

Consistency the Governance and Administration of in- Service Education in the National Education System

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Abstract

This research has several objectives. First, it examines the consistency and inconsistency of legislations concerning the administration of in-service higher education in the national education system. Accordingly, it analyzes critically the conformity and non-conformity of regulation and administration of higher education with the national education system. Second, it identifies the mechanism of input, process and output of the in-service higher education in the national education system with the laws and regulations concerning the national education system. Third, it finds the concepts and principles of vision in the administration of in-service higher education in the national education system. The research was conducted at in-service universities. Data were collected through literature study (normative law) and field research (empirical law). Data were analyzed qualitatively which is empirical in nature (inductive) by conducting interview, observation and documentation and by combining primary and secondary data (deductive). The research results indicated several things. First, Consistency between the governance of higher education and legislations concerning national education system requires governance, management and administration in one national education system, namely higher education of State University (PTN), established and or administered by the Government. Concrete regulations in Article 11 (5) of Law No 2 of 1989 concerning National Education System and Article 29 and Article 15 of Law No. 20 of 2003 concerning National Education System are contradictory with the reality of the management and have impact on in-service higher education in in-service universities. The general principles of legislations, either formal or material, are not yet reflected in such regulation of higher education setting. Regulation for the administration of higher education performed by the government has not been optimal.

Keywords

Governance and Administration
in One System of Higher
Education



I. Introduction

The success of the reform movement in 1998 changed the order of social, political and government life in Indonesia in all areas of state administration, including higher education policy. The idea of political democratization in the education sector was quickly applied through various laws, including Law Number 20 of 2003 concerning the National Education System and Law Number 12 of 2012 concerning Higher Education.

Thus, it is necessary to make improvements regarding the correctness of the creation, content, and application of official higher education law by measuring the legal principles of education into statutory regulations. The law in question is Article 11 paragraph (5) of Law Number 2 of 1989 concerning the National Education System and Articles 15 and 29 paragraphs (1), (2), (3), and (4) Law Number 20 2003 concerning the National Education System.

This has encouraged the birth of a new spirit, a new vision, and a new paradigm to build a more democratic national education system. The development of discourses on the pros and cons of the existence of official education is a dilemma for official education (Zega, 2016). Those who disagree say that official education is inefficient, not well targeted, and not for the people at large, even referred to as a waste of the state budget (APBN).

On the other hand, those who are pro-service education stated that after all, official education has been realized and is very much needed in improving the abilities and skills of carrying out the duties of government employees. Official education organized by ministries, other ministries, or non-ministerial government agencies that function to improve abilities and skills in carrying out official duties for civil servants and prospective civil servants. In addition, it also aims to prepare students to have jobs with special skill requirements.

The positive law that regulates higher education service, namely Articles 15 and 29 of Law Number 20 of 2003 concerning the National Education System. The article states that official education is professional education organized by a department or non-departmental government agency. Its function is to improve capabilities and skills in carrying out official duties for employees and prospective civil servants of a department or non-departmental government agency.

In fact, there is no forum in the form of legislation on the national education system that regulates correctly and properly in accordance with the laws and regulations after the issuance of Law Number 12 of 2012 concerning Higher Education and Law Number 12 of 2011 concerning the Establishment of Legislative Regulations. -Invitation to amend Law Number 10 of 2004 concerning the Establishment of Legislation.

Therefore, the existing legal rules, legal principles, legal systems, legal interpretations, legal arguments, and legal propositions have not been able to resolve these problems before the issuance of Government Regulations concerning ongoing official education. This is because the legal politics of national higher education is dealing with the state system and state administration which are not based on the rule of law (Istanto, 2000).

Thus, there is clarity in the regulation of official higher education in the Indonesian legal system which must be immediately made in the laws and regulations of the national education system that regulates it as the basic forum for its implementation. The hope is that legal certainty, justice, and welfare can be realized in the state of Indonesia.

