

The existence of Act No.32 Of 2002 on broadcasting in the broadcasting system in Indonesia in the era of ASEAN Economic Community (AEC)

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Abstract

The Act No. 32 of 2002 on Broadcasting is aimed at upgrading the people's economy, creating the equity, and strengthening the nation's competitiveness in the globalization era. The Act No. 32 of 2002 is relevant for the era of ASEAN Economic Community (AEC) as it is used for increasing the stability of the economy in ASEAN region. In relation to this, the objectives of this research are: 1) to review the Indonesian Broadcasting System on the Act No 32, 2002; 2) to review the responsibility of broadcasting agencies in the broadcasting system in Indonesia; 3) to assess and analyze the effectiveness of Law in the broadcasting system in Indonesia particularly in entering the era of AEC. The research method used for this study is Juridical Empirical method. The assessment of the Act No. 32 of 2002 in the era of AEC cannot be separated from the national broadcasting system that is the regulation of the national broadcasting based on the provisions of legislation that applies to the achievement of the principles, objectives, functions and direction of broadcasting as a national effort to achieve the national objective as contained in Pancasila and the 1945 Constitution of the Republic of Indonesia. It can be said that the existence of Act No. 32 of 2002 could offset the impact of the consequences of AEC such as the impact of the free flow of goods to the ASEAN countries, the impact of the free flow of service, investment, skilled labor, and capital.

Keywords: existence, broadcasting, asean economic community

1. Introduction

In the era of globalization, the existence of information has a very important meaning and role in all aspects of life, and has become a necessity of life for all people, both individually and organizationally, so it can be said that it functions as a blood flow in the human body ^[1].

Indonesian society, most of which can be considered as advanced and modern, has a primary need of information in addition to clothing, food, and shelter. The information was hard to be accessed since there was a lack of media support. In contrast, nowadays, the information can be easily accessed in line with the development of technology. The technology-based media emerge and become the channel of information. A wide variety of media has expanded in Indonesia, for example, the print media products such as newspapers, magazines, books, and others. Then, the development of broadcast media such as radio, television, and online media supports the spread of information. This kind of media is much-loved by the public so that the broadcasting business is increasingly widespread and the emergence of broadcasting agencies, both radio and television, in line with the needs of society to obtain information, is evident and unstoppable.

The enthusiasm of the public in receiving information via radio and television broadcasters is shown and as the researcher can observe, people seem in favor of watching the show on the television rather than listening to it from the radio. This is caused by the information provided on the television is accompanied with sound and image (Audio - Visual). In addition, those people who have routine every day choose television as a medium of information as it can fit their

schedule. Therefore, a television has become a media that is chosen to be a public information channel and its time slot for its program has been customized based on the estimated schedule for public viewing. The large numbers of television viewers make it as a medium which has a large effect on people and culture, as well as on other media. Now television is the dominant mass medium for news and entertainment.

The development of broadcast media industry in Indonesia is very rapid. In contrast to other business, the television business focuses on information distribution in which the industry makers must not only think about profits but also distribute healthy information and entertainment for the community. Then, the business uses a limited frequency and is owned by the community and since the character of the industry is different from other industries, the regulation cannot simply be left to the market mechanism. Therefore, the arrangement is regulated by a broadcasting act.

The development of broadcasting in Indonesia today is remarkable. Since the Decree of the Minister of Information No. 11 / Kep / Menpen / 1990 on Television Broadcasting in Indonesia has been issued, private television broadcasting agencies changed significantly and created new markets for economic interaction between entrepreneurs and communities. As a result, a number of private television stations which are not TVRI but have a range of national broadcasts, such as PT. Rajawali Citra Televisi (RCTI), PT.Surya Citra Televisi (SCTV), PT AndalasTelevisi (quiz), PT. Indosiar Visual Mandiri (INDOSIAR), PT. Media Televisi Indonesia (METRO TV), PT. Televisi Pendidikan Indonesia (TPI), PT. Television Transformation Indonesia (Trans TV), PT. Lativi Media Karya (TV ONE), PT. Duta Visual Nusantara (TRANS 7), and PT. Global Information Quality (GLOBAL TV) have

¹Edmon Makarim, *Kompilasi Hukum Telematika*, PT. Raja Grafindo Persada, Jakarta, 2004, pp. 23-24.

been established now. This phenomenon of industrial splendor cannot be separated from either the flexibility provided by the government through its legal product, which is in the form of laws and implementing regulations, or the result of this country's significant economic progress. The broadcasting plays an important role in various sectors of Indonesian society, such as: the educational sector; in which the broadcasting can be a learning media for the development of children's education. In terms of the health sector, a media can serve as a means to the success of all sorts of health program established by the government, and including the role of the media which is conducted through advocacy and socialization on the related programs.

