

Legal Protections for Lecturers

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ABSTRACT

This article aims to examine the legal protections of educational personnel, especially lecturers. 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. The method used in this research is the literature study method. One of the educational problems faced by lecturers, in general, is the incidents of acts of violence against lecturers that have even claimed their lives. One of the case studies of violence experienced by lecturers is what happened at a private campus in North Sumatera, where a lecturer was killed by his own students. Another problem is about lecturers' salaries that are below the minimum wage. Therefore, legal protections is needed in carrying out their professional duties. This legal protections includes legal protections against acts of violence, threats, discriminatory treatment, intimidation, or unfair treatment from students, parents of students, society, the bureaucracy, or other parties.

Keywords: *legal protections, lecturers, problem.*

1. INTRODUCTION

Lecturers are one of the essential components of the higher education system in Indonesia. The roles, duties, and responsibilities of lecturers are very important in realizing the goals of national education, namely the intellectual life of the nation and improving the quality of Indonesia's human resources. The quality of human resources referred to includes the quality of faith/piety, noble character, mastery of science, technology, and art, in the context of realizing an advanced, just, prosperous, and civilized Indonesian society.

In order to carry out this very strategic function, role, and position, competent and professional lecturers are certainly needed in carrying out their duties as mandated by the Republic of Indonesia Law Number 14 of 2005 concerning Teachers and Lecturers. Whereas "Lecturers are declared as professional educators and scientists with the main task of transforming, developing and disseminating science, technology, and arts through education, research, and community service" Meanwhile, the term professional is stated as a job or activity carried out by a person and become a source of living income that requires expertise, proficiency or skills that meet certain quality standards or norms

and require professional education[1]. Lecturers are educators who have a role as a determinant of the success of the goals of higher education in addition to other educational staff because lecturers are in direct contact with students to provide guidance that will ultimately produce graduates as expected[2].

A Lecturer must act as follows: 1. Teachers, namely the lecturers, must master not only the subject-matters but also must teach it to students with good methods. In addition, lecturers not only impart knowledge to students but also correct attitudes in social life; 2. Researchers, lecturers must also conduct research to develop their knowledge, not only for their own interests but also as a form of accountability for the development of their own knowledge; 3. Servant/servants to the community, meaning that a lecturer must not live in the ivory tower of higher education but also must be willing to mingle with the surrounding community, including providing knowledge & possessions for the benefit of the community/people at large[3].

Lecturers are expected to be able to provide assistance to the community in solving the problems they are facing. This role is included in

the educational aspect because it does not only convey knowledge but also educates it to instill good values. Qualified and professional lecturers serve as guidance as well as community demands in line with the times, and competition is getting tighter in the era of globalization. Creating professional lecturers depends on many things, including the lecturers themselves, the government, and the community. One form of the government's seriousness towards the development of education and improvement of the welfare of lecturers is the existence of a lecturer certification program. By providing a process of certification, it is hoped that the quality of learning will be better[4].

For this reason, the performance of lecturers must always be developed and improved. Efforts to improve performance are carried out in various ways, including (1) providing opportunities to develop in a professional career, (2) ensuring that there are opportunities to increase knowledge and continue education to strata which are higher, (3) provide attention, rewards, and incentives, (4) ensure that there are opportunities to develop a good learning leadership style, and (5) the existence of good social security[5].

Law of the Republic of Indonesia Number 20 of 2003 concerning the National Education System has consequences and implications for education in Indonesia, including teachers and lecturers as teaching staff. Article 40 of the law states that educators have the right to receive protections in carrying out their duties and intellectual property rights. Law Number 14 of 2005 concerning Teachers and Lecturers is intended to build the professionalism of teachers and lecturers. The substance of the material regulated in this law is to empower and improve the quality of teachers and lecturers in a planned, directed, and sustainable manner so that the teaching profession needs to be developed as a profession that is prosperous, dignified, and protected. In connection with the protections of teachers and lecturers that have been regulated in Law Number 14 of 2005 concerning teachers and lecturers in the seventh section regarding protections in article 39, it is explained that the government, local governments, communities, professional organizations, and/or educational units are obliged to provide protections for teachers and lecturers in carrying out their duties. The protections as referred to in paragraph (1) includes legal protections, professional protections, and occupational safety and health protections. In addition to the Government Regulation on Teachers, the government issued a

newly legal product related to teaching staff, namely Government Regulation No. 37 of 2009 concerning lecturers. The government regulation regulates the professions of lecturers regarding certification, rights, compulsory work, and official ties, appointment, placement and transfer, sanctions, and others.