The container in the form of legislation in the national education system must show a form of democratic legislation. In addition, it must also be based on the laws and regulations regarding the formation of laws and regulations for the national education system. As a result, there is a legal vacuum and legal conflicts, so that there are 57 official universities throughout Indonesia that have problems (Migliuolo et al., 2010).

Government Regulation Number 14 of 2010 concerning Service Education which is closely related to the Legal Education Agency (BHP), on March 31, 2010, the Constitutional Court through Decision Number 11-14-21- 126-136/PUU-VII/2009 has stated that the Law -Law Number 9 of 2009 concerning Educational Legal Entities is not legally binding.

As a result, the lack of clarity in the laws and regulations regarding official higher education has caused many official education policies to be inconsistent with the legal system. In addition, it is also inconsistent with the laws and regulations of the national education system. This can be seen from the implementation, management, students, funds, curriculum, programs, majors and organization, planning, implementation and supervision. Thus causing a lot of injustice, legal certainty, and order in society.

The problem so far is that official universities are official higher education (bureaucracies) managed by the government, namely vocational, academic and professional education (Hartanto et al., 2019).

The problem with official education is actually the incompatibility of official education with Law Number 20 Year 2003 concerning the National Education System Amendment to Law Number 2 of 1998 concerning the National Education System and Government Regulation Number 66 of 2010 concerning Amendments to Government Regulation Number 17 of 2010 concerning Management and Implementation of Education Amendment to Government Regulation Number 60 of 1999 concerning Higher Education (Khunaifi & Matlani, 2019).

This can be seen from the legal arrangements for the administration of official higher education and official higher education made by the relevant Ministries and Non-ministerial Government Institutions (Harijanti, 2016). This is because the central government sees universities as far from the expectations of the vision and mission of education (philosophy). With the issuance of the legal product of Law Number 12 of 2012 concerning Higher Education Article 1 number 7 which regulates Official Universities (PTK) to be included in State Universities (PTN) and distinguishes them from Private Universities (PTS) (Number, 12 CE) . Aims to regulate the management and implementation in a national education system and to carry out operations in the management of the higher education administration. Law Number 12 of 2012 concerning Higher Education Article 94 states that "The implementation of Higher Education by other Ministries and LPNKs is regulated by Government Regulation." (Number, 12 CE)

II. Research Method

This research is a combination of empirical legal research and normative legal research. Normative legal research leads to descriptions in the form of exposure, comparison, and interpretation of applicable law or positive law. In this result, the analysis is directed to answer whether the arrangements for the administration of Service Higher Education in the national education system are in accordance with the laws and regulations of the legal system in Indonesia, in accordance with the regulation of the position of official universities in Law No. 20 of 2003 concerning the National Education System, and consistent between the internal laws and regulations of the Ministry of State and the laws and regulations of the national education system. Empirical legal research analyzes whether the existing laws and regulations have provided a full understanding or provided an explanation if there are differences about all objects or the meaning of the rules contained in these laws and regulations. In this regard, the analysis is directed to answer whether or not it is necessary to regulate the laws and regulations concerning the administration of Service Higher Education in the education system, which are regulated in laws and regulations in relation to the regulation of the position of official universities in Law Number 20 of 2003 concerning the National Education System and consistency between the internal laws and regulations of the Ministry of State and the laws and regulations of the national education system.

To add insight and enrich the case study research in the administration of higher education services. In order to get answers or solutions to issues legal that have been formulated, 4 (four) models of problem solving approaches are used, namely the historical approach (historical approach), the (statutory approach statutory approach), conceptual approach (conceptual approach), and a comparative approach (comparative approach). (Sacred Eve, 2018) whose application is tailored to the needs.¹ All of the above

approaches are applied to legal research and/or theoretical legal research as a new paradigm of higher education service in the national education system.