Since the enactment of Act No. 32 of 2002, a fundamental change appears in the management of the broadcasting system in Indonesia. The most fundamental change in relation to this law is that the limited transfer of authority from the broadcasting management which has been the exclusive right of the government to an independent regulatory body namely the Indonesian Broadcasting Commission (KPI). The word 'independent' is meant to emphasize that the management of the broadcasting system, which is a public domain, should be administered by a body which is independent from the capital intervention and power interests.

The presence of Act No. 32 of 2002 on broadcasting aims at maintaining and improving morality and religious values and national identity, improving human resources, maintaining and strengthening the unity of the nation, raising awareness of law and national discipline, channeling public opinion and encouraging active participation of society in national and regional development and preserving the environment, and preventing monopoly ownership and supporting fair competition in the broadcasting field; it is also expected that it can boost the economy of the people, create the equity and strengthen the nation's competitiveness in this era of globalization. In brief, the presence of this law is regarded as a symbol of the reality of how the future broadcasting sector^[2] should be. In regards to the people's economy improvement, a study that reviews the existence of Act No. 32 of 2002 in the era of the ASEAN Economic Community (AEC) is needed. This cannot be separated from the national broadcasting system that is the regulation of the national broadcasting based on the provisions of legislation that applies to the achievement of the principles, objectives, functions and direction of broadcasting as a national effort to achieve the national objective as contained in Pancasila and the 1945. So the Act No. 32 of 2002 Article 5 states that the broadcasting must be directed to boost the people's economy, create the equity, and strengthen the nation's competitiveness in the globalization era. The Act No. 32 of 2002 is very relevant for the era of ASEAN Economic Community (AEC) particularly for increasing the stability of the economy in the ASEAN region. AEC has impacts on the creation of a free market in the areas of capital, goods and services, as well as skilled labor. Hence, the presence of Act No. 32 of 2002 could offset the impact of the AEC, the impact of free flow of goods to the ASEAN countries, the impact of the free flow of services, investment, skilled labor, and capital.

Based on the background mentioned above, this dissertation research problems can be formulated as follows: *first*, how is

the existence of Act No. 32 of 2002 on broadcasting in the Indonesian broadcasting system?; *second*, how is the responsibility of broadcasting agencies in the broadcasting system in Indonesia?; *third*, how is the effectiveness of law on broadcasting system in Indonesia in the era of ASEAN Economic Community (AEC)?

The objectives of this research are as follows: To review the existence of Act No. 32 of 2002 on broadcasting in the Indonesian broadcasting system; To review the responsibilities of the broadcasting agencies in the broadcasting system in Indonesia; To assess and analyze the effectiveness of law in Indonesia on broadcasting system in the era of ASEAN Economic Community (AEC).

2. Conceptual Framework

2.1 Theoretical Framework

2.1.1 The Theory of Legal State (*Grand Theory*)

The theory of the establishment of a state based on law has been known since the fifth century BC (Ancient Greece). The idea of this legal state is essentially aimed at protecting the human rights. In theory and practice, the idea of a law state boomed since the fifteenth century until the eighteenth century. Within this interval, the event of Renaissance and Reformation in Europe is very influential, especially in the field of politics and law. The pioneers are Hugo de Groot, Thomas Hobbes, Benedictus de Spinoza, John Locke, Montesquieu, J.J. Rousseau, and Immanuel Kant, among others. However, from all of these pioneers, Immanuel Kant (1724-1804) is regarded as the most influential one who introduced the idea of "pure legal state" or "formal". According to Immanuel Kant, there are four principles that characterize the legal state. Those principles are as follow:

- a. The recognition and protection of human rights.
- b. Separation of powers to protect the human rights.
- c. The government is under the rule of law.
- d. The court is for resolving problems that arise as a result of human rights violations.

