

Kopertis Authorities toward Internal Conflict Resolution in Private Higher Education

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Abstract: Based on the empirical conditions, the management of private higher education (hereinafter referred to as “PTS”) in Indonesia are experiencing many kinds of the conflicts. Some PTS experience conflict usually connected to the foundation. As matter of fact, the conflict PTS has legal implications on the rule of law in the academic and administrative processes covering legal entities PTS, educators, staff, students and the legality of the diploma. Hence, Kopertis should be given decentralized authority for example in resolving internal disputes PTS. Thus, the Ministry of Research, Technology and Higher Education as the central institution cannot hold all the regulation at all.

Key words: Kopertis authority, conflict steps, conflict resolution, private higher education, empirical, administrative

INTRODUCTION

1945 Constitution (“UUD 1945”) is the source of the main law sources in the legal system in Indonesia (Soemiati, 2000). As a source of law, UUD 1945 is animated every law under. In addition, the legislation under it must be appropriate and not contrary either materially or another. The substance of the UUD 1945 contains and reflects the values of the culture of Indonesian society. Included in it is the recognition of their human rights in general and the right to education in particular (fourth Alenia in UUD 1945). This article was found, either after or before the 1945 amendment. In the other words, since the beginning of 1945 birth until the process of alteration of human rights is a priority theme discussed in 1945 (El-Muhtaj, 2005).

The right to education is the human right as stated in the 1945 Constitution Chapter XA on human rights. In addition, the right to education is also one of the basic rights of citizens (citizen’s right) in Chapter XIII of the Education and Culture in 1945 after the amendment. Article 28C Paragraph 1 states: “Everyone has the right to develop themselves through the fulfillment of basic needs, right to get the education and to benefit from science and technology, art and culture, order to improve the quality of life and for the welfare of mankind”. Furthermore, Article 31 Paragraph 3 states: “The government shall manage and organize a national education system which enhances faith, piety and noble order to achieve the moral life of the nation which is regulated by law”.

The access toward the education are settled in-laws No. 20/2003 on National Education System (hereinafter

stated as Education Law), people’s accesses to education are set forth in Article 5 of the Education Law which states:

- Every citizen has the same right to obtain a quality education
- Citizens who have physical, emotional, mental, intellectual and/or social disorder are right to have special education
- Citizens in remote or underdeveloped and remote indigenous communities are right to have special education services
- Citizens who have the potential intelligence and special talents are right to have special education
- Every citizen should have the opportunity improve lifelong education

MATERIALS AND METHODS

UUD 1945 states, there is only one national education system as the way of educating the nation. This system is needed so that the Indonesian people which have much diversity can continue to develop national unity that respects diversity and equality in accordance with Sasanti “Unity in Diversity”. Included in the scope of the national education system is the college.

The universities management and regulation in Indonesia holding by the Ministry of Research, Technology and Higher Education of the Republic of Indonesia. In other sides, higher education was also held by the private foundation is a legal entity. The Foundation has had specific laws governing foundations (law foundation) which were updated by Act No. 28 of

2004 on the amendment of Act No. 16 of 2001 on Foundations (laws on foundation changes). Furthermore, the definition of foundation based upon the Article 1 Act 1 of the Law Foundation, the foundation is a legal entity consisting of assets that are separated and destined to achieve certain objectives in social life, religious and humanitarian. The foundation's aim is limited to social life, religious and humanitarian which is a legal entity which is a non-profit or aims not only to seek profit only (non-profit oriented) as the other legal entity such as a limited company (PT) which has profit purpose (profit oriented).

Concerning upon empirical conditions, the management of private universities (PTS) in Indonesia are experiencing the problems. Some PTS got internal conflict, especially connected to the foundation. For example, what happened at the Bondowoso University, East Java. The fight for the holding foundation is never finished. They do not think about the fate and future of more than 5,000 students there. Students of Faculty of Law, Faculty of Agriculture, the Faculty of Education, Faculty of Engineering and Faculty of Social and Political Sciences. A similar conflict occurs at the College of Law Studies (STIH) Sunan Giri Malang. The college is managed by the two groups, both have students and occupy the same place, although both sides have the same history with the history of STIH, each group claim as the legitimate one.

The reality colleges conflict was addressed by the coordinator of private universities (Kopertis) Region VII through several steps order to resolve these conflicts, like through mediation. Nonetheless, Kopertis has limited authority in resolving internal conflicts private colleges. This suggests that the Kopertis authority related conflict resolution organization of higher education is crucial.

