

LEGAL PROTECTION OF LECTURERS 'RIGHTS AND OBLIGATIONS AGAINST FOUNDATION INTERVENTION IN HIGHER EDUCATION

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ABSTRACT

Law no. 14/2005 on Teachers and Lecturers and Government Regulation of the Republic of Indonesia No. 37/2009 on Lecturers certainly guarantees the existence of lecturers in universities both public and Private, especially swata universities often face off between lecturers and college managers namely foundations. The Foundation as one of the institutions that has a license to establish and or manage high-profile institutions often ignores the rules that apply in accordance with the laws and regulations, sometimes the foundation of a college often intervenes in the policies that will be issued by the head of the college, often harming the lecturers who are based in the college, thus harming the rights of lecturers, and not keeping agreements or contact work towards permanent lecturers or non-permanent lecturers. To ensure legal protection for lecturers both permanent and non-permanent in universities managed by the Foundation, therefore there needs to be more in-depth research on the Legal Protection of Lecturers' Rights and Obligations against Foundation Intervention in Universities

This research is a normative empirical juridical research, namely by conducting an analysis of the problem through studying the legal norms contained in the laws and regulations in Indonesia and looking at the reality that occurs in the field. How is it technically done in the field against the rights and obligations of lecturers to the intervention of the foundation, whether in accordance with the applicable laws in Indonesia.

Whereas Law Number 14 of 2005 concerning Teachers and Lecturers only guarantees legal protection in carrying out professional duties, does not guarantee legal protection regarding the rights and obligations of a lecturer who receives a wage or salary from a tertiary institution, let alone the existence of a foundation intervention that manages a tertiary institution which is protected by Law No. 16 of 2001 concerning the Foundation. Thus, it is very necessary to have a new legal arrangement or legal product to regulate legal protection of the rights and obligations of lecturers, legal products can be in the form of Laws, Ministerial Regulations and Regional Regulations if it is possible that these regions have the same vision and mission government, namely the intellectual life of the nation one of the goals of the Republic of Indonesia.

Keywords : Legal Protection, Rights And Obligations, Lecturers, Foundation Intervention, Higher Education

INTRODUCTION

Based on the Law of the Republic of Indonesia Number 14 of 2005 concerning Teachers and Lecturers, Government Regulation of the Republic of Indonesia Number 37 of 2009

concerning Lecturers, we can say that Lecturers are professional educators and scientists with the main task of transforming, developing, and disseminating science, technology, and arts through education, research, and community service. Regarding the status of lecturers, it consists of permanent lecturers, non-permanent lecturers, and honorary lecturers.

Permanent lecturers are lecturers who work full time, have the status of permanent teaching staff at certain higher education units, and receive recognition from the Higher Education by granting NIDN (National Lecturer Identification Number). Non-permanent lecturers are contract lecturers appointed by the leadership of a higher education institution or foundation for a certain period of time, they are residing in the tertiary institution that contracted them, working full time or not full time, to whom they are given an NUPN (National Teacher Serial Number).

Honorary Lecturers are Lecturers who teach at Tertiary Education Institutions without a work association (not contracted), they do not have a National Lecturer Identification Number (NIDN), are not recorded in the Higher Education Database (PDPT) so they do not have an NUPN. The various forms of lecturer status that exist and are domiciled in a state or private university are of course directly related to policies or interventions from university administrators, so that questions often arise which cause harm to the lecturer, especially lecturers who are under the management of the Foundation.

Foundations as one of the institutions that have permits to establish and / or manage higher education institutions often ignore the applicable rules, and are not in accordance with the laws and regulations in their implementation, sometimes foundations from a university often intervene in policies to be issued by Higher education leaders often harm the lecturers who take shelter within the tertiary institution, thus detrimental to the rights of the lecturers, and do not keep agreements or work contacts with permanent or non-permanent lecturers. As regulated in Law no. 16 of 2001 concerning the Foundation.

The lecturer profession is a special field of work carried out based on the following principles: (1) Having talents, interests, vocation, and idealism;(2) Having a commitment to improve the quality of education, faith, piety, and noble character;(3) Have academic qualifications and educational background in accordance with the field of work;(4) Have the necessary competencies in accordance with the field of work;(4) Has responsibility for the implementation of professional duties;(6) Obtain an income determined in accordance with work performance;(7) Have the opportunity to develop professionalism in a sustainable manner by lifelong learning;(8) Has guaranteed legal protection in carrying out professional duties;

To ensure legal protection for lecturers, both permanent and non-permanent, in tertiary institutions managed by the Foundation, therefore, it is necessary to conduct more in-depth research on the Legal Protection of Lecturers' Rights and Obligations Against Foundation Intervention in Higher Education?

This research purpose is to find out about the Legal Protection of Lecturers' Rights and Obligations against Foundation Interventions in Higher Education. The Benefits of Research is being a reference or input for lecturers, foundations and higher education leaders, and for practitioners who wish to assist lecturers in obtaining their rights, as well as to the government as a material for consideration in finding good solutions or solutions, in realizing the goals of the State.

METHODS

Types and Characteristics of Research The type of research carried out in this research is empirical normative juridical research, namely by analyzing the problem through reviewing the legal norms contained in the laws and regulations in Indonesia and seeing the reality that occurs in the field. According to Ronald Dworkin, normative research is also called doctrinal research, which is research that analyzes law as law is written in book, and law as law as it is decided by the judge through the judicial process. The research conducted is descriptive which aims to describe, inventory and analyze theories and regulations as well as cases that have been decided by judges relating to the problems in this study, so the legal research method used in the preparation of this research is carried out with a qualitative approach.

DISCUSSION

Result

As for the results of the research that has been carried out, by taking samples from universities formed up to 2019 there are more than 10 universities, so that researchers randomly search for research samples, by taking 6 universities including new establishment or new campuses and 6 universities including old college. Can be seen as follows:

Table. 1

New and Old Tertiary Education Institutions grouping in receiving Wages / Salaries

NEW CAMPUS CATEGORY HIGH EDUCATION WAS ESTABLISHED				
No .	Name of Higher Education	Year Formed	Recitation Level	Implementation (%)
1	Universitas Audi Indonesia	2019	UIY	50
2	Universitas Quality	2008	UIY	50
3	Universitas Sari Mutiara Indonesia	2013	UMK	75
4	Universitas Prima Indonesia	2008	UIY	50
5	Universitas Potensi Utama	2015	UIY	50
6	Universitas Nahdlatul Ulama Suamtera Utara	2014	UIY	50
OLD CAMPUS CATEGORY HIGH EDUCATION				
No .	Name of Higher Education	Year Formed	Recitation Level	Implementation (%)
1	Universitas HKBP Nommensn	1954	UMK	100
2	Universitas Katolik Santo Thomas	1984	UMK	100
3	Universitas Pembangunan Panca Budi	1964	UIY	50
4	Universitas Medan Area	1983	UMK	100
5	Universitas Darma Agung	1957	UMK	75
6	Universitas Pembinaan Masyarakat Indonesia	1979	UIY	50

Information:

Year Formed: 2005 - 2019 Comparison with 2005 year

Recitation system:

1. City Minimum Wage (UMK)
2. Provincial Minimum Wage (UMP)
3. Internal Foundation Wages (UIY)

% DTY: Less, Enough, and More

100%: More

75%: Enough

50%: Less

From table 1 above, it can be concluded that the low level of welfare for lecturers who work in private universities, especially colleges that were formed above 2005, and a small proportion of the universities that were formed still apply the wage standard in recitation for appropriate lecturers. with the laws and regulations in force in Indonesia. This is because they are still constrained by funds or finances, still testing the success or failure of doing business in the field of higher education.

In recitation or giving wages to educators or lecturers, foundations in this case often do not keep their promises according to what is stated in the work contract between lecturers and foundations regarding the rights of lecturers which are clearly regulated in statutory regulations. Sanctions against managers or foundations rarely occur, there are many reasons that the government continues to maintain this education and helps to improve it by providing assistance in the form of financial capital or training or technical guidance in relation to the management of higher education.

Legal protection

Legal protection is a protection given to legal subjects in the form of legal instruments, both preventive and repressive in nature, both written and unwritten. In other words, legal protection is an illustration of the function of law, namely the concept where law can provide justice, order, certainty, benefit and peace. According to Satjito Rahardjo, legal protection is an effort to protect someone's interest by allocating a human rights power to him to act in his interests. And it is reinforced by Hetty Hasanah who said that legal protection is all efforts that can guarantee legal certainty, so that it can provide legal protection to the parties concerned or who take legal action.

So that what is a person's rights and obligations can be carried out when the two elements are mutually fulfilled. Someone has fulfilled their rights because they have fulfilled their obligations. In Paton's opinion, an interest is a right object, not only because it is protected by law, but also because there is recognition of it. Rights not only contain elements of protection and interests, but also will. Regarding the function of law to provide protection, Lili Rasjidi and B. Arief Sidharta said that the law is grown and needed by humans, precisely based on the product of human judgment to create conditions that protect and advance human dignity and to enable humans to live a fair life according to their dignity.

Philipus M. Hadjon argues that: "The principle of legal protection for the people against government actions rests on and originates from the concept of recognition and protection of human rights because historically in the West, the concepts of recognition and protection of human rights were born. man is directed towards restricting and placing obligations on society and government." In line with that, A.J. Milne in his writing entitled the Idea of Human Rights said: "A regime which protects human rights is good, one which fails to protect them or worse still does not acknowledge their existence is bad."

Legal protection in English is called legal protection, while in Dutch it is called rechtsbeherming. Harjono tries to provide the definition of legal protection as protection by using legal means or protection provided by law, aimed at protecting certain interests, namely by making those interests that need to be protected into legal rights. It can be said that legal protection is protection provided based on the law and legislation. Legal protection for every Indonesian citizen without exception can be found in the 1945 Constitution of the Republic of

Indonesia (UUDNRI 1945), for this reason every citizen has the right to legal protection and obligations towards the profession he is running.

Rights and obligations

Rights and Obligations of Lecturers In carrying out professional duties, lecturers have the following rights:

1. Obtain an income above the minimum necessities of life and social welfare security;
2. Get promotions and awards in accordance with work duties and achievements;
3. Obtain protection in carrying out duties and intellectual property rights;
4. To obtain opportunities to improve competence, access to learning resources, information, learning facilities and infrastructure, as well as research and community service;
5. Having academic freedom, academic forum, and scientific autonomy;
6. Have the freedom to provide assessments and determine the graduation of students; and
7. Have the freedom to associate in professional organizations / scientific professional organizations.

In carrying out professional duties, lecturers have the following obligations:

1. Carry out education, research, and community service;
2. Planning, implementing the learning process, and assessing and evaluating learning outcomes;
3. Improving and developing academic qualifications and competencies on an ongoing basis in line with developments in science, technology and arts;
4. Acting objectively and not discriminating on the basis of considerations of gender, religion, ethnicity, race, certain physical conditions, or the socioeconomic background of students in learning;
5. Upholding statutory regulations, law and code of ethics, as well as religious and ethical values; and
6. Maintain and cultivate the unity and integrity of the nation.

Lecturers Based on Law Number 14 of 2005

Law (UU) Number 14 of 2005 concerning Teachers and Lecturers was ratified by the DPR together with the President on December 30, 2005. And, promulgated in Jakarta on the same date in the State Gazette of the Republic of Indonesia of 2005 Number 157. This law explains the meaning related to teachers and lecturers as professionals. The following is an excerpt from part of the law for the purpose of this paper.

Chapter I General Provisions Article 1 reads:

1. Teachers are professional educators with the main task of educating, teaching, guiding, directing, training, assessing, and evaluating students in early childhood education through formal education, basic education, and secondary education.
2. Lecturers are educational professionals and scientists with the main task of transforming, developing, and disseminating science, technology and arts through education, research and community service.

3. Professor or professor, hereinafter referred to as professor, is the highest functional position for lecturers who are still teaching in the higher education unit.
4. Professional is a job or activity that is carried out by a person and becomes a source of living income which requires expertise, proficiency or skills that become certain quality standards or norms and require professional education.
5. Academic qualification is a diploma from the academic education level that a teacher or lecturer must hold in accordance with the type, level, and formal education unit at the assignment place.
6. Competence is a set of knowledge, skills, and behaviors that a teacher or lecturer must possess, appreciate, and master in carrying out professional duties.
7. Certification is the process of granting educator certificates for teachers and lecturers.

Academic Qualifications Lecturers must have academic qualifications obtained through an accredited postgraduate higher education program according to their field of expertise, at a minimum:

1. Graduates from a master's program for a diploma or undergraduate program,
2. Graduates from doctoral programs for postgraduate programs.

Enjoying the profession as a lecturer is a special field of work carried out based on the principles of having talents, interests, vocation, and idealism; Having a commitment to improve the quality of education, faith, piety, and noble character; Have academic qualifications and educational background in accordance with the field of work; Have the necessary competencies in accordance with the task field Has responsibility for the implementation of professional duties; Obtain an income determined in accordance with work performance; Have the opportunity to develop professionalism in a sustainable manner by learning throughout life; Having guarantees of legal protection in carrying out professional duties; the guarantee of legal protection has not been fully obtained, if referring to the existing laws and regulations, it cannot guarantee the rights and obligations of lecturers in fulfilling their welfare, especially in recitation / wages received from universities. a place of shelter, only in carrying out professional duties, legal protection as stipulated in Law Number 14 of 2005 concerning Teachers and Lecturers.

Foundation

Foundations as private legal entities have been known for a long time even before the issuance of Law No. 16 of 2001 concerning the Foundation. Hoogerechtshof Decision of 1884 and Supreme Court Decision No. 124 / Sip / 1973 as jurisprudence was used as the basis for preventing a legal vacuum regarding foundations. UU no. 16 of 2001, then amended by the existence of Law No. 28 of 2004 concerning Foundations (Foundation Law) on the basis of meeting the needs and legal developments in society. Article 3 paragraph (1) of the Foundation Law states that foundations can carry out business activities to support the achievement of their goals and objectives by establishing a business entity and / or participating in a business entity. The types of business activities must be in accordance with the aims and objectives of the foundation, which include human rights, arts, sports, consumer protection, education, environment, health and science.

Foundations as one of the organizers of educational institutions that have permits to establish and or manage higher education institutions often ignore the applicable rules in

accordance with the laws and regulations, sometimes foundations from a university often intervene in policies to be issued by higher education leaders. Often times, it is detrimental to the lecturers who take shelter within the tertiary institution, so that it is detrimental to the rights of the lecturers, and does not keep agreements or work contacts with permanent or non-permanent lecturers.

CONCLUSION

Whereas Law Number 14 of 2005 concerning Teachers and Lecturers only guarantees legal protection in carrying out professional duties, does not guarantee legal protection regarding the rights and obligations of a lecturer who receives a wage or salary from a tertiary institution, let alone the existence of a foundation intervention that manages a tertiary institution which is protected by Law No. 16 of 2001 concerning the Foundation.

Thus, it is very necessary to have a new legal arrangement or legal product to regulate legal protection of the rights and obligations of lecturers, legal products can be in the form of Laws, Ministerial Regulations and Regional Regulations if it is possible that these regions have the same vision and mission as government, namely the intellectual life of the nation as one of the goals of the Republic of Indonesia.

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