

Curriculum Content and Development of Indonesian Higher Legal Education¹

By:

I Nyoman Nurjaya²

Brawijaya University, Indonesia

Legal education in Indonesia has historically been generated since the time of Dutch colonization. It was originally started by the establishment of Senior Legal 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 year of 2011 it has historically been a 87 years of higher legal education development of Indonesia.³

In the era of colonization it was noted that Dutch government established legal education in *Hindia Belanda* (to mention Indonesia in the time of Dutch colonization) with the purpose of fulfilling administrative need namely to provide legal bureaucratic positions from the rank of indigenous citizens that would become judges of the *landraad* (indigenous citizens courts) or legal officials of the Dutch colonial government.⁴ In other words, the objective of legal education in this period was legal education craftsmanship that 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 17, 1945 the first higher legal education established in Yogyakarta in 1946 namely Balai Perguruan Tinggi Gadjah Mada (the Gadjah Mada Higher Education), as well as in Jakarta based on *Hooger Onderwijs Ordonantie 1946*.⁵ 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.

Higher legal education in the time Soeharto's New Order was designed primary to ensure that graduates were able to encourage the process of national development of Indonesia. Law students were mostly educated to understand just enough of legal theories and principles and the prevailing laws and regulations, as well as expected to be sensitive to the

¹ Paper prepared for the IALS General Assembly and Education Conference entitled "Teaching, Legal Education and Strategic Planning" that will be conducted on April 13 – 15, 2011 at Faculty of Law the University of Buenos Aires, Argentina.

² Professor of Law Faculty of Law Brawijaya University, Indonesia (nurjayai@yahoo.com)

³ 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.

⁴ Soetandyo Wignyosubroto, "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/>

⁵ In the year of 2010, it was officially recorded by the Ministry of National Education that there has been more than a total number of 200 private and State law schools or faculties of law found in the region of Indonesia.

implementation of the law in society. It is, therefore, in 1972 the core legal education curriculum (*kurikulum inti pendidikan hukum*) established by Minister of Education and Culture Decree 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 principle, changed since colonial period of 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 Director General of Higher Education Decision Letter 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 Decree No. 017/D/0/1993 concerning Faculty of Law Curriculum, in which one year afterward revised by Minister of Education and Culture Decision Letter 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.⁶

In the year of 2000 Decision Letter No. 232/U/2000 concerning Higher Education Curriculum Development and Evaluation of Student Academic Achievement issued by the Minister of National Education. According to this the Higher Education Curriculum should be replaced into core curriculum in which the curriculum is viewed more as a package of disciplinary content to be delivered to learners. For the higher legal education in particular, the core curriculum that has been classified into four general subjects that were subject of basic legal skills, subject of legal expertise and skills, legal practical education subjects have finally not remain been employed.

The core curriculum were naturally reformed into five pillars of learning and capabilities each of which was utilized as a referent in specifying one particular course group namely: (a) course group on personality development (*Mata Kuliah Pengembangan Kepribadian*); (b) course group on the development of scientific expertise and skills (*Mata Kuliah Pengembangan*

⁶ Hikmahanto Juwana, "Legal Education Reform in Indonesia", in *Asian Journal of Comparative Law* Volume 1, Issue 1 2006 Article 8, p. 5.

Keilmuan dan Keterampilan); (c) course group on the development of mastery of expert performance (*Mata Kuliah Keahlian Berkarya*); (d) course group on the development of skillful behavior in task performance (*Mata Kuliah Pengembangan Perilaku Berkarya*), and (e) course group on community life (*Mata Kuliah Kehidupan Bermasyarakat*).⁷

Shortly later, an attempt was launched to rectify this pedagogically stultifying framework, and revised version was produced that was enacted the Ministry of National Education decree No. 045/U/2002 on Core Curriculum in Higher Education (*Kurikulum Pendidikan Tinggi*), the decree of which identified three competencies that are generally referred to as (a) the core competence (*kompetensi utama*); (b) the supporting competence (*kompetensi pendukung*); and (c) the specific competence associated with mentioned core competence (*kompetensi lain yang bersifat khusus dan gayut dengan kompetensi utama*). Consequently, the higher legal education curriculum should be associated with the core curriculum in higher education mentioned above.

For the content of law schools curriculum development and reform in Indonesia tend to be dominated by the personality of the drafters. In the past there was an institution within the Department of National Education that mandated specific responsibility over the development of a number of sciences, including law science. This institution was initially recognized as the Legal Science Consortium (*Konsorsium Ilmu Hukum*) which was later reformed to become the Commission for the Discipline of Legal Science (*Komisi Disiplin Ilmu Hukum/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 higher 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 labeled 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.⁸

Legal education must be freed from the transient desires of the political elite and policy-makers. 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 schools will no longer be burdened with transient interest that ultimately has 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 schools across the globe. As such, a number of faculties of law 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.⁹ When the legal education objectives have already been made as neutral as possible, then these objectives must

⁷ T. Raka Joni, "Changing Parenting Style: Nurturing Cultural Diversity Competence in Indonesia", paper presented at the 5th. APAP Congress on April 7, 2008 in Jakarta, p. 16.

⁸ Hikmahanto Juwana, *Op. Cit.* p. 9

⁹ 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, Faculty of Law University of Indonesia, Jakarta, p. 497.

be translated into the curriculum. This curriculum will have two distinct subject categories: (a) subjects which will be important to any legal system, for example, civil law, criminal law, constitutional law, administrative law, and international law; and (b) subjects that focus on the laws of Indonesia, especially those that influence the development of the national law of Indonesia. It should be noted that law in Indonesia has strongly been influenced by the three kinds of legal system namely European (Western) law, Islamic law, and customary law which the so called *hukum adat* as well.¹⁰

One should be taken into account that the postgraduate legal education program in the country needs to be reviewed and evaluated. The postgraduate program, and particularly the Masters program, is perceived primarily as university education. It is designed and formulated on the basis of academic purposes. 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 namely first, there is the academic agenda; second, there is need to enhance and deepen the law graduate's knowledge of the law; and the third, there is the professional agenda.

The academic agenda seeks to produce individuals who intend to become lecturers or researchers. This agenda also prepares graduated students for the next level, a Masters and Doctorate. The second objective focuses on providing law graduates with a means to update their knowledge or depart on a particular specialization. The professional agenda aims to qualify law graduates for a particular kind of practice. In Indonesia, since 2004 in accordance to the Act No. 30 of 2004 concerning the Notary Profession, those who have already completed the notaries education masters program, as one of the conditions to enter the notary profession should be a Masters in Notary.

The effort of legal education curriculum content and development in Indonesia will remain continue. In the future, several enhancements should be conducted. The curriculum for undergraduate programs must be designed with the objective of providing a strong basic academic legal knowledge to law students, and especially for postgraduate programs should be formulated to the improvement of academic legal knowledge and professional purposes. In the implementation of reformation to higher legal education in the coming time, it must be taken into consideration that solution must be applicable so that students, lectures and any other stakeholders will be prepared for the progress and changes, particularly in facing the closed-interrelated world in the era of globalization.

¹⁰ Op. cit, p. 11