Based on the explanation above, there are some fundamental problems. First, philosophical problem ontologically, it was found that the nature of Kopertis is the institution which is given authority to monitor, evaluate and control PTS based on applied laws in. While, epistemologically, the empty of legal law for Kopertis as the authority in the resolution of internal conflicts in PTS is improper settings. Axiologically, the empty of authority for Kopertis in resolving the conflicts PTS cause instability and chaos in education which implied student's existence.

Second, theoretical problem, Kopertis as a representative of government has a big responsibility providing public services to the PTS including participating resolve internal conflicts. Based on administrative law perspective, Kopertis is local government that had been authorized by central

government. Third, juridical problem refers to the vacuum of law ruled Kopertis authority resolving PTS internal conflicts. The authority which is not regulated and limited by legislation would cause uncontrolled power based on the foregoing explanation, there are 2 problems in this article included:

- What does the legal implications could arise for empty regulation toward kopertis authority in resolving internal conflicts of PTS organizers?
- How does the Kopertis authorities in resolving internal conflicts of PTS organizers in the future?

RESULTS AND DISCUSSION

Legal implications resulted by empty authority in internal conflict resolution PTS: The term of conflict etymologically derived from the Latin "con" meaning joint and "fligere" means the impact or collision (Setiadi and Usman, 2011). In general, the term of conflict contains the series of phenomenon of contradictions and conflicts-interpersonal, wheather occures in local conflict or worldwide class.

While, sociologically, conflict defines as a social process between two people or more in which one trying to get rid of the other to destroy it or make it powerless. According to Davis and Newstorm (2000), conflict is a legacy of social life that may apply in different circumstances caused by some disagreement, controversy between two or more groups.

Conflict occurs in the organization often not symmetrical occur caused by only one party knowingly and provide a response to the conflict. Alternatively, one party perceives the other party that has been or will be attacked in the negative.

In the other sense, conflict defines as a social process which takes place people or groups involvement who challenge each other with threats of violence (Narwoko and Bagong, 2005). According to Robert Lawang states that conflict is defined as a struggle to obtain rare things such as values, status, power and so on, where they are in conflict of interest was not only profit but also to beat competitors. Conflict can be interpreted as a clash of power and interests between one group against another in the process of the struggle for social resources (economic, political, social and cultural) are relatively limited (Lawang, 2007).

Throughout, the explanation above concluded that the terms of the conflict are a clash or disagreement or difference in perspective between at least two groups or between individuals who caused disagreement in ideas or interests, making

inhibition of desire or purpose the individual or group. There are 3 kinds conflicts usually occurred in private college; first, pre-conflict; the stage of the complaint by reference to the circumstances or conditions under which the act in the administration of PTS are perceived as being unfair and the reasons or the basis of their feelings. The violation of the justice sense can be real or just imagination. The most important thing that the party feels violated or wronged.

Second is the conflict which is marked by the circumstances in which the parties feel that their rights are violated chose the path of confrontation, accusation to the breaching party rights or notify the other party about the complaint. Both sides are aware of the existence of a dispute between their views.

Third is the dispute which may occur due to the conflict escalated because of a conflict was put forward in general. A dispute occurs only when the parties have a complaint has been increasing disagreement on the approach to be entering the public sphere. This is done intentionally and actively with the intention that there is something about the demands of the desired action.

The factors that caused PTS internal conflict are extremely diverse among which are: conflicts of interest between the organizers and managers. In the context of PTS conflict, there are several caused this conflict; the irregularities in the management of foundations and differing levels of authority. A change in the foundation deed. As an example case; PTS conflict occurred on University of 17 August 1945 in Banyuwangi.

There is a change of leadership. In the context of this PTS conflict can occur in organizing body or foundation and also can occur on the manager. Misperceptions related to the authorities. Board trustees as the owner of PTS authority to judge all things, both academic and non-academic. On the other hand, the head PTS is the view that academic affairs authority. Foundation Board does not need to interfere. Misperceptions related to the foundation's assets and property. Assets are owned by a foundation. So, PTS has no right to interfere. On the other hand, the head of PTS argued that the assets development because of PTS who work make money.