Furthermore, the legal materials were analyzed normatively in order to obtain a comprehensive picture of the answers to problems in legal dogmatic research, theory legal, and legal philosophy regarding whether or not the status of Service Colleges and the Implementation of Service Higher Education with the National Education System and prospects for regulations and administration of Higher Education Service in the National Education System. For this reason, it is necessary to regulate Service Higher Education in laws and regulations. Based on the results of the study, conclusions can be drawn and suggestions are made as necessary.

III. Results and Discussion

3.1 Consistency of Official Higher Education Regulations with National Education System Legislation

Every formation of legislation must take into account the effectiveness of these laws and regulations in society, both philosophically, juridically and sociologically (Afif, 2018). In this regard, according to the limitations stated in the regulation of Law Number 2 of 1989 concerning the National Education System, which is placed in the explanation section. Therefore, the interpretation of official education in the national education system based on interpretation with societal objectives lies in the explanation of the Act, namely:

"Humans need education in their lives, education is an effort so that humans can develop their potential through the learning process and/or other means. known and recognized by the community."

The 1945 Constitution of the Republic of Indonesia Article 31 paragraph (1) states that every citizen has the right to education, and paragraph (3) emphasizes that the government seeks and organizes a national education system that increases faith and piety as well as noble character in the context of educating people. the life of the nation which is regulated by law (Republic of Indonesia, 2014).

For this reason, all components of the nation must educate the nation's life which is one of the goals of the Indonesian state.

In addition, science and technology are developing rapidly and creating new demands in all aspects of life, including the education system. These demands concern reform of the education system, including curriculum renewal, namely curriculum diversification to serve students and diverse regional potentials, diversification of types of education carried out professionally, preparation of graduate competency standards that apply nationally and regionally according to local conditions; preparation of qualification standards for educators in accordance with the demands of implementation of duties professional, preparation of educational funding standards for each education unit in accordance with the principles of equity and justice; implementation of school-based education management and higher education autonomy as well as the implementation of education with an open and multi-meaning system. Thus, it is hoped that the vision, mission, and goals of national education can be realized effectively by actively involving various parties in the implementation of education.

Teleological or sociological interpretation of official education cannot be separated from a national education system, in relation to education officials which is in the general sociological and teleological sense in Chapter 1 Article 1 Number 11 of Law Number 2 of 1989 concerning the National Education System, namely "Formal education is a structured

and tiered educational path consisting of basic education, secondary education, and higher education.

It is explained that *the teleological interpretation* occurs when the meaning of the law is determined based on social objectives, namely the intellectual life of the nation and increasing faith and piety as well as noble character. In addition, the laws and regulations of the national education system must be adapted to new social relations and situations. (Yahya, 2017) The provision of official education in Article 11 paragraph (1) of Law Number 2 of 1989 concerning the National Education System states that:

"The type of education included in the school education pathway consists of general education, vocational education, special education, education service, religious education, academic education and professional education."

In Article 11 paragraph (5) of Law Number 2 of 1989 concerning the National Education System, it is explained in detail, although not at the level of explanation of the legislation, namely:

- 1) Service education is education that seeks to increase ability in carrying out official duties for employees or prospective employees. a Government Department or Non-Departmental Government Institution. (Rahmat, 2011)

In the explanation of Article 11 paragraph (5) of Law Number 2 of 1989 concerning the National Education System it is stated that:

Paragraph (5) Service education is held at the secondary education level at the higher education level (Pratama, 2019).

Thus, interpretations sociological and teleological become very important in completing official education which has been nearly 40 years not completed in this country based on law. in Article 11 paragraph (1) of Law Number 2 of 1989 concerning the National Education System

It is known that official education has two types of education: higher education or secondary education. (Putra, 2016) The interpretation of the legislation has an impact on the regulation of the ministry in the implementation of the higher education service so that it is contrary to the form of educational institution in Article 16 paragraph (1), (2) of Law Number 2 of 1989 concerning The Higher Education System, namely that:

- 1) Higher education is a continuation of secondary education organized to prepare students to become members of the community who have academic and/or professional abilities who can apply, develop and/or create science, technology and/or arts.
- 2) Educational units that provide higher education are called tertiary institutions, which can take the form of academies, polytechnics, high schools, institutes or universities.