The law made by the government does not guarantee the welfare of lecturers, especially private lecturers; there are still many lecturers who are paid below the City Minimum Wage (UMK). Kopertis Region I data for North Sumatra states that there are still 60 percent or around 25,062 permanent lecturers in private universities (PTS) who get salaries below the district/city minimum wage (UMK). This could be the reason why scholars are reluctant to become lecturers. This has an effect on fulfilling the quota ratio for lecturers and the quality of higher education, especially in private universities. Permanent lecturers should get a decent income. Moreover, he continued, lecturers are still graduates of the master's program.

There are the permanent lecturers who are still paid Rp. 750 thousand monthly. This happened in several private universities in North Sumatra. PTS must be able to manage finances well. The foundation arranges a strategy to get income to pay lecturers' salaries. However, this ability is considered uneven. As a result, lecturer salaries still do not meet the expected standards. The large number of lecturers' salaries below the UMK affects other conditions. One of them is the closure of study programs that are less interested.

Lecturers who join a campus with a large number of students and a large private university capital will receive a decent salary and allowances. It is undeniable that in several private universities which are quite advanced and have humane administrators, a lecturer will receive a fairly decent salary and teaching fees plus various fees such as guiding services, testing, and so on. But not all lecturers have the opportunity to join a good PTS; there are private universities that pay Rp. 50,000 per entry with a load of 3 credits. Imagine that for 1.5 to 2.5 hours, the lecturer who already holds a master or doctorate degree is only paid Rp. 50,000.

There are still lecturers who are paid based on how many courses they earn and are paid based on SKS. If college enters the semester break period, the lecturers practically have no income. During semester breaks such as July-August, where there

are no teaching hours, the lecturer only receives wages without any other income.

The most important problem is an incident at the Muhammadiyah University of North Sumatra campus; a 21-year-old FKIP student killed Nurain, who was his lecturer because he did not accept being scolded by the victim. The reckless action had apparently been planned because he had already carried a knife to the crime scene, which resulted in the lecturer dying. From the above problems, the government must be firm in implementing the laws that have been made. Considering that there have been fatalities experienced by lecturers, legal protections is really needed for lecturers so that lecturers also feel safe in carrying out their duties.

2. RESEARCH METHOD

The type of research carried out in this research is juridical normative, empirical research, namely by analyzing the problem through reviewing the legal norms contained in the laws and regulations in Indonesia and seeing the reality that occurs. According to Ronald Dworkin, normative research is also called doctrinal research, which is research that analyzes law as law is written in a book, and law as it is decided by the judge through the judicial process. The research conducted is descriptive, which aims to describe, inventory, and analyze theories and regulations as well as cases that have been decided by judges relating to the problems in this research, so the legal research method used in the preparation of this research is carried out with a qualitative approach. Based on the theoretical framework used, it will be linked to this discussion and analysis; it is hoped that a conclusion will be obtained that provides an answer to the problem studied.

3. FINDINGS AND DISCUSSION

Legal protections is the right of every individual as a citizen, which is protected by law because every citizen is equal before the law. Educators who interact directly with students have a duty and responsibility to educate, meaning that in addition to conveying the knowledge (transfer of knowledge), they also have the task of shaping the attitudes and character of students[5].

One of the problems that arise is the position of lecturers as professional educators whose existence and placement are based on a work agreement between an employer and an employee. There are various definitions of work agreements, both those

put forward by legal scholars and by statutory regulations, including:

- a. One of the definitions of a work agreement, defined by Shamad, is "an agreement where a person binds himself to work for another person in exchange for a wage in accordance with the conditions promised or agreed upon together."
- b. Law No. 13 of 2003 concerning Manpower defines "a work agreement is an agreement between a worker/laborer and an entrepreneur or employer that contains the conditions of employment, rights and obligations of the parties.";
- c. Government Regulation of the Republic of Indonesia Number 37 of 2009 concerning Lecturers defines a work agreement as follows: "A work agreement or collective work agreement is a written agreement between a lecturer and providers of higher education or Higher Education Units that contain the conditions of work and the rights and obligations of the parties. principle of equality and serviceability based on laws and regulations."