Immanuel Kant's theory about the state of formal law creates a passive state. This means that the only task of the state is maintaining the peace and safety in the country, or in other words, the state is simply a "night watchman", and therefore, it should not interfere in the social and economic affairs. This opinion later generates a motto "*Laissez Faire, Laissez Alle*", which indicates a free competition in the economy that finally leads to the terms of capitalism and liberalism in politics. In practice, in the nineteenth century, the Kant's theory has been implemented in many parts of Europe, America, and Australia. However, the implementation of this theory causes human and natural exploitation, monopoly and free fight liberalism, and social gap.

At the end of the nineteenth century, a pioneer of modern legal state namely Prof. Kranenburg emerged and his theory is well known as the "Welfare State". This theory is also known as the law of the state of material, because of its view which states that a country has not only to maintain the peace under the rule of law, but also to be responsible for developing and creating the welfare for its citizens. It can be noted that this theory of legal material state is then commonly practiced in many developing countries, including in Indonesia.

A legal state is a state based on law and justice for the citizens. The point is that all of the authorities and actions are governed by law. This situation would reflect justice for social life of its

²See Article 5 Act No. 32 of 2002 on broadcasting

citizens^[3]. The thought of legal law was started since Plato and his concept "that a good governance is based on a good regulation (laws) and this is known by the term *nomoi*" Then, the idea of a constitutional state has become popular in the 17th century as a result of political situation in Europe which was dominated by absolutism.

In its development, the principles of this legal state cannot be separated from the principles of its people. It is caused by the law that regulates and limits the powers of the state or the government is interpreted as the law that is made on the basis of power and sovereignty of the people. In relation to the legal state, sovereignty of the people is an element of the legal state, in addition to the issue of people's welfare^[4]. According to Sjachran Basah, the principle of legality means that the efforts to achieve the harmonious integral duet of the principles between the sovereignty of the law and of the people based on the principles of mono dualism as the constitutive pillars. This application of the principles of legality, according to Indroharto, will support the enactment of legal certainty and the enactment of equal treatment^[5].

2.1.2 The Theory of Legal Certainty (*Middle Theory*)

The 1945 Constitution of the Republic of Indonesia, states that everyone has the right to recognition, security, protection, and legal certainty and equal treatment before the law^[6].

The Criminal Code states that an act cannot be convicted except by the power of the criminal provisions of the legislation that already exists^[7].

Provisions which are also known as the principles of legality are the basis for legitimacy that cannot be left to the application of criminal law. To punish an act, the party that has power to punish, had to ensure the legal object beforehand, that the act can be punished.

The absence of such notice or certainty can cause the arbitrariness of power of the authority to punish. The lack of certainty will make law enforcement action loses its legitimacy, so the law system will not work properly. Citizens should be able to know, or at least be conditioned to know about what actions are prohibited and may result in action being taken by the authorities.

2.1.3 The Theory of Justice (*Middle Theory*)

The theory of justice from Adam Smith contains the concept of commutative justice. He thinks that the commutative justice concerns about equality, balance, harmony and unity between one party and another party^[8]. Real justice reveals the equality and harmonious relationship between humans.

This means that commutative justice set just and fair relations between one and another, or between the citizens of a country and the citizens of other countries. This justice demands that in the social interaction between one residents and another, no one can lose his or her rights and interests. This means that the principle of justice demands that everyone gives, respects, and

protects the rights of others. So the moral basis is all people have dignity and value, and therefore the rights equity should be protected and respected by everyone, in order to create the balance and equality between all parties in any social interaction.

John Rawls describes the two principles of distributive justice^[9] as follow:

First, the "Principles of Equal Liberty"; this principle reads "each person is to have an equal right to the most extensive scheme of equal basic liberties compatible with a similar scheme of liberties for others"^[10]. This means that the justice demands that everyone should be recognized, valued, and guaranteed with the rights of equal liberty. This liberty is the most essential thing that must be shared by everyone equally. Only with this liberty, everyone can live his or her life in accordance with his or her wishes and what he or she thinks is right. In other words, the guarantee of freedom and equal opportunity for all people could create the existence of a situation that is fair and allows everyone to obtain what they need. Rawls shows that everyone has the same dignity and value, and therefore everyone deserves fair treatment in respect to this value and dignity.

Second, the "principle of inequalities", that the social and economic inequalities are to be arranged so that they are both (a) favorable for those who are less fortunate and (b) attached to the duties and positions open to all under the same conditions of equality of opportunity.