In Article 16 paragraphs (1), (2) of Law Number 2 of 1989 concerning the Higher Education System, it is stated that Article 16 paragraphs (1) and (2) are quite clear.

(Tolchah, 2015) In reality, the rule of law is not clear and has an impact on the ambiguity of the administration of higher education services which has continued and will take place in the ambiguity of the concept of official education so that many higher education administrations take the form of training and education to organize higher education, for example:

- 1) Ministry of Information Communication: universities Department of Multimedia Expert Training and Multimedia College Yogyakarta, Broadcasting study program.
- 2) ESDM: Service College for Akamigas and St. Migas Cepu Central Java Oil and Gas study program.
- 3) Department of Transportation, Service Universities for Highway Transport Traffic Experts, Training for Land and Road Transportation, Education and Training on River

and Lake Water Traffic, Shipping Training Center for Semarang and Makassar, Aviation Academy for Surabaya, Medan and Makassar, STP Curug, STIP Jakarta.

- 4) Department of Transportation: Higher Education for Training in the Meteorology and Geophysics and Geophysics profession, and so on.

Thus, the ambiguity of the concept of official education gives rise to the management and administration of higher education in the form of training. Therefore, the Ministry of National Education should apply the principle of organizing the state apparatus so that the laws and regulations have meaning and nature in the national education system.

3.2 Assessment of General Policies for the Implementation of Service Education in the Regime of Law no. 2 of 1989 concerning the National Education System

Regulation of official higher education has not been implicitly regulated but the principle of official higher education will not be forgotten in future arrangements (Trianto, 2010). On the other hand, if there is a violation of the 1945 Constitution Article 31 paragraph (1) and Article 28, it will undermine the noble ideals of the nation, scientific ethics, academic traditions, noble character, and civilization. Likewise, the principle of statutory regulation and the principles of democracy and justice in the regulation of official higher education as professional education, which is meant here by universal distributive justice, to obtain equal rights to obtain quality higher education. Justice here can also be said as legal justice, the law regulates whether or not it is permissible. For this reason, the regulation of legislation for higher education services must be based on principles in accordance with the ideals, basics and expectations of Indonesian law.

For this reason, the management and implementation of official higher education does not forget the spirit of democracy, decentralization, and globalization in the Law on the National Education System which was passed on June 11, 2003, there are at least nineteen articles that combine the words government and regional government, the connotations of which are various policies. The development of education should always marry national interests and local interests so that the quality of education, which is expected to increase the competitiveness of students, is carried out efficiently and effectively (Hasmah et al., 2019).

Thus, the principle of being democratic and fair and not discriminatory by upholding human rights, religious values, cultural values, and national pluralism in the administration of higher education services is a must. With that, the promotion of rights and obligations, wider autonomy, equality and equitable justice is a necessity in the administration of higher education services in the present and in the future.

The administration of official education programs for the benefit of the government and society during the New Order era was used to support and strengthen the political position of the ruling regime which was carried out by the government itself by exploiting the vagueness of the concept of official higher education (Wilson, 2018).

As a result, the administration of official education organized by ministries, other ministries, or non-ministerial government agencies is always a buzz to improve professional education in a strong favor with the ruling government.

What is done by ministries, other ministries, or non-ministerial government agencies shows that civil servants and prospective civil servants are not just state servants or government employees, but are active actors and agents who help shape the social reality that defends and defends the ruling government.

In this regard, the principle of legality is the main element of a state of law. All state actions must be based on and sourced from the law. Legislation functions to limit government power firmly and clearly so that there is no abuse of power (Sadarati et al.,

2019).

Therefore, the administration of official education by ministries, other ministries, or non-ministerial government agencies must be objective. Even the quality is legalized in a Government Regulation Number 19 of 2005 concerning National Education Standards held by public and private higher education in order to implement the provisions of Article 35 paragraph (4), Article 36 paragraph (4), Article 37 paragraph (3) ,

Article 42 paragraph (3), Article 43 paragraph (2), Article 59 paragraph (3), Article 60 paragraph (4), and Article 61 paragraph (4). Nevertheless, behind the differences in official education organized by ministries, other ministries, or non-ministerial government institutions and those held by general and public higher education (*private*) have the same interests to educate the life of the nation and state.

There are several things that must be considered so that service education providers organized by ministries, other ministries, or non-ministerial government institutions and those held by general and public (higher education private) in Indonesia are in the public interest, namely by growing the ability and awareness of dignified education by developing a modern national education system, information technology, curriculum that follows the times, improvement of resources human, job market, additional education budget, improvement of the national education system, optimal supervision, accreditation, certification, standardization, reform of the national education bureaucracy, and others - other.

This has indirectly caused the collapse of the credibility of official education as professional education organized by ministries, other ministries, or non-ministerial government agencies that function to improve abilities and skills in carrying out official duties for civil servants and prospective civil servants. Even so, this collapse is actually a consequence that must be anticipated from the start when official education is a higher education level that prepares students to have jobs with certain applied skills up to the equivalent of a bachelor's program.

For this reason, it is necessary to watch out for the role of state officials who politicize the official education system for the political interests of groups and groups that get a fairly strategic position in the government and function, among others, to restore public trust as if official education is purely for the nation and the state and use techniques, *spinning* namely manipulate, manipulate, and twist various official education policy regulations to overcome the legal vacuum crisis in official educational institutions organized by ministries, other ministries, or non-ministerial government agencies.

Therefore, it is also understandable if the contents of the legal policy on official education Government Regulation No. 14 of 2010 concerning Service Education which has been annulled by the Constitutional Court (MK) does not reflect the principles of statutory regulations and contradicts Law No. 10 of 2004 concerning the Establishment of Legislation, thus emphasizing the principle of legal certainty for official education in 15 and Article 29 paragraphs (1), (2), (3), (4) Law Number 20 of 2003 concerning the National Education System (Zada & Mansur, nd). Regulations for business and political interests rather than public education systems.

This can be seen from the various articles that are used as legal norms for official education organized by ministries, other ministries, or non-ministerial government agencies that function to improve abilities and skills in carrying out official duties for civil servants and prospective civil servants. The concept was, unbroken by the issuance of Law No. 12 Year 2012 on Higher Education.

3.3 Education Universities in Law Legal Education (BHP)

The aspiration of the people who appeared as a logical consequence can be seen from the changes in the Act No. 20 of 2003 on National Education System amendment to Law Number 2 of 1989 concerning the National Education System. It can be clarified that the transfer of the status of an official university to a Legal Education Entity (BHP) in the national education system must meet the requirements of the curriculum, teaching staff, facilities and infrastructure, and budget. Therefore, the desire of today's society is to create equity, prosperity, and justice for the community. However, in its development, the Legal Education Agency (BHP) does not reflect the principles of legislation and the readiness of the community to be able to implement it. As a result, the public's unpreparedness to implement the regulation was responded to on March 31, 2010 by the Constitutional Court through Decision Number 11-14-21-126-136/PUU-VII/2009. The ruling states that Law Number 9 of 2009 concerning Educational Legal Entities is not legally binding.

The democratization process in the national education system expects the participation and empowerment of the public. The form of participation contained in the aspirations of the community is the community's critical thinking towards the issuance of Law Number 20 of 2003 concerning the Education System, amendments to Law Number 2 of 1989 concerning the National Education System. The law regulates official higher education with a legal entity (BHP) to be studied more deeply.