Lecturers in carrying out their duties need legal protections in order to have legal force, as explained in Article 39 that the government, local governments, communities, professional organizations, and/or education units are obliged to provide protections for teachers or educators in carrying out their duties, namely legal protections, professional protections, as well as protections of occupational safety and health, also legal protections from acts of violence, threats, discriminatory treatment, intimidation, or unfair treatment on the part of students, parents of students, society, bureaucracy, or other parties[2].

Even though the legal relationship that is built between lecturers and education providers basically has the same position in the engagement, what distinguishes it is the rights and obligations of each party. The phrase "appointment and placement," if interpreted grammatically, then there is an element of "order" in it or, in other words, a form of delegation of authority because the entrepreneur has the right to place the worker/laborer in any place as desired by the entrepreneur. Based on this, the position of the lecturer is not equal to that of the administering body, where the legal relationship that is born is in the form of "giving a job" contains "orders" from the employer to the worker.

Table 1. Number of Indonesian Lecturers Based on ForlapRistekdikti 2019

No	Highest Education	Number of Lecturers
1	D3	518
2	D4	2256
3	S1	30057
4	S2	209124
5	S3	43375
6	Sp-1	3100
7	Sp-2	704
8	Profession	2377
9	No Level	5453
Totally		296964

It can be seen from the table above that the number of lecturers in Indonesia is 296,964 (two Hundred and ninety-six thousand nine hundred and sixty-four), and the number of lecturers who are certified educators is 104. 443 (one hundred and four thousand four hundred and forty-three) or around 35 %. Thus there are still around 192,521 (one hundred and ninety-two thousand five Hundred and twenty-one) lecturers in Indonesia who have not been certified as educators or around 65%.

There are lecturers who have been convicted for imposing excessive sanctions on students who are deemed to have violated the law on child protections, and there are lecturers who are terrorized for complaining about irregularities. In another case, there are also lecturers who have been persecuted by students and/or parents of students; this has happened a lot in universities where students have been able to express their attitudes and personalities, students have been bold and fight against their lecturers. There are also students who complain about lecturers they don't like to the parents, and if the parents are not smart in responding to their children's complaints, the teacher will be the victim of parental violence.

The government, local government, society, professional organizations, and/or higher education

units are obliged to provide protections for lecturers in carrying out their duties. Forms of protections can be legal protections, professional protections, as well as protections of occupational safety and health. The form of legal protections is in the form of protections against acts of violence, threats, discriminatory treatment, intimidation, or unfair treatment on the part of students, parents of students, society, bureaucracy, and/or other parties. Professional protections includes protections for the implementation of lecturers' duties as professional staff, which includes termination of employment that is not in accordance with statutory regulations, improper remuneration, restrictions on academic freedom, academic pulpits, and scientific autonomy, as well as other restrictions that can hinder lecturers from carrying out their duties. Occupational safety and health protections include protections against risks of occupational safety disturbances, work accidents, fires during work, natural disasters, work environment health, and/or other risks. In the framework of academic activities, lecturers receive protections to use data and sources that are categorized as prohibited by laws and regulations.

The government, in this case through the Ministry of Education and Culture of the Republic of Indonesia, has the responsibility to regulate, nurture and protect lecturers as mandated in Law No. 14 of 2005 concerning Teachers and Lecturers. Not only the central government but regional governments also have an obligation to provide protections to lecturers as regulated in these provisions. This can be done by local governments by providing protections through regional regulations and providing incentives for lecturers who excel in the regions. Lecturers who excel are also involved in every regional development activity. In addition, law enforcers do receive reports of complaints from students about lecturers who carry out their duties as professional educators and scientists, who are accused of having committed defamation. According to Article 75 of the Law on Teachers and Lecturers, lecturers receive protections in the form of legal protections, professional protections, and occupational safety and health protections. The form of legal protections is in the form of protections against acts of violence, threats, discriminatory treatment, intimidation, or unfair treatment on the part of students, parents of students, society, bureaucracy, and/or other parties. So that from this provision, lecturers get legal protections so that they cannot be reported to the police for carrying out their duties as professional educators and scientists in unfair treatment from the students by reporting lecturers to