The Rawls' principle is a way out to solve the distribution of economic injustice done by the market, by managing the systems and social structures that primarily benefit the disadvantaged groups. It is certain that this system remains a priority on equal liberty for all people, however this equal liberty must be accompanied by regulating the social, political, economic and cultural structure so this would not perpetuate the distributive injustice. The main purpose of Rawls is: to reduce the influence of social conditions and the fate of nature which are emerged from the distribution of wealth. For him, the settings must be carried out within the framework of political institutions and legal governing the general trend of economic events and maintain the social conditions necessary for fair equality of opportunity^[11].

Starting from this, the state is required to intervene by doing an action that against the offence and thus this action can restore the balance or equality of the two parties which was disturbed by the offense. The State is required to restore relations damaged by the infringement of a particular party. This means that the principle of justice also involves the restoration of broken relationships, which becomes inharmonious and imbalanced (unfair), since the violation of the rights conducted by the other party.

The philosophical principle of justice is actually contained in Pancasila, the ideology of the Republic of Indonesia, particularly in its fifth principle: "Social justice for all Indonesian people". Implementing the "Social Justice" can be reflected through how we put social justice in the framework of understanding that carries the meaning of "giving to each person what they are entitled". It can be concluded that social justice can be done, if the social rights could be fulfilled.

³Abdul Aziz hakim, *Negara Hukum dan Demokrasi*, (Yogyakarta : Pustaka Pelajar,2011), p.8

⁴Ni'matulhuda, *Negara Hukum dan Demokrasi & Judicial Review*, (Yogyakarta : UII Press, 2005), p.1

⁵*Ibid*.

⁶Article 28clause 1 the Constitution

⁷Article 1 clause 1 Criminal Code (KUHP)

⁸John Rawls, in Sonny Keraf, *Etika Bisnis, Tuntutan dan Relevansinya*, Kanisius, 1998:146.

⁹*Ibid*, p. 152

¹⁰*Ibid*, p. 153

¹¹*Ibid*, p. 155

2.1.4 Applied Theory: The Theory of the Effectiveness of the Law

The effectiveness of a law should be linked to the achievement of the objectives set, so that a legislation can be said to operate effectively if the legislation can achieve the objectives set by the legislation.

The effectiveness of the law is closely related to the successful operation of the law in a society because the law in this community is influenced by factors that exist within the community itself. The concept of the law effectiveness is focused on how the law is executed in the community. According to Soerjono Soekanto, there are five (5) factors that affect the effectiveness of the law, namely: the statute itself; the law enforcers; Facilities and infrastructure; community; and Culture.

2.2 The review of literature

2.2.1 Broadcasting

Broadcasting (Broadcasting) in English means the delivery of programs by radio and television media. The word broadcasting is derived from the verb *to broadcast* that is interpreted as a means to speak or appear on radio or television.

The definition of the term "broadcasting" in the Broadcasting Act is some activities of transmitting programs by using transmitting media on land, at sea or in space using radio frequency spectrum through the air, cable, and or other media to be received simultaneously and concurrently by people with broadcast receiver device [12]. Broadcast is the message or series of messages in the form of sounds, images, or both sounds and images or in the form of graphics, characters, either interactive or not, which can be received via broadcast receiver device [13].

The broadcast program can be defined as a part or segment of the overall content of a radio or television broadcast [14].

2.2.2 The Television Industry

The definition of television industry is a company which is engaged in the field of broadcast television and this company has rights and guarantee from the state to carry out the activities, which are ranging from establishing the television broadcasting companies to broadcasting television programs that are granted by the broadcast license. The company name, the business license and activities also follow the procedures set by the government. The formulation of the television broadcasting industry is still based on the Broadcasting Act, namely Act No. 32 of 2002 [15].

The main license for broadcasting agencies is granted by the State in this case the Minister of Communications and Information Technology (MCIT) [16] through K.P.I.

The license for broadcasting is a right granted by the state to the broadcasting agencies to organize the broadcasting [17].

