

LEGAL EDUCATION REFORM: A CASE OF INDONESIA

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Legal education in Indonesia has historically been generated since the time of Dutch colonization. It was originally started by the establishment of a Senior High School namely *Rechtsschool* in 1908. In 1924, the status of *Rechtsschool* was formalized and improved into the higher education of law which was named *Rechtshoogeschool*. Those law students who graduated in law from the school awarded an academic title of *Mister in de Rechten* (Mr.). It is, therefore, in the coming October, 2007 it has historically been a 83 years of higher legal education establishment of Indonesia.¹

In the era of colonization it was noted that Dutch government established legal education in *Hindia Belanda* (to mention Indonesia in the time of colonization) in order to fulfill an administrative need namely to fill legal bureaucratic positions from the rank of indigenous citizens that would become judges of the *landraad* (indigenous citizens court) or legal officials of the Dutch colonial government.² In other words, the objective of legal education in this period was mainly to produce legal bureaucrats or *rechtsambtenaaren*. Hence, the curriculum of that time was designed with the primary goal of ensuring that once students graduated, they had a significant impact on key pieces of legislation. It means that the successful graduates of this curriculum were very legalistic one in their knowledge of the law, and those graduates were not usually concerned with the empirical realities experienced by those in the field.

Soon after Indonesia proclaimed its independence on August 17th. 1945 the first higher legal education established in Yogyakarta in 1946 namely Balai Perguruan Tinggi Gadjah Mada (the Higher Education of Gadjah Mada), as well as in Jakarta based on *Hoger Onderwijs Ordonantie 1946*.³ The objectives of legal education then come to change and were influenced greatly by desire of the national leadership to mould the law to support a newly Indonesian state. The legal education directed to create graduates in law who not only had the courage to throw off the shackles of Dutch colonial law, but who also possessed the necessary skills to sustain the revolution from colony to independence.

In the time Soeharto's New Order, legal education was designed primary to

¹ Mardjono Reksodiputro, 'Peran Pendidikan Tinggi Hukum dalam Pembaruan Hukum Indonesia (The Role of Higher Legal Education within Legal Reform of Indonesia)', in *JENTERA Law Journal* Special Edition, 2003, p. 21.

² Soetandyo Wignyo-subroto, "Development of the National Law and Legal Education in Indonesia in the Post-Colonial Era", can be accessed online: <http://www.huma.or.id/document1/>

³ In the time of 2007, there has been more than total number of 200 private and state higher legal educations or faculties of law can be found in the region of Indonesia.

ensure that graduates were able to support the process of national development of Indonesia. Law students were mostly guided to understand just enough of legal theories and principles and the prevailing laws and regulations, as well as expected to be sensitive to the operation of the law in the community. It is, therefore, in 1972 the core legal education curriculum (*kurikulum inti*) established by Decision Letter Minister of Education and Culture No. 0198/1972. Nevertheless, the mentioned core curriculum that was in place during the colonial period is still in effect today. The differences lay only in the application of the semester system to replace the yearly system, and in the emphasis on the nuances of how the law is applied today. The content of the subjects in the core curriculum and the teaching methods have not, in essence, changed since colonial times. Indeed, content and teaching methodology has become self-perpetuating. Those who teach the law are resistant to change and continue to ignore the often fundamental changes in the professed objectives of legal education.

In 1983 the semester system replaced into the unit credit semester system (*sistem satuan kredit semester*) based on Decision Letter Director General of Higher Education No. 30/1983. Legal education in the country has for a long time not distinguished between academic and professional legal education. Therefore, the curriculum was designed to expect graduates to have a thorough theoretical understanding of the law, and at the same time, possess the skills and expertise that are demanded by the market of professional world.

The effort of reorienting and improving higher legal education curriculum to be continued. In 1993 Minister of Education and Culture enacted Decision Letter No. 017/D/0/1993 concerning Faculty of Law Curriculum, in which one year afterward revised by Decision Letter Minister of Education and Culture No. 0325/U/1994. The 1993 curriculum acknowledged the difference between the two namely academic and professional legal education, but sought to achieve both objectives in a single curriculum. This was in line with a general attempt to implement the applied approach to university education. However, the 1993 curriculum did not work enough to ensure that graduates were ready for employment. The fusing of academic and professional legal education is not a realistic objective. The allocation of time for students to garner both theoretical and practical legal knowledge is too short in which the law programs take place for only four years, and it is possible in some faculties to complete the course in three and a half years. Clearly, this time frame makes it too ambitious to successfully attempt the acquisition of both the distinctly different aspects of legal education.⁴

In the year of 2000 Decision Letter No. 232/U/2000 concerning Guidance for Designing Higher Education Curriculum and Evaluation Study Result of the Student issued by the Minister of National Education. According to this national curriculum should be replaced into core curriculum, and subjects classification of general subjects, legal basic skill subjects, legal skill subjects, legal practical education subjects have not remain been used. Those were changed into subjects group of personality development (MPK), scientific and skills (MKK), expertise in working

⁴ Hikmahanto Juwana, "Legal Education Reform in Indonesia", in *Asian Journal of Comparative Law* Volume 1, Issue 1 2006 Article 8., p. 5.