the police, the police should be able to reject the report because in the provisions of the law it guarantees legal protections for lecturers. If analyzed from Friedman's theory of the legal system, the legal rule regarding the protections of lecturers has been regulated in Article 75 of Law No. 14 of 2005 concerning Teachers and Lecturers, which states that protections consists of legal protections, professional protections, and protections of occupational safety and health[7]. Occupational safety and health protections include protections against risks of occupational safety disturbances, work accidents, fires during work, natural disasters, work environment health, and/or other risks. In the framework of academic activities, lecturers receive protections to use data and sources that are categorized as prohibited by laws and regulations. It is clear that the legal rule regarding the protections of lecturers has been regulated, but it needs to be re-analyzed. This rule is a general rule that must be re-elaborated in the implementing regulation; whether regulated by the President, Minister, or Regional Government, it needs to be amended to strengthen its implementation in the central and regional governments. The discussion on how law enforcers implement this legal rule should be understood, that law enforcers must pay attention to the provisions of the Law on Teachers and Lecturers in providing protections for lecturers in Indonesia without neglecting these provisions. This is if there are reports of lecturers who carry out their duties as professional educators, they should be given legal protections, and reports of complaints that are detrimental to the lecturers by students, parents, or irresponsible parties should be rejected.

Likewise, lecturers as professional educators and scientists whose main task is transforming, developing, and disseminating science, technology, and art through education, research, and community service, so that in carrying out their duties, they are entitled to protections and intellectual property rights; as well as having the freedom to provide assessments and determine the graduation of students, as described in Article 51 of the Law on Teachers and Lecturers. Lecturers as educators under the aforementioned law may be subject to sanctions if they violate their oath of office, violating the work agreement or collective working agreement, or neglect their obligations in carrying out their duties for 1 (one) month or more continuously. The education provider or higher education unit concerned can impose such sanctions on the basis of statutory regulations.

The status of lecturers consists of permanent lecturers, non-permanent lecturers, and honorary lecturers. Permanent lecturers are lecturers who work full time, have the status of the permanent teaching staff at certain higher education units, and receive recognition from the Higher Education by granting NIDN (National Lecturer Identification Number). Non-permanent lecturers are contract lecturers who are appointed by the leadership of a PT (University)/Foundation for a certain period of time; they are based at the PT that contracted them, work full time or part-time, they are given NUPN (National Teacher Serial Number). Honorary Lecturers are Lecturers who teach in Higher Education without a work agreement (not contracted), they do not have a work center, they are not recorded in PDPT, so they do not have an NUPN[3].

Lecturers are required to have academic qualifications, competencies, teacher certificates, be physically and mentally healthy, and meet other qualifications required by the higher education unit in which they are assigned, and have the ability to realize the goals of national education. Lecturers must have academic qualifications obtained through accredited postgraduate higher education in accordance with their field of expertise, minimum:

1. Graduates from master's programs for diploma programs or undergraduate programs,
2. Graduates from doctoral programs for postgraduate programs.

The lecturer profession is a specialized field of work carried out based on the following principles:

1. Having talents, interests, calling, and idealism;
2. Having a commitment to improving the quality of education, faith, piety, and noble character;
3. Have academic qualifications and educational background in accordance with the field of work;
4. Have the necessary competencies in accordance with the field of duty;
5. Have responsibility for the implementation of professional duties;
6. Obtain an income determined in accordance with work performance;
7. Have the opportunity to develop professionalism in a sustainable manner by lifelong learning;
8. Has guaranteed legal protections in carrying out professional duties;

Rights and Obligations of Lecturers In carrying out professional duties, lecturers have the following rights:

1. Obtain an income above the minimum necessities of life and social welfare security;
2. Get promotions and awards in accordance with work duties and achievements;
3. Obtain protections in carrying out duties and intellectual property rights;
4. Obtain opportunities to improve competence, access to learning resources, information, learning

facilities, and infrastructure, as well as research and community service; 5. Having academic freedom, academic forum, and scientific autonomy; 6. Have the freedom to provide assessments and determine the graduation of students; and 7. Having the freedom to associate in professional organizations/scientific professional organizations.

