

Press Release

“Towards the IEU CEPA negotiation, Civil Society Sues on International Agreements Law to Constitutional Court”

JAKARTA, February 14, 2018. Towards of the Indonesia European Comprehensive Economic Partnership Agreement (IEU CEPA) negotiations on 19-23 February 2018 in Solo, Central Java, nine of Indonesia civil society organizations and 5 salt farmers who are members of the Advocacy Team for Economic Justice filed a Judicial Review of Law no. 24 of 2000 on International Treaties to the Constitutional Court. Articles that are deemed to be contradictory to the 1945 Constitution are namely, Article 2, Article 9, Article 10 and Article 11 of the a quo Law.

The registration of judicial review on International Treaty Law by the Advocacy Team of Economic Justice has been registered at the Constitutional Court on Wednesday, February 14, 2018.

Henry Oliver David Sitorus as the Coordinator of Legal Counsel for Advocacy Team of Economic Justice said " that the four articles in a quo law have created legal uncertainty for the people. As a result lost control and public participation in the International treaty negotiation process ".

for example in article 2, the phrase that can consult with Parliament (DPR RI) has removed the sovereignty of the people in the process of binding Indonesia into an international agreement that have a broad impact on people's lives. Since the phrase of consultation has no legal implications in decision making of state policy, so that this Article is contradictory to Article 11 of the 1945 Constitution "explained David.

In addition, restrictions on the qualification of international agreements that contain in articles 10 and 11 in a quo law has resulted in some of the ratified international treaties have escaped from the control of the people, thus eliminating the right of the people to give a judgment on whether or not an international treaty was adopted because of the broad impact to the lives peoples lives. For example, Article 11 of a quo law treaty on economic, trade, investment, and double taxation treaties shall only be ratified by a Presidential Decree.

"This puts an enormous governmental power over the Parliament (DPR RI) which representing the people's sovereignty. In fact, the President should make international treaties that have broad and fundamental consequences for people's lives, with the approval of the Parliament (DPR RI) as described in the Article 11 paragraph (2) of the 1945 Constitution, "David continued.

Executive Director of Indonesia for Global Justice (IGJ), Rachmi Hertanti conveyed the reason that this lawsuit was filed before the IEU CEPA negotiations was to give a strong message to the Government of Indonesia. "We want to give a message to the Government of Indonesia that the IEU CEPA negotiations that will take place in Solo on 19-23 February 2018 potentially violate the Constitution", said Rachmi.

Rachmi also added that the Judicial Review against the International Treaty Law to the Constitutional Court is a continuation effort from JR Lawsuit of the ASEAN Charter Ratification Law which in 2012 was once sued but defeated. "JR UUPI is our endeavor to seek justice for free trade agreements that have a negative impact on people's lives" she added.

The Loss of Democratization & Its Impact on the People's Fate

Rahmat Maulana Sidik, IGJs Department of Research and Advocacy, explains that there are several free trade agreements (FTA), which was passed without the approval of Parliament (DPR RI), when the FTA agreement has a very broad impact on the people lives, and even necessitate the process of harmonization with the national regulations.

"During this time the FTA negotiation process has always been closed, not involving the public, and not transparent about anything being negotiated. Parliament (DPR RI) has only been offered the results from the negotiation process and just stamped it. But never been involved in monitoring and criticizing the content of the text during the negotiation said Maulana.

Maulana also exemplifies the impact of the ASEAN Economic Community Agreement (MEA), the community does not know when it is legalized but the rules are immediately impacted their life. As a matter of increasingly rapid imported products into Indonesia, the collapse of local industries and small business actors as a result of competing, the influx of foreign workers, and so on ", added Maulana.

Some examples of cooperative agreements that passed through the Presidential Decree and have a broad impact on people's lives i.e. the Trade Agreement between ASEAN and China ratified by Presidential Decree no. 48 of 2004, ASEAN Trade in Goods Agreement (ATIGA) 2009 ratified by Indonesia in 2010 with Presidential Regulation no. 2 Year 2010; ASEAN Comprehensive Investment Agreement (ACIA) in 2009 ratified by Indonesia in 2011 with Presidential Regulation no. 49 Year 2011.

Chairman of the Department of Foreign Affairs Indonesian Peasants Union (SPI), Zainal Arifin Fuad, explaining " that the FTA (free trade agreement) is a concept or a policy involving the lives of many people, so that the decision-making process within it should involve the people as well, namely the Parliament (DPR RI). The emergence of this demand considering the process of free trade agreements that are not very transparent and negative impacts, after the realizations, its often harm the people of Indonesia, especially the peasants. Free Trade and Investment positioned peasants as one of the most aggrieved elements because they tend to put the corporation as a single economic actor. The transition of actors is seen by the rapid growth of land grabbing done to peasants ' agricultural land by the corporations, and often puts the peasants as victims of violence and criminalization.

"Moreover, the concept of free trade is in fact is very contrary to the laws that applicable in Indonesia such as Law no. 18 of 2012 and Law no. 19 of 2013 which both mandate the state to play an active role in encouraging the welfare of peasants, including from the threat of free trade. Therefore, it is expected that both the government and the Parliament (DPR RI) will be able to reconsider the free trade agreements that are being processed or already in place and prioritize trade which respects the condition of the peasants. He added.

Chief Executive of The Indonesian Traditional Fishermen Association (KNTI), Marthin Hadiwinata, added "that the impact of free trade agreement is also harming the fishermen. One impact is on salt farmers, who disappointed when government policies import salt at the harvest time. And that is due to the trade cooperation agreement with other countries ". He explained.

Susan Herawati, Secretary General of KIARA (People's Coalition for Fisheries Justice) said, "That this free trade agreement could harm those people who are dependent on the marine sector, such as fishermen, women fishermen and salt farmers. One of the policies that could cause coastal communities become poorer is salt imports done by the Ministry of Trade. Through the rules of trade ministry No 125 in 2015, salt import flow can be opened even though before the harvest time. Ironically, the argument for legalizing the salt import is the salt stock and the quality of local salt that is considered as insufficient standard. This is in fact inversely proportional to the conditions in the field. One of the salt farmers who joined in Persatuan the Association of Salt Farmers Indonesia (PPGI) in Cirebon Regency for four months can provide 180 tons of salt with above average quality with their own technology. So it can be said, the policy of free trade agreement is not for the welfare of salt farmers, instead its only turning off local salt business "she added.

"The findings of Women's Solidarity in the community clearly demonstrate the fact that international treaties have robbed women's sovereignty over their sources of life. Women farmers are forced to depend on corporations to manage their farms. For example access of seed or fertilizer. Instead of being protected and empowered, it has to deal with imports. The impact of this international agreement is enormous, but the government is very closed, unattended and does not see the specific impact that women experience due to their gender roles, "said Puspa Dewy, Chairman of the National Executive Board of Solidaritas Perempuan. **

Advocacy Team of Economic Justice consist of Indonesia for Global Justice (IGJ), Indonesian Human Rights and Social Justice (IHCS), Serikat Petani Indonesia (SPI), Kesatuan Nelayan Tradisional Indonesia (KNTI), Farmer Initiatives for Ecological Livelihood and Democracy (FIELD), Aliansi Petani Indonesia (API), Yayasan Bina Desa Sadajiwa, Serikat Petani Kelapa Sawit (SPKS), Solidaritas Perempuan (SP), Koalisi Rakyat untuk Keadilan Perikanan (KIARA).

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