2.2.3 Brief History of Broadcasting

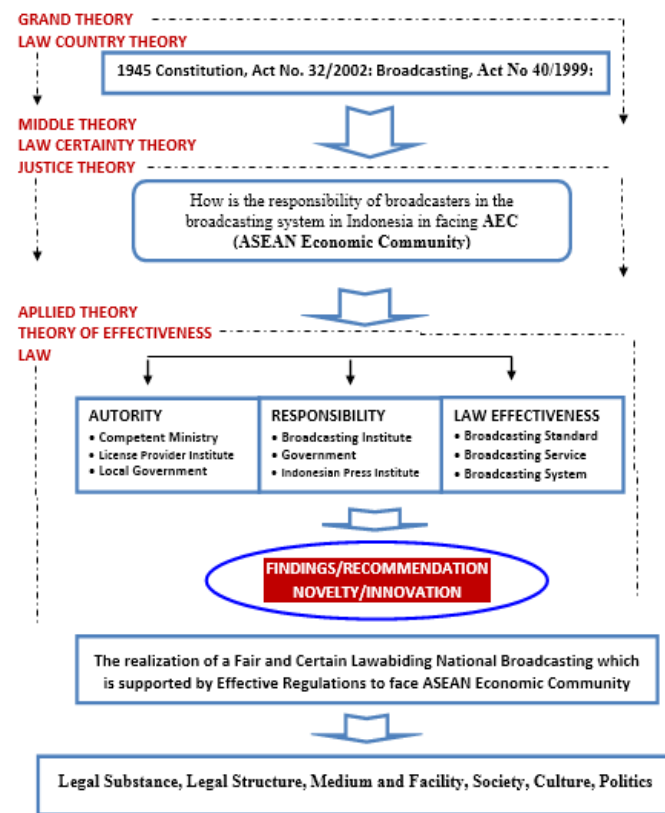
The development of modern communication in mass media

nowadays has enable people around the world to communicate to each other. Communication is a basic need for humans [18]. This situation might be happened because of there are so many Medias (*channel*) that can be used as communication tool. Broadcasting Medias which are, radio and TV are the examples of efficient mass media that can convey the message to many audiences. Thus, mass media has a very important role.

Electronic media such as radio and TV has different history from printed media. The history of mass media can be divided into two; the first one is the history of broadcasting media as the technology determiner and the history of broadcasting media as industry. The history of broadcasting media as technology invention was started when the radio has been invented at the first time by the technicians from Europe and America. The history of TV itself as an industry was started in America [19].

The history of world broadcasting was started when a Germany physician named Heinrich Hertz was successful to send and receive the radio's wave in 1887. Hertz's work then was continued by Guklielmo Marconi (1874-1937) from Italy, and Marconi succeeded to send the *Morse* signal which has a form like full stop and line from a transmitter into recipient device. The signal that has been sent by Marconi succeeded to cross Atlantic Ocean and in 1901 by using electromagnetic wave [20].

2.2.4 The Framework



¹²Article 1 Number 1 Broadcasting Act

¹³Article 1 Number 2 Broadcasting Act

¹⁴Article 1 Number 2 Broadcasting Act.

¹⁵TariganSibero, *RisalahRapat-rapatPembahasanUndang-undangPenyiaran*, The General Secretary of DPR-RI, 1997, Book III, p. 99.

¹⁶Act No. 32 of 2002 on broadcasting, Article 33.

¹⁷See Article 1 Number 14 Act No 32 of 2002.

¹⁸ Edy Susanto, *Huku Pers di Indonesia*, Penerbit Rinek Cipta, 2010; p. 45

¹⁹More complete description can be read in *Manajemen Media Penyiaran* oleh Morissan, Penerbit Prenada Media 2008 [http://WWW.prenadamedia.com/ cat.php?page= 10&kat=7&pOS= 10](http://WWW.prenadamedia.com/cat.php?page=10&kat=7&pOS=10) Posted by MORISSAN on 08:16 0 komentar

²⁰*Ibid*.

3. Research Method

3.1 Research Type

This research is an empirical legal study which is a type of research that has been known publicly in legal studies. Empirical legal research covers the study of law identification and the study of the effectiveness of punishment ^[21].

3.2 Data Type and Legal Materials

Data type and legal materials that have been used for this study are: Primary data in legal research, that is a study that has been conducted in the society; and secondary data in legal research, that is the data that has been gained from library research or a review of literature related to the research problem or research materials that are often been referred to as legal materials.

3.3 Data Collection Techniques

As we know “there are several mediums in collecting data such as document study, observation, and interview” ^[22]. Besides primary data, this research is basically focused on the discipline of law study, so this research is part of law study by “examining library materials that have been named as normative legal study or library legal research” ^[23]. The collection of legal materials was done by identification procedure and the inventory of positive law as an introductory activity. Generally, at the normative legal research, most researchers just studied about the documentary of secondary data that includes primary, secondary and tertiary legal materials.

