2013 About The Application of the Indonesian National Qualification Framework of Higher Education, a teaching system of the Indonesian National Qualification Framework is set. Article 1 number 1 of the Presidential Decree Number 8 of 2012 gives the definition of INQF as a framework of the levels of competence qualification which can pair, equalize, and integrate the education and work training and work experience in giving the recognition of work competence which is in line with the work structure in various sectors.

INQF consists of 9 (Nine) levels of qualification; levels of qualifications are levels of learning targets nationally agreed upon, which are arranged based on the measurement of education results and/or training gained through formal and informal education, or work experience.

Bachelor level is expected to be equal to level 6, in which the graduates must:

- a. Be able to apply their areas of expertise and make use of Science, Technology and Arts (STA) in their fields in problem-solving as well as adapt themselves at any situation faced;
- b. Master the theoretical concept in a particular science in general and the specific theoretical concept in that science in an elaborate way, and able to formulate the procedural problem solving;
- c. Be able to make the right decision based on information and data analysis, and able to give directions in selecting various alternative solution independently and in groups;
- d. Be responsible for their work and able to be in charge of the organizational work target fulfilment.<sup>11</sup>

University graduates who have the past learning recognition (PLR) are equalized to the profession or equal to level 7. Universities can become the PLR organizers as long as they meet the regulations and criteria for that based on the regulations of Ministerial Regulation of Education and Culture About INQF of Higher Education.

In order that higher education, especially legal higher education, can organize a legal higher education, there are several aspects to pay attention to, namely: academic aspect, aspects of terms and criteria arranged in various regulations, soft skill aspect. If all the aspects are seriously paid attention to by the higher education of law organizers, the graduates of law are expected to have good academic qualifications, be accepted by the market because of good work skills, and have good character. In the end, it is expected that graduates with that kind of profile can compete in the local, national, regional, and even international markets.

Legal higher education in Indonesia must seriously attend to this because since early 2015 the ASEAN Economic Community has been implemented in ASEAN countries.

The establishment of ASEAN Economic Community was done by country leaders of ASEAN<sup>12</sup> as mentioned in the Declaration of ASEAN Concord II in Bali, Indonesia, on 7 October 2003. As the follow up of the declaration in Bali, the blueprint of ASEAN Economic Community was made in Singapore on 20 November 2007. The content of the blue print declaration of the ASEAN country leaders is quoted below:

“We, the Heads of State/Government of Brunei Darussalam, the Kingdom of Cambodia, the Republic of Indonesia, the Lao People’s Democratic Republic, Malaysia, the Union of Myan-

mar, the Republic of the Philippines, the Republic of Singapore, the Kingdom of Thailand and the Socialist Republic of Viet Nam, Member Countries of ASEAN.

Recalling our earlier decision to establish by 2020 the ASEAN Community, including the ASEAN Economic Community (AEC), made in the Declaration of ASEAN Concord II in Bali, Indonesia, on 7 October 2003;

Determined to achieve higher levels of economic dynamism, sustained prosperity, inclusive growth and integrated development of ASEAN;

Conscious of the increasing interdependence of the ASEAN economies within the region as well as with the rest of the world and stressing the importance of narrowing the development gap for accelerating the ASEAN Economic Community by 2015;

Recognising that different levels of development within ASEAN require some flexibility as ASEAN moves towards a more integrated and interdependent future;

Reaffirming our collective commitment, made at the 12<sup>th</sup> ASEAN Summit in Cebu, the Philippines, on 13 January 2007, to accelerate the establishment of the ASEAN Community, including its AEC pillar, to 2015;

Cognisant of the need to have a strengthened institutional framework and a unified legal identity as set forth in the ASEAN Charter by putting in place rule-based systems to realize the establishment of the AEC by 2015;

Expressing satisfaction at the overall progress made and commitment shown by ASEAN in developing the AEC Blueprint and to ensure its timely implementation;

Reaffirming the ASEAN Economic Ministers (AEM) as the coordinator of all ASEAN economic integration and cooperation issues.

DO HEREBY:

1. ADOPT the AEC Blueprint which each ASEAN Member Country shall abide by and implement the AEC by 2015. The AEC Blueprint will transform ASEAN into a single market and production base, a highly competitive economic region, a region of equitable economic development, and a region fully integrated into the global economy. The AEC

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- Blueprint including its strategic schedule is annexed to this Declaration.
2. TASK concerned Ministers, assisted by the ASEAN Secretariat, to implement the AEC Blueprint and to report to us regularly, through the Council of the ASEAN Economic Community, on the progress of its implementation.
- DONE in Singapore on 20 November 2007, in a single copy, in the English language.”<sup>13</sup>

The declaration of ASEAN country leaders in 2007 is the task of all ASEAN member countries in order to implement the ASEAN Economic Community by 2015. Half a year before 2015 the homework of the leaders of the ASEAN countries also becomes the homework of Indonesia as a member country of ASEAN. Furthermore, the homework of Indonesia becomes the homework of all Indonesian people. The community of the higher education of law in Indonesia cannot ignore the implementation of the ASEAN Economic Community in 2015.

The implementation of the ASEAN Economic Community in various areas of life will begin; the law becomes the pillar which will arrange how the implementation of the ASEAN Economic Community will run smoothly and orderly. The law holds a very important role; the law becomes the means to be able to implement well the ASEAN Economic Community. Harmonization of law in the ASEAN countries must be done.