Meanwhile, the other forms of internal conflict university are like; the conflict between the board of the foundation, the conflict between the foundation with the manager and the conflict between the manager to manager. On this subject which has become common cases are conflicts of interest and power between the foundation and the PTS. Foundation felt as owner has the right to interfere in operational matters to the problems of indoor settings, the position of the room, the faculty

selection process while the university (PTS) feels the foundation too far intervene operational implementation of the university. Attitudes too cautious impressed absence of trust foundation to the management of private universities, especially when dealing with projects, funding and the procurement of certain goods. This is compounded by the non-transparent communication among them.

As matter of fact, PTS conflict can be over through litigation or litigation. In this case, the settlement of internal conflicts PTS using litigation path in an attempt resolving the dispute by way of gathering deliberation, for example by using the forum negotiation, mediation or arbitration. On the other hand, PTS conflict resolution in litigation can be defined as the process by which an individual or entity to bring the dispute or a case to court or a complaint and settlement of claims for damage or replacement. Litigation is used when a dispute or complaint cannot be resolved by other means.

Director general of higher education and Kopertis have done some legal action toward PTS involved in the conflict. Such as Kopertis actions in area VII East Java Table 1.

Furthermore, the implication or the legal effect is an effect caused by the law toward an act committed by a legal subject (Ahmad, 2009). The legal consequences are a result of the actions taken to obtain a result which is expected by the perpetrator of the law. While, the result is the consequences prescribed by law whereas the action is a legal action that acts in accordance with applicable law (Soeroso, 2006).

Through the explanations, it can conclude how the legal consequences if Kopertis not given authority in resolving PTS disputes. The implication is the rule of law in the academic and administrative processes including PTS legal entities, educators, staff, students and the diploma legality.

Kopertis authority toward PTS' internal conflict resolution future: Higher education management needs to be carrying on an ongoing basis. So, the management system of colleges, both held by the government or by the private is able to realize the visions of national education. In the other hand, the nation has responsible for the regulation of higher education management for intellectual life society.

PTS internal conflict prevention can be realized with the paradigm of "Good University Governance". The term and concept "Good University Governance" in the form of higher education, firstly used in the early 1990's and subsequently used by the World Bank ordered to

Table 1: Director general of higher education and Kopertis

| Name of college | Violation form | Violation goals | Authorities of Kopertis/Dikti |
|---|---|---|--|
| University of Bondowoso | Conflict foundation resulting in fragmentation and the emergence of a notary deed into 3 groups, each lifting rector | Violation is more used of power, namely the post of head of the college | Board of higher education has been actively mediating and reconcile the dispute parties and appoint a new rector and data verification lecturer/student; proposed the activation of the database of higher education |
| University of Kahuripan Kediri | Using the name of a new foundation for the transformation from Canda STIE Bhirawa Kediri and Violating Law No. 20 of 2003 | | Board of higher education has been active for the reconsideration request form to the higher education SK changes |
| ITPS of Surabaya | Violates the principle of higher education: accountability, transparency, non-profit and quality assurance such as stated in Article 63 of Law No.12/2012 | More Violation caused by economic motive: getting as much money from the students | Board of higher education has been active providing guidance to one the appropriate status or SNPT minimum standards |
| STIE Pemas Malang | Academic violations | | Board of higher education has been active and made a declaration letter to end off the conflict in 6 months |
| University of 17 Agustus 1945 Banyuwangi | Conflict internal foundation resulting fragmentation and the emergence of a notary deed each lifted rector | More violations motivated by power: the post of leadership and university management | Board of higher education has active in the process of resolution settlement and Kopertis provides services to the foundations registered in the Ministry of Law and Human Rights |
| Academic of Kesehatan Rajekwesi Bojonegoro | Conflict foundation resulting fragmentation and the emergence of a notary deed each lifted rector | More motivated violations is power, namely the post of leadership and management of the college | Board of higher education was active in the process of reconciliation |
| University of Kristen Cipta Wacana n Malang | Conflict foundation resulting splits and the emergence of a notary deed each lift rector | More violations motivated by power: the post of leadership and management of the college | Board of higher education was active in the process of reconciliation |
| Technology University of Surabaya | Violates the principle of standard higher education: accountability, transparency, non-profit and quality assurance as referred to in Article 63 Law No. 12/2012 The ratio of data-student exceeding the rules. And the minimum requirements number of lecturers in Prodi are not met. It is violates Regulation of Education Minister 234/2000 jo. Regulation of Education and Cultural Minister No. 49/2014 making away class violates regulation of education minister 20/2011; shortening of semester credits system violates regulation of education and cultural minister No. 49 of 2014 and exceed of lecturers duty violates Law No. 14/2005 | More violation caused by economic motive | Board of higher education was active in the process of reconciliation |

Kopertis Regional VII

provide loan funds to poor countries. In the 2000's, this concept has been established as one of the Millennium development goals to shift habits corrupt practices. In the World Bank's perspective, good governance is corruption-free budget management, namely, every budget item can be accounted for its use and is transparent.