Secondary data, which is library research, is done on several sources of the legal materials that can be clarified into three types. They are: ^[24]

- a. Primary legal materials are law binding materials composed of: 1945 Constitution Amendment IV, Act No. 32 Year 2002 on Broadcasting, Act No 40 year 1999 on Press.
- b. Secondary legal materials are materials which give explanation about primary legal materials such as literatures that have relation with the aspects of the law for broadcasting, seminar findings, studies or journals related to the problem that has been discussed.
- c. Tertiary legal materials are materials that give explanations and clues about primary and secondary legal materials. They consist of: law dictionary, Indonesian dictionary, or any book which has relation or connection with the problem of the study.

3.4 Data Processing Technique

When the data and the law materials have been collected, the next step is processing the data; that is, to process the data in such a way that the data and the legal materials can be arranged coherently, systematically, as to make it easier for the researcher in analyzing the data. All the collected data gave meaning for the purpose of the study.

²¹ Soerjono Soekanto, *Pengantar Penelitian Hukum*, Jakarta UI Press, 1983, p.51

²²Ibid, hal. 66.

²³Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif*, Rajawali.Jakarta, 2006, p. 14.

²⁴Soerjono Soekanto and Sri Mamudji, *Ibid*, p. 13, see also: Peter Mahmud Marzuki, *Penelitian Hukum*, Penerbit Kencana Prenada Media Group, Jakarta, 2005, p. 141.

3.5 Data Analysis Technique

The data analysis technique used in this research is by an approach on the primary data and normative legal materials. In an effort to analyze data, besides using the primary data that has been collected in the field, legal materials are also used, referring to the legal norms outlined in legislation and judicial decision. The data and legal materials obtained are put in inventory and identified, that will then be processed and analyzed qualitatively using deductive logic thinking.

4. Discussion

4.1 The Existence of Broadcasting Act No 32 of 2002 in Indonesian Broadcasting System

The existence of Broadcasting Act No 32 of 2002 in broadcasting system can be seen through the existence of Act No 32 of 2002 article 5, stating that broadcasting is directed to improve the society's financial capability, create equality and strengthen the nation's competitiveness in the globalization era.

The setting system in television broadcasting industry is held in one national broadcasting system that has been developed with the pattern of an integrated network by establishing a local network station. In daily activities, many facets of human life tend to be *human interest* ^[25] which is interesting to be presented.

So far, the Ministry of Communication and Information has not issued the government regulation about television broadcasting system network that can be used as references for every party of network system that should be done. On the other hand, the ministry of communication and information appeals national television stations to get what is called “The License of Broadcasting Adjustment Provider” which essentially remains to allow television broadcasting stations in Jakarta to broadcast all around Indonesia without developing networks in other local cities. In 2007, Communication and Information Department only required every national TV station to insert 10% of local content in every channel of each district. Although this seemed to give a larger portion for “local content”, but in reality, it did not answer the need for broadcasting decentralization.

Until nowadays, networked TV systems give impression that they are still verged by Communication and Information Department. It might be predicted that the giant TV industry is actually in uncertain situation, but they tend to feel more comfortable to uncover the issue than to actually implement the mandate of Broadcasting Act. At the same time, there is an effort to revise that Act; seemingly, with the hope that a clause on liability of network systems will be eliminated.

1. The regulations of broadcasting in Indonesia have several main points as follow:
2. Broadcasting should guarantee and protect the freedom to express public opinion whether it is written or verbally, including guarantee the freedom to be creative by having the principle of justice, democracy, and legal supremacy as the foundation.
3. Broadcasting should reflect justice and democracy by balancing rights and obligation between society and the government, including respecting personal human rights without bothering other individuals' rights;

²⁵ Samsul Wahidin, *Hukum Pers*, Penerbit Pustaka Pelajar, 2005; p. 151

4. Paying attention to all aspects of the nation and country as a whole and considering broadcasting as an important and strategic economic institution, nationally and internationally;
5. Anticipating the development of communication and information technology, especially in broadcasting area, like digital technology, compression, computerization, TV cable, satellite, internet, and other specific forms of executing the broadcast;
6. Empowering people to do the social control and participate in advancing national broadcast; therefore Indonesian Broadcasting Commission is expected to accommodate the society's aspirations and to represent public benefits in broadcasting activity;
7. Broadcasting has a close connection with the spectrum of radio frequency and the orbit of the geostationary satellite which is a limited natural resources so that its utilization should be managed effectively and efficiently; and
8. Broadcasting development is directed to create a broadcast which has quality, dignity, and is able to pervade and reflect various social aspirations, to improve the society's deterrent power to the adverse effects of foreign culture ^[26].