In carrying out professional duties, lecturers have the following obligations: 1. Carrying out the education, research, and community service; 2. Planning, implementing the learning process and assessing and evaluating learning outcomes; 3. Improving and developing academic qualifications and competencies on an ongoing basis in line with developments in science, technology, and arts; 4. Acting objectively and not discriminating on the basis of considerations of gender, religion, ethnicity, race, certain physical conditions, or the socio-economic background of students in learning; 5. Upholding statutory regulations, law, and code of ethics, as well as religious and ethical values; and 6. Maintaining and cultivating the unity and integrity of the nation. Law Number 14 of 2005 Law Number 14 of 2005 concerning Teachers and Lecturers was ratified by the DPR with the President on December 30, 2005., and promulgated in Jakarta on the same date in the State Gazette of the Republic of Indonesia of 2005 Number 157[8].

4. CONCLUSION

This paper can be concluded as follows:

1. Whereas the legal protections for Lecturers in Indonesia is regulated in Article 75 of Law No. 14 of 2005 concerning Teachers and Lecturers, the regulation states that the Government, Local Government, society, professional organizations, and/or higher education units are obliged to provide protections for lecturers in carrying out their duties. Forms of protections in the form of legal protections, professional protections, as well as protections of occupational safety and health. The form of legal protections is in the form of protections against acts of violence, threats, discriminatory treatment, intimidation, or unfair treatment on the part of students, parents of students, society, bureaucracy, and/or other parties. Professional protections includes protections for the implementation of lecturers' duties as a professional, which includes termination of employment that is not in accordance with statutory regulations, improper remuneration, restrictions on academic freedom, academic

pulpits, and scientific autonomy, as well as other restrictions that can hinder lecturers in carrying out their duties. Occupational safety and health protections include protections against risks of occupational safety disturbances, work accidents, fires during work, natural disasters, work environment health, and/or other risks. In the framework of academic activities, lecturers are protected from using data and sources that are categorized as prohibited by laws and regulations.

2. Higher education is a place where lecturers, especially female lecturers, can get protections in carrying out their university assignments from acts of violence committed by students or by irresponsible parties. So that lecturers, especially women, cannot be reported to the police or the authorities if in carrying out their duties in accordance with the Tri Dharma of higher education, in peace or non-violent manner, functioning as professional educators and scientists. The government guarantees the implementation of legal protections for lecturers, especially female lecturers, from acts of violence both psychologically and physically from any party so that there should be no more lecturers' getting reported to the authorities for carrying out their duties as professional educators and scientists.

Based on the explanation above, the authors submit the following suggestions:

1. That female lecturers really need legal protections against acts of violence from any party in carrying out their duties as professional educators and scientists as stipulated in laws and regulations in tertiary institutions and law enforcers.
2. That the role of the government, universities, society, and law enforcement is very important to be carried out to provide legal certainty and guarantees for female lecturers in carrying out their duties and functions as professional educators and scientists by devoting themselves to carrying out the tri dharma of higher education such as education, research, and community service.

REFERENCES

- [1] AlviSyahrin, *Legal Arrangements, and Policies for Sustainable Housing and Settlement Development*, (Medan: Pustaka Bangsa Press, 2009)

- [2] BismarNasution, Normative and Comparative Law Research Methods, Papers, presented at the Interactive Dialogue on Legal Research and Legal Writing Results at the Accreditation Magazine, USU Faculty of Law, February 18, 2003
- [3] SatjiptoRaharjo, Law Science, Bandung, PT. Citra AdityaBakti, 2000
- [4] Rahayu, Transportation of People, etd.eprints.ums.ac.id. Government Regulation of the Republic of Indonesia, Number 2 of 2002 concerning Procedures for protections of Victims and Witnesses in Serious Violations of Human Rights, Indonesian Law, Number 23 of 2004 concerning the Elimination of Domestic Violence. 2009
- [5] SoerjonoSoekanto and Sri Mamudji, Normative Legal Research, A Brief Overview, Jakarta: Raja GarindoPersada, 2011.
- [6] The 1945 Constitution of the Republic of Indonesia
- [7] Law of the Republic of Indonesia Number 14 of 2005 concerning Teachers and Lecturers
Law No. 28 of 2004 on Foundations
- [8] Government Regulation of the Republic of Indonesia Number 37 of 2009 concerning Lecturers
- [9] Government Regulation of the Republic of Indonesia Number 63 of 2008 concerning Implementation of the Law on Foundations.