The concept of governance in higher education with the principle "Good University Governance" actually not limited to the aspects of the use of the budget implement with high accountability. Autonomous governances required to uphold the principles of good governance. Institutional governance, academic, student affairs, human resources and networking also requires autonomy purposed every college leaders can make arrangement design and implement them fully accountable. Accountable governance is not only addressed to the elements shareholders (owners of capital) but also to all elements of stakeholders also. Of the the keyword term to reach success in college management is throughout Good University Governance

(GUG). GUG is the existence of autonomy in academic activities (academic self-governance) and project management activities (managerial self-governance). In both aspects of governance, there should be no interference from the government, foundations or other party. University leaders should be given the freedom to determine its governance and implement management activities.

Concerning with Laws No. 12/2012 on higher education which has been mandated to the Institute of Higher Education Service (L2 Dikti), Kopertis will be going away soon. L2 Dikti is a government unit in the area that serves to help improve the quality of implementation of higher education (Article 57). Moreover, Article 96 confirms that the L2 Dikti must be established no later than 2 years, since the act was enacted. While Law No. 12/2012 was enacted on 10th August 2012. As such, L2 Dikti must have been formed, since 10th August 2014. This year just had 2 years late, so ideally this year the government can realize the establishment of L2 Dikti.

L2 Dikti will become a “miniature” of director general of higher education that provides services more closely and directly to the State and private universities in each province. Based on data base 2015, the number of PTS (private college) is more 10 times toward PTN (state college). Total PTS (including PTS in Religious Studies) are 3,905. The number PTN (including PT in Religious Studies) are 366 state universities. The amount is not evenly distributed in each province.

Regulation has instructed the government to establish L2 Dikti. However, both of L2 Dikti and Kopertis would be the same, especially related to the settlement of PTS disputes if not given the decentralization authority. Because of Dikti as the central institution of higher education cannot comprehensively hold all its authorities. Territorial decentralized incarnated in the form of board which based on the region (area corporations) while the functional decentralization incarnated in the form of legal entities based on specific objectives (target corporation). Furthermore, autonomy implies the independence to regulate and manage the affairs of (household) itself. Whereas, the co-administration is a task to help-if necessary implementing legislation is higher or known as laws and government regulations (Belifante, 1983).

Decentralization in this case is not only about the dispersal of authority (spreading of powers) but also contains a power-sharing (separation of powers) to organize and manage the administration of the central government and government units lesser extent due to the decentralization concerning to the status of independent or autonomous, so every question of decentralization means also questioned on autonomy.

Decentralization brings various positive aspects, they are political, economic, social, cultural and even defense and security. In addition, there are several advantages toward decentralization:

- Reduce overload work in central government
- In the face of problems requiring urgent quick action, the area does not need to wait for instructions from the central government
- Can reduce bureaucracy in the bad sense because every decision can be implementing soon
- Decentralization system may be held useful distinctions and specialization for certain interests. Particularly, the territorial decentralization, more easily resolve themselves to the needs and condition-state area

- Decentralization bears the autonomous region as the laboratory in matters relating to government and can be beneficial for the whole country
- Reduce the possibility of interference from the central government. Given more authorities toward each region because it is more direct and bear psychological sense

CONCLUSION

Based on the discussion and the description above, it can be concluded. PTS conflict throughout three stages: pre-conflict, conflict and dispute while the factors are: conflict of interest between the organizer and manager, power and authority as well as asset and property. The legal implications of the conflict are the rule of law in the academic and administrative processes covering legal entities PTS, educators, staff, students and the legality of the diploma.

The regulation has instructed the government to establish L2 Dikti. However, both L2 Dikti and Kopertis would be bringing the same effect, especially regarding the settlement of disputes in the PTS. Hence, Kopertis or L2 Dikti should be given the authority to be decentralized. It because of Dikti as the central governance cannot comprehensive hold all the authorities. Decentralization in this cases not only the dispersal of authority but also contains a power-sharing to organize and manage the administration between a central government and regional government.

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