4.2 Broadcasting Institution Responsibility in Indonesian Broadcasting System

The Act No 32 of 2002 on broadcasting formulates that television broadcasting service is conducted by the broadcasting agency ^[27]. There are four television broadcasting institutions, consisting of four classifications. They are public broadcasting, private broadcasting institution, community broadcasters, and subscription broadcasters. All of these are legal entities in Indonesia which are established both by individuals and by the government.

In particular, a public broadcasting institution, that is TVRI, was initially established by the country and based on a government regulation on Television of the Republic of Indonesia. The particular arrangement on public broadcasting institution is set into the Government Regulation No. 11 of 2005 and No. 13 of 2015. Whether it is an institution or in its implementation, TVRI is independent, neutral, unprofitable, and has the function to serve the society for their benefits. TVRI financial support is obtained by broadcasting dues, National Income and Budget Plan, Local Income and Budget Plan, donation from the society, advertisements and other legal efforts which are related to TV broadcasting. The income which is obtained from funding sources, but are not from the national and local budgets, becomes the nation's income which is managed directly and transparently to sponsor this public broadcasting institution.

Private Broadcasting ^[28] is a broadcasting institution with an establishment requirement that it is established by Indonesian citizen; in particular, a private broadcasting institution is managed by Government Regulation No. 50 of 2005. Both in Act No. 32 of 2002 and Government Regulation No 50 of 2005, it is stated that a private broadcasting institution is

established by Indonesian legal institution in the form of Limited Corporation (Ltd) whose business scope only holds television broadcasting service, where all of its initial business capital are owned by Indonesian citizens or Indonesian legal institutions whose stocks are entirely owned by Indonesian citizens. In order to fulfill their capital, private broadcasting institutions can develop and add on their capital from foreign citizens or foreign legal institutions where the amount is not more than 20% of all of the issued and fully paid capital and also based on minimum stocks owned by two shareholders. Ownership restriction by foreign citizen or foreign legal entities are done directly and indirectly, at least 80% of the private broadcasting institution has to be owned by Indonesian citizens or Indonesian legal institutions where all of the stocks are owned by Indonesian citizens as well. Every transaction under the name of private broadcasting institution which causes the foreign citizen to be the owner of more than 20% of all of the stocks that have been used and fully paid, should be returned without exception ^[29].

4.3 Legal Effectiveness in Indonesian Broadcasting System in facing ASEAN Economic Community (AEC)

The Act No. 32 of 2002 on broadcasting, where its presence is led to protect and improve morality, religious values, and national identity, improve human resources, maintain and strengthen nation unity, improve law-abiding awareness and national discipline, give a channel for public opinion, and encourage society's active roles in local and national development along with reserving our living environment, and prevent monopoly ownership and support fair competition in broadcasting, is also expected to be able to improve society's income and also realize equity and strengthen the nation's competitiveness in this era of globalization. In essence, the existence of this Act is perceived as the symbol of reality about how broadcasting sector should be in the future ^[30]. In relation with society's financial development, it is necessary to review the existence of Act No 32 of 2002 in ASEAN Economic Community (AEC). This issue certainly cannot be separated from the national broadcasting system which is the order of the implementation of national broadcasters based on the provisions of the applicable legislations towards the fulfillment of the principle, purpose, function and direction of the national broadcasting, as an effort to fulfill the national dream written in *Pancasila* and 1945 Constitution. The existence of Act No 32 of 2002 Article 5, states that broadcasting aims to encourage the society's economic development, realize equality, and strengthen nation's competitiveness in globalization era. This issue will be very relevant if the Act 32 of 2002 is related to ASEAN Economic Community (AEC) which aims to improve the financial stability in ASEAN. The effect of the realization of AEC is the free market in the areas of stocks, goods and services, as well as skilled labors. Then the existence of the Act No 32 of 2002 may balance the impact of the consequence of AEC, which is the free goods distribution from every country in ASEAN, the impact of free current of services, free current of investments, the impact of the current of skilled labors, and the impact of free current of capitals.