(MKB), behavior in working (MPB), and life in society (MBB).

The law curriculum in Indonesia is dominated by the personality of the drafters. In the past there was an institution within the Department of National Education that had specific responsibility over the development of a number of sciences, including law science. This institution was initially recognized as the Legal Science Consortium (KIH) which was later changed to become the Commission for the Discipline of Legal Science (KDIH). In January 2003, the KDIH was dissolved by the Department of National Education. Since then, the curriculum reform and matters relating to the organization of legal education has been decentralized. In theory, every law faculty for now has the freedom to amend and enhance the curriculum as they see appropriate. In spite of this apparent freedom, the Deans of the state-run faculties have taken the initiative to meet periodically in a forum known as the Deans of the Indonesia Public Law Faculties Cooperation Board (Badan Kerjasama Dekan-dekan Fakultas Hukum). The current membership of the Board is 34, including a Military Law School of Jakarta.⁵

Legal education must be freed from the transient desires of the political elite and policy-makers of the day. In the past, labels given to governments in Indonesia, such like the colonial government, Old Order, and New Order, have placed a heavy burden on legal education. Law faculties will no longer be burdened with transient interest that ultimately have a negligible significance for law graduates in the future. In this era of globalization, the challenge for legal education in Indonesia is to produce graduates that are comparable with graduates from law faculties across the globe. As such, a number of law faculties have already consciously begun to prepare their graduates for employment in the country, but also outside their home jurisdictions.

Indeed, the 1993 curriculum does possess legal education objectives which are neutral. It was stated that legal education was to provide an academic or theoretical foundation along with an effort to promote skills and a practical command of positive law.⁶ When the legal education objectives have already been made as neutral as possible, then these objectives must be translated into the curriculum. This curriculum will have two distinct subject categories: One, subjects which will be important to any legal system, for example, civil law, criminal law, constitutional law, administrative law, and international law; and two, subjects that focus on the laws of Indonesia, especially those that influence the development of the law in Indonesia. In particular, law in Indonesia is influenced by European (Western) law, Islamic law, and traditional Adat law.⁷

The postgraduate legal education program needs to be reviewed. The postgraduate program, in particular the Masters program, is perceived primarily as

⁵ Ibid, p. 9

⁶ Mochtar Kusuma Atmadja, "Pendidikan Hukum di Indonesia: Suatu Penjelasan Kurikulum Tahun 1993 (Legal Education in Indonesia: An Explanation of the 1993 Curriculum)", in *Jurnal Hukum dan Pembangunan (Law and Development Journal)* No. 6/XX/IV December 1994, p. 497.

⁷ Opcit, p. 11

university education. It is formulated on the basis of academic interests. However, in a modern world, it is not necessary for Masters program to be characterized solely as an academic program. The Masters program should have three main objectives. First, there is the academic agenda; second, there is need to enhance and deepen the law graduate's knowledge of the law; and finally, there is the professional agenda.

The academic agenda seeks to prepare individuals who intend to become lecturers or researchers. This agenda also prepares student students for the next level, a Doctorate. The second objective focuses on providing law graduates with a means to update their knowledge or embark on a particular specialization. The professional agenda aims to qualify law graduates for a particular kind of practice. In Indonesia, at this time, those who have already completed the notaries education program, one of the conditions to enter the notary profession, are awarded a Masters in Notaries.⁸

In sum, the effort of legal education reform in Indonesia will remains continue. In the future, several improvements will have to be made. The curriculum for undergraduate programs must be designed with the objective of providing a strong academic legal knowledge to students. In the execution of changes to legal education in the coming time, it must be noted that whatever the solution offered, the solution must be implemented so that students, lectures and any other stakeholders will be prepared for the change. From experience in Indonesia, abrupt change without adequate preparation has always been counter-productive.

⁸ The Masters of Notaries is a requirement for an appointment as public notaries under the Law No. 30 of 2004 concerning the Profession of Notaries.