

## Legal Compliance in the Process of Independent Learning Independent Campus

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### ABSTRACT

In the implementation of independent learning on an independent campus, the factor of legal compliance is the main determinant of its success. The 1945 Constitution as the highest written basic law in higher education, especially in the process of independent learning on an independent campus, is carried out based on the applