

Legal Study about Lecturer Concerning Positions in High School and Foundation Organs

Permai Yudi¹, Rolib Sitorus², Berlian³

^{1,3}Universitas Quality, Indonesia

²Universitas Pelita Harapan, Indonesia

permaiyadi1234@gmail.com, rolibstr@gmail.com, berthabreka@yahoo.com

Abstract

Lecturers are professional educators and scientists with the main task of transforming, developing, and disseminating science, technology, and art through education, research, and community service. Professional is a job or activity carried out by a person and becomes a source of income for life that requires expertise, proficiency, or skills that meet certain quality standards or norms and require professional education. Therefore, lecturers are professional and have integrity in carrying out their duties as distributors of knowledge, and are obliged to carry out the Tridarma Perguruan Tinggi. At this time there are still many lecturers who occupy a position in universities and at the same time in foundation organs, so that lecturers forget the tridharma of higher education and often struggle with the interests of the foundation at the college where the lecturer serves. The Law on Teachers and Lecturers, and Government Regulations concerning Lecturers clearly stipulates what are the duties and obligations of a lecturer, Circular Letter Number 3 of 2021 concerning the Prohibition of Concurrent Positions of Foundation Organs in the Implementation of Higher Education is issued, but in fact there are still many lecturers occupying positions. in the organ of the foundation as well as serving in universities, therefore it is necessary to carry out more in-depth research on what is the basis for lecturers to hold concurrent positions and what are the sanctions if they are proven to have heeded the rules from the government. This research is a normative legal research (doctrinal research). The approach used by the author in writing this law is a legal approach (statue approach) and an analytical approach (analitical approach). The stages of the research method were carried out, by examining the laws and regulations related to the title of this research, then analyzed and then drew conclusions about the problems and looking for answers in solving dual-function positions at universities and foundations. The targeted output is beyond the mandatory Sinta National Journal 1-6 or at least OJS National journals such as Justika Journal at Quality University

Keywords

Lecturer; concurrent position; college; foundation organ



I. Introduction

Education is an activity that is so important and requires community involvement and participation as well as being the responsibility of the government. The task of providing education is not only the duty of the government but also the obligation of all components of the nation to educate the nation's life as one of the goals of the Indonesian state, other than the government will not be able to carry out this task alone.

Education is the foundation of a successful career, financial freedom, the ability to think and reason critically and to make informed decisions. Without education we will be

limited to perform tasks and we will be ignorant to the things that are happening in and around our surrounding, and according to Martin Luther King, a people without knowledge is like a tree without roots. For education to be of great value, curriculums should be implemented. (Philips, S. 2020)

Since before the Proclamation of Independence of the Republic of Indonesia on August 17, 1945, the implementation of education in Indonesia has been mostly carried out by the public using the form of legal entities which in general are mostly foundations (including waqf bodies). The founders of the nation, state and government officials are largely the result of education from educational institutions organized by foundations.

Foundation is a legal entity which has the intent and purpose of social, religious and humanitarian, established by taking into account the formal requirements specified in the law. In Indonesia, foundations are regulated in Law No 2004 regarding Amendments to Law Number 16 Years 2001 about the Foundation.

Community participation in providing education is carried out, among others, through foundations as organizers, as we have seen and know so far cannot be separated and also show the side of the role of the public which cannot be avoided. Private education provider foundations pioneer, build, develop and organize basic, secondary and tertiary education. Long before the independence of the Republic of Indonesia, private educational foundations had been active in the intellectual life of the nation.

Referring to the historical role of society in the field of education, it can be said that community participation, for example in the form of a legal entity foundation, shows a very significant role in providing education starting from the level of kindergarten, elementary school, junior high school, high school. Upper level to academies and colleges. Community participation in each stage of the education level can be seen clearly in almost all parts of the country.

College is an optional final stage of formal education. Usually delivered in the form of University, Academy, colleges, seminary, music school, and institute of technology. College students are called student, while the educators are called lecturer. Based on ownership, universities are divided into two, namely public universities and private universities.

Private universities in Indonesia are managed by the community in accordance with applicable laws. The management of a private university is certainly inseparable from interests, and for the smooth running of the foundation, it must strive to be more efficient in taking policies that often conflict with the rules set by the government. For example, in relation to lecturers and employees employed at universities owned by a foundation.

Lecturers are professional educators and scientists with the main task of transforming, developing, and disseminating science, technology, and art through education, research, and community service. - Professional is a job or activity carried out by a person and becomes a source of income for life that requires expertise, proficiency, or skills that meet certain quality standards or norms and require professional education. Therefore, lecturers are professional and have integrity in carrying out their duties as distributors of knowledge, and are obliged to carry out the Tridharma Perguruan Tinggi.

In higher education management, there are regulations covering higher education autonomy, higher education management patterns, higher education governance and public accountability. However, in its implementation, private universities under the auspices of the foundation, operationally often clash with the Foundation. In fact, there is a tug of interest and power between the Foundation and Private Universities (PTS) in carrying out higher education.

The Foundation feels as the owner has the right to interfere in operational matters, to matters of room arrangement, room position, the selection process for lecturers, while the university (PTS) feels that the Foundation is too far to intervene in university operations, especially when it comes to projects and procurement of goods. Foundations are considered too strong to dominate campus affairs. Even in some universities, this tug of war can harm the interests of lecturers and employees.

In other cases, the foundation's management is less concerned with the problems that occur at the university, the important thing is that finances are safe, the foundation's management gets a salary and the Tridharma of higher education is carried out. Worse yet, if the foundation's administrators are also lecturers and employees at the university, so that it can open a gap to compromise against crimes (acts against the law) aka all problems can be regulated.

Another problem is the weakness of the university's financial supervision system, resulting in budget leakage. Moreover, if there is a violation of the code of ethics, such as a lecturer doing thesis business or infidelity issues that cause a bad image of the university in society. Therefore, it is necessary to know what has become the rise of dual positions in universities and in foundation organs, as well as the sanctions that will be imposed on lecturers who serve in foundation organs, in order to avoid problems that will become problems both in universities and in foundations.

II. Research Method

The research method used in this research is normative legal research (doctrinal research). The approach used by the author in writing this law is the legal approach (statue approach) and analytical approach (analytic approach). While the legal material analysis technique used by the author in this study is deductive (logic) reasoning, namely things that are formulated in general and then draw conclusions.

2.1. Data Collection Technique

Prepare research proposals, collect data related to this research, so as to obtain results that can be interpreted in an article.

Collecting primary and secondary legal materials, namely by reviewing laws and regulations and other references, by linking them to policies issued by the government. And describe the storyline in the form of compiling a research draft. Where the results of this research will be published in the form of a research journal, so that it can be useful for all groups as a reference or increase knowledge about what sanctions will be imposed if it is proven that the lecturer holds concurrent positions at a foundation at a university in accordance with what is stated in Circular Letter Number 3 2021 concerning the Prohibition of Concurrent Positions of Foundation Organs in the Implementation of Higher Education. Where the Circular is tested against the Law of the Republic of Indonesia Number 14 of 2005 concerning Teachers and Lecturers,

By analyzing the data obtained, it is compiled in a draft which will be used as a scientific work in the form of a journal. With the output, it is mandatory to make the results of this research into a measurable scientific work and become a reference for others.

III. Result and Discussion

3.1. Literature Review

Can lecturers hold concurrent positions in foundation organs and at the same time serve in higher education institutions, while based on the Law of the Republic of Indonesia Number 14 of 2005 concerning Teachers and Lecturers, and Government Regulation of the Republic of Indonesia Number 37 of 2009 concerning Lecturers, they have duties and obligations and are prohibited from being administrators? foundation in higher education that it organizes.

Referring to the Circular Letter of the Director General of Higher Education Number 3 of 2021 concerning the Prohibition of Concurrent Positions of Foundation Organs in the Implementation of Higher Education. It is necessary to know what happened in the implementation. When viewed from Law Number 28 Years 2004 regarding Amendments to Law Number 16 Years 2001 about the Foundation. Foundation administrators can become lecturers at the universities they organize, if they meet the requirements as lecturers and have a National Lecturer Identification Number (NIDN). , but in practice it is found that in addition to foundation administrators being a lecturer, they also have positions in higher education (functionaries), for example, being Rector, Dean and other positions where the foundation is the organizer of higher education.

In Law Number 16 Years 2001 about the Foundation, in Article 31 paragraph (3) the management may not concurrently serve as supervisors or supervisors. In addition, for the management of foundations that organize higher education based on Law Number 12 of 2012 concerning Higher Education, and when viewed in the Government Regulation of the Republic of Indonesia Number 4 of 2014 concerning the Implementation of Higher Education and Management of Higher Education, no one has stipulated whether the board of the foundation can concurrently serve as a lecturer and at the same time concurrently work on the structure of the Sawata higher education institution that it organizes. If it is explored further, whether a lecturer who has an NIDN can serve as a foundation administrator as well as a functionary or occupy a position in a university. Of course it must be seen again in the legislation in force in Indonesia.

Based on the Law of the Republic of Indonesia Number 14 of 2005 concerning Teachers and Lecturers, and Government Regulation of the Republic of Indonesia Number 37 of 2009 concerning Lecturers, it can also be seen in Article 1 Paragraph (14) of the Law of the Republic of Indonesia Number 12 of 2012 concerning Higher Education , that Lecturers are professional educators and scientists with the main task of transforming, developing, and disseminating Science and Technology through Education, Research, and Community Service.