²⁶Danrivanto Budhijanto, *Hukum Telekomunikasi, Penyiaran & Teknologi Informasi – Regulasi & Konvergensi*, PT.Refika Aditama, Bandung, 2010, p. 75-76.

²⁷ Article 3 Verse 3 Broadcasting Act.

²⁸ See Broadcasting Act No 32 Year 2002 and Government Regulation No 50 Year 2005

²⁹ Government Regulation No 50 Year 2005 Article 24

³⁰ See Article 5 Act No 32 Year 2003 on Broadcasting

Basically AEC is a regional integration where 10 (ten) countries in ASEAN were united on January 1, 2016 with a purpose to create the ASEAN region as a base of production and a single market which has high competitive value with balanced economic development as well as integrated to global economy.

There are (4) four basic pillars to create ASEAN Economy Community (AEC), they are:

- a. Making ASEAN as the single market and the centre of production.
- b. Being a competitive economic region.
- c. Creating a balanced economic development
- d. Integrating to global economy.

AEC integration covers (4) four pillars, but at this moment, it seems like ASEAN still cannot fulfill the 4 (four) pillars yet. For instance, it is still not competitive due to a problem on unbalanced development, it is not equitable yet as there are still small and medium enterprises (SMEs) that have become victims and cannot be integrated to global economy; for example, in Indonesia, we are still fully concentrating on fulfilling domestic needs. Basically, ASEAN countries are not yet ready to face AEC.

Related to that issue, thus, global economic activities will be determined by the existence of the Broadcasting Act No 32 of 2002 about legal effectiveness in Indonesia Broadcasting System in facing ASEAN Economic Community (AEC) and can be reviewed from legal enforcement through legal substance, legal structure, facilities and infrastructure, legal culture and legal politics; they are:

- a. In facing the problem of that legal enforcement, it is necessary to revamp the legal system integrally whether it is related to the regulations of the Acts, institution and legal enforcement officers as well as legal culture that should be directed to *Pancasila's* values so that the impact of ASEAN Economy Community that would be begun at the end of 2015 can be filtered, so that it will not influence the basic values of united nation and united country in Indonesia.
- b. Professionalism improvement and proportional discernment and integrity of the officers are necessary, considering many problems related to the international trade, employment, taxes, and the others, so it is necessary for the officers to have better comprehension related to these issues and other issues on international law so that they can give more dignified law enforcement.
- c. Problems of supporting infrastructures and facilities, whether it is infrastructure or superstructure or related to inadequate hardware or software like office buildings, transportations, recorders, cameras, computer, internet, prosperity and other aspects, as well as take home pay officers who also determine the success of law enforcement and has become very important to support the officers in facing ASEAN Economic Community (AEC).
- d. The establishment of legal culture is very related to the legal substance and structure, because if the legal substance is adequate and law enforcement can be done, and other related legal structure with the officers are able to act professionally and keep their integrity, and if there is any violation, the officers should act decisively, consistently. The officers should continue their observation

consequently, so that the discipline in society can be reserved nor maintained.

- e. The mending of the legal system should be directed to the values that have been written in 1945 Constitution and *Pancasila* so that the negative impacts from ASEAN Economic Community (AEC) will not harm Indonesian citizens. Furthermore, law enforcement that should be the main focus related to the corruption case. To eradicate corruption, we should use two approaches; in addition to retributive justice, we should also use restorative justice which has been developed in every developed country around the world, because eventually we cannot only think in the Indonesian national scope anymore, but we should think that Indonesia's competitiveness should be firm in the regional context of ASEAN and even in the international context.

5. Conclusion

Broadcasting execution in Indonesia has been mandated to be done in one national broadcasting system. National Broadcasting System is the order of the implementation of national broadcasters based on the provision of the applicable Acts which aims to fulfill the principle, purpose, function and direction of the national broadcasting as the effort to actualize the national dream as written in *Pancasila* and 1945 Constitution. National Broadcasting System consists of broadcasting institution and a fair network pattern which are developed by establishing network stations and local stations. The spectrum of radio frequency for broadcasting execution is used by Indonesia for the society's prosperity through the administration that has been done by the government.

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