Harmonization of law done in the ASEAN countries at least leads to a question: how does legal higher education respond to this? The good law must also be supported by good legal higher education. How is the readiness of the legal higher education in Indonesia in facing the ASEAN Economic Community? What should be done by the legal higher education in Indonesia?

## **Conclusion**

The ASEAN Economic Community in 2015 definitely will give a significant impact in various life aspects for ASEAN member countries; an impact that will significantly be felt is in the law aspect. ASEAN member countries have varieties in the development level of economic, political, social, and law system aspects. This fact will cause particular problems in the effort of harmonizing the law of the member countries of ASEAN.

This also roots in the varieties of legal higher education in the ASEAN member countries, both in the law system and the curriculum.

The following description gives a picture of the number of legal higher education in some ASEAN countries, namely Indonesia, Singapore, and Malaysia. There are more than 200 (two hundred) faculties of law in Indonesia, consisting of 27 state universities<sup>14</sup>; the data does not cover the number of legal higher education organized by private universities.

Up to July 2016, Singapore has 1 (one) legal higher education, which is in *National University of Singapore*. In August 2006, Singapore Management University has the legal permission from the Singapore government to organize the legal higher education.<sup>15</sup>

In Malaysia there are 6 (six) state institutions of legal higher education, namely Malaya University, National University of Malaysia, International Islamic University of Malaysia, MARA Technology University, Malaysian Northern University, University of Sultan Zainal Abidin, Malaysia Science and Islamic University; besides Malaysia also has legal higher education organized by private universities collaborated with legal higher education of both the United Kingdom and Australia.<sup>16</sup>

The various organizers of legal higher education and the law systems in ASEAN countries will surely produce the varieties of the curriculum structures and the varieties of the arrangement of the law practices in each country.

Based on the fact about the varieties of the ASEAN countries, there are some ideas proposed by some law experts in several ASEAN countries that may be able to be done in responding to the 2015 ASEAN Economic Community.

Tan Cheng Han, a professor and the dean of the *Faculty of Law, National University of Singapore*, in his paper entitled *Legal Education in ASEAN* states that law comparison should be taught in the legal higher education. The teaching of law comparison should increase the collaboration between the existing legal higher education and it should increase the collaboration among lecturers in many countries. Moreover, Tan Cheng Han conveys his ideas of the enrichment of the teaching methods and students' evaluation. The teaching of law is not delivered in the traditional one-way method, but it can also be delivered with the discussion method in groups, seminar, and assignment. The evaluation is based on tests, group work, active partic-



ipation, class presentation, and a take-home examination. This is so in order that the teachers in the legal higher education can keep on learning, improve their teaching techniques, and make the teaching focus into how students can learn well, participate actively, understand the teaching essence better.

Zuhairah Ariff Abd. Ghadas<sup>17</sup> proposes that in order to harmonize the legal higher education in ASEAN, there are some things that can be done:

1. Increasing the knowledge of the law systems in ASEAN countries. The material must be given to law students in higher education when they study the international law material.
2. Having some training of the comparison of law in ASEAN countries.
3. Organizing annual meetings for the deans of the faculties of law in ASEAN countries.
4. Having collaboration in researches in analyzing the law issues in the perspective of ASEAN countries, through professor and student exchange programs.
5. Actively doing collaborations with various institutions.
6. Initiating a consortium of ASEAN legal higher education.
7. Through technology doing some collaboration of teaching programs.
8. Eliminating the language barrier as the primary language used for communication among lawyers in ASEAN is the English language.

Furthermore, Sanjeevi Shanthakumar<sup>18</sup> contributes his ideas about the things that should be done by ASEAN countries in responding to the ASEAN Economic Community. There are some things conveyed, namely: *Creation of an ASEAN Institute for Harmonization of Laws, Networking of Law Schools, Identifying Communalities, Preparing and Publishing Restatements, Conducting Stakeholder Consultations, Conduct a 360<sup>14</sup>, Preparation of model laws.*

Hikmahanto Juwana, a professor of the Indonesian law, conveys his idea that reflecting and learning from the European Economic Community, which has done the law harmonization, it seems difficult to be applied due to the varieties in many aspects possessed by ASEAN member countries. What appears to be able to be harmonized in the law area is the business and economic law, such as tax law, banking law, investment law, bankruptcy law, and insurance law.

The writer is of the opinion that the ideas that have been mentioned above are good and become the basic contemplation of the community of higher education in ASEAN countries. There are several things that should be done immediately, for instance: institutionally making the issue of the ASEAN Economic Community as one thing responded to with an improvement, the law lecturers' improvement of teaching methods, having the curriculum evaluation, doing collaboration with other institutions of higher education of law both in Indonesia and the other ASEAN member countries, improving the foreign language competence of the faculty staff as well as the students, and accommodating the subject of Law Comparison in ASEAN Countries. Hence, law harmonization in ASEAN through higher education of law becomes one of the ways to support and strengthen the ASEAN Economic Community.

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## Notes

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- 17 Zuhairah Ariff Abd. Ghadas, Faculty of Law and International Relation Universiti Sultan Zainal Abidin, dalam *International Conference*, with the theme “*Harmonizing ASEAN Legal System Through Legal Higher Education The Malaysian Perspectives*”, organized by Universitas Esa Unggul, UPN “VETERAN”, Jakarta Islamic University, Jakarta, 11 June 2014. – the main points of the paper are translated and summarized by the writer.
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