

## ABSTRACT

The situation existing at the conclusion of the contract may subsequently have changed so completely that the parties, acting as reasonable persons, would not have made the contract, or would have made it differently, had they known what was going to happen. Thus, the majority of modern writers accept the doctrine of *rebus sic stantibus*. In international trade, this doctrine is applied in a clause which is frequently introduced as a hardship clause. As the civil law country, Indonesia does not recognize the hardship clause. Every change of circumstances is solved by the *force majeure* concept. But the problem is that *force majeure* concept can't assist the parties to continue the contract. Lying on the freedom of contract principle, this hardship clause can be used to maintain the performance of contract.

Based on *Doctrinal Research* method, this thesis using the Conceptual Approach, Statute Approach and Case Approach to give the basic understanding what is the urgency of the hardship clause.

After reviewing many literatures, rules, and journals, the characteristics of hardship has been described that this clause has two main element. First is the hypothesis about what is the definition of hardship. And the second is the procedure of contract recovery that has been agreed by parties. Furthermore, when there is a dispute of contract caused by the change of circumstances, the parties will first renegotiate for the contract adaptation dealing with the changes. If this renegotiation has no result, one of the parties can submit this dispute to the Court which has been determined in the contract. That's why the hardship clause is urgent for parties who want to solve the dispute of the change of circumstances without ending the contract.

Keywords: Contracts, *Rebus Sic Stantibus* Principle, Hardship Clause

*Lord, now I see,  
You only want me to believe  
Not to change.  
In all my failures and defeats  
To believe what You have done,  
... And not in what I see.*

*Lord I believe,  
When all around me is defeat  
And it seems that nothing's changing outwardly.  
No! I'm not discouraged,  
I'm believing You.*

*Yes, I believe,  
And there is no demand on me.  
Simple faith, yes, that is all You want from me.  
Freed from anxious doubting  
I'm free to just believe!*

*Believing You,  
Because, Lord, You are my success!  
When I fail, all I must do is just confess,  
And go on enjoying You  
I love believing You*

**But we have this treasure in earthen vessels that the excellency of the  
power may be of God and not out of us.  
(2 Corinthians 4:7)**