Therefore, the material of the regulation provides general instructions regarding government agencies in carrying out their authority and not complying with the applicable legal principles (*rule of law*). This is because the central government sees universities as far from the expectations of the vision and mission of education (philosophy). For this reason, regulations must be made in the form of legislation that regulates State Universities (PTN) and Service Universities (PTK) as an inseparable unit, Private Universities (PTS). It aims to regulate the implementation of a national education system and perform surgery in the management of the higher education administration.

Law Number 12 of 2012 concerning Higher Education in chapter I Number 7. State Universities, hereinafter referred to as PTN, are Universities established and/or organized by the Government. Arrangements that must be immediately made in a Government Regulation are: students, education staff, educators, type, educational path, level of education, type of education, education unit, national education standard, graduate competency standard, content standard, process standard, Teacher and staff standards. Education standards, facilities and infrastructure standards, management standards, financing standards, educational assessment standards, operating costs for education units. Then, it is also necessary to have compulsory education, curriculum, basic curriculum framework, education unit level curriculum, assessment, educational evaluation, tests, examinations, accreditation, national education standards bodies, educational quality assurance institutions, lecturers, and professors. Meanwhile, other things that need to be made are service higher education providers, work agreements or collective work agreements, termination of employment or termination of employment, academic qualifications, competencies, educator certificates, professional organizations, salaries, and income. All of these things are included in the national education system.

Therefore, in a state of law, all government legal activities, whether they are statutory (*beschikking*), regulatory (*regeling*), and policy (*beleidsregel statutory*), must be based on regulations. The material of this regulation provides general instructions regarding government agencies that will carry out government authorities that must have legal institutions.

Thus, official universities have legal certainty, justice and benefit, order, and welfare which are managed by the government. On the other hand, many violations of laws and regulations are carried out by the government. Therefore, the regulation of the official higher education system must be regulated in legal product packaging in the form of Legislative Regulations.

IV. Conclusion

In order for there to be consistency between the regulation of official higher education and the legislation on the national education system, it is necessary to regulate the management and administration of official higher education in a national education system for that purpose; First, the management of the official higher education institution must be in harmony with the implementation. For this reason, legal products should be created that do not conflict with the national education legal system and the existence of a strict and open regulatory system for official universities. Legal harmonization is needed between positive legal regulations and coordination between related officials. Second, the violation of various provisions that apply to official higher education in the management and implementation does not yet have a juridical, sociological and philosophical basis so that the type of sanctions that must be accepted and who must sanction / close / dissolve the official higher education if the violation has not been effective and efficient. appropriate. Third, in the management and implementation arrangements, it is necessary to look forward to limiting the criteria for participants who can be accepted in official higher education, especially in responding to the needs of the global community and the liberalization of higher education and at the same time responding to capable communities and potential students. There needs to be clear provisions regarding the criteria for students, lecturers, widyaiswara and instructors, a competency-based curriculum at the institution. Fourth, the management and implementation arrangements require regulations governing the treatment of students, teaching staff and competency-based curriculum at the higher education institution with surgery on official education located in official higher education and at the higher education institution. The use of the higher education and training system which is used as management and implementation in higher education institutions is a different matter. Fifth, the management and administration of official higher education into State Universities (PTN) established and/or organized by the government should be based on the national education system. The concrete regulations in Article 11 and Article (5) of Law No. 2 of 1989 concerning the Education System and Articles 29 and 15 of Law No. 20 of 2003 concerning the National Education System contradict the reality of the management and administration of official higher education in the form of Higher Education in Ministries and Institutions. Non-ministerial government (LPNK). Sixth, the management and implementation arrangements do not forget the general principles of statutory regulations, both formal and material, Law No. 2 of 1989 on the Education System and articles 29 and 15 of Law No. 20 of 2003 on the System have not been reflected in these higher education arrangements. Supervision of official higher education held by the government has not been optimal.

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