Based on Circular Letter Number 3 of 2021 concerning the Prohibition of Concurrent Positions of Foundation Organs in the Implementation of Higher Education issued on March 26, 2021 which was signed by the Director General of the Ministry of Education and Culture, as below, is irrelevant and not in accordance with its implementation as regulated by laws and regulations. Applicable legislation, and it appears that the purpose of the circular is clearly addressed to;

1. Private College Leader
2. Leader of Private Higher Education Organizing Legal Entity
3. Head of Higher Education Service Institute

With the Legal Basis of the Circular, namely:

1. Law Number 16 of 2001 concerning Foundations as amended by Law Number 28 of 2014 concerning Amendments to Law Number 16 of 2001 concerning Foundations
2. Law Number 12 of 2012 concerning Higher Education;

3. Government Regulation Number 4 of 2014 concerning the Implementation of Higher Education and Management of Higher Education;

By conveying several related matters in the context of optimizing the implementation of higher education and realizing good governance of private universities, the following are:

1. Article 7 paragraph (1) and Article 7 paragraph (3) of Law Number 16 of 2001 concerning Foundations as amended by Law Number 28 of 2004 concerning Amendments to Law Number 16 of 2001 concerning Foundations (hereinafter referred to as Law on Foundations)), it is regulated that the builder/management/supervisor of a foundation is prohibited from concurrently serving as a member of the board of directors/management/board of commissioners/supervisor of a business entity managed by a foundation;
2. Based on the provisions as referred to in number 1, we hereby convey the following:
 - a. Trustees/managers/supervisors of foundations are prohibited from concurrently serving as leaders/lecturers/staff of higher education institutions that they organize;
 - b. The supervisor/manager/supervisor of the foundation who nominates himself as the head of the university he is organizing, then the person concerned is obliged to resign from the organ of the foundation;
 - c. Trustees/managers/supervisors of the foundation who hold concurrent positions as leaders/lecturers/staff of the tertiary institution that they organize, must immediately adjust as of the stipulation of this circular letter.

An exception may be taken, that the circular needs to be reviewed again or needs to be revised or abolished until the regulations governing the education system, regarding private universities, about lecturers, and about foundations as providers of higher education can be made changes to the provisions relating to with Foundations, Universities and Lecturers.

When viewed in the reality that occurs in the field, foundations in managing higher education, especially those universities are still or not well known or newly formed, need savings starting from the budget, education staff, teaching staff (lecturers) in carrying out the teaching and learning process. Lecturers often come from foundation management, which have fulfilled the requirements as lecturers, namely having an NIDN. And the lecturers serve in higher education structures such as the Chancellor or Dean, it is solely for savings so that they can recite the Koran or revive the college or in other words maintain the future of higher education managed by the foundation. to get funding from either the government or other parties.

When traced through internet media such as Jawa Pos RADAR SOLO on April 5, 2021 " taken from Quote Sukoharjo stated A number of lecturers and administrators of higher education foundations (PT) are restless with the circulation of a circular letter from the Ministry of Education and Culture of the Republic of Indonesia Number 3 of 2021 concerning the prohibition of concurrent positions of foundation organs in the administration of higher education. From a number of points contained in the SE dated March 26, 2021, there are a number of points of elaboration on Law Number 16 of 2001 concerning Foundations".

"It is certain that most educational institutions were initially founded by lecturers who later formed educational foundations. It's okay if the ban on concurrent positions as leaders such as rector, dean or administrative administrator, we can accept it. But if the lecturer is not a position but a profession. This is closely related to accreditation requirements. If this regulation is implemented, it will weaken higher education institutions."

When viewed and viewed legally or studied in legal scholarship, it is clear that Dirjendikti cannot distinguish what is said to be a position and which is said to be a profession, when combined with universities and foundations, for example, it may or may not

be a civil servant (PNS), or say outside of his profession as a PNS lecturer and concurrently serving as Chancellor or Dean at a private university, if a civil servant lecturer is of course he can as long as there is permission from his superiors. How about not a civil servant lecturer but a civil servant serving at PTS. In fact and duty, in the field of education in Indonesia especially in private universities, as long as there is no law prohibiting it, of course it does not conflict with the principles of good governance, and privately PTS is very necessary when it is necessary to hold concurrent positions in foundation organs or in universities.

Thus, for lecturers who hold concurrent positions both in foundation organs and in private universities in Indonesia, Indonesia With regard to its implementation, it is not appropriate that the sanctions against the lecturers have their NIDN revoked, by the Director General of Higher Education on the pretext of the circular letter. By law, it can be said that lecturers can serve as administrators of foundations and also hold concurrent positions in universities, with There are provisions and things that must be fulfilled, not merely the wishes of a person or group of people for certain interests.

IV. Conclusion

That Circular of the Director General of Higher Education Number 3 of 2021 concerning the Prohibition of Concurrent Positions of Foundation Organs in the Implementation of Higher Education is not appropriate to be implemented in private universities in Indonesia, and is contrary to the prevailing laws and regulations in Indonesia.

That the circular letter does not have a legal basis for imposing sanctions for those who violate the provisions contained in the Director General of Education Letter Number 3 of 2021.

Should The Directorate General of Higher Education must conduct a field survey before issuing the Circular, whether the basis of thought or views or expert staff, of course, must also know the reality that occurs in the field.

Many things can be done to obtain the data needed by the Directorate of Higher Education so as not to cause unrest and legal problems from the policies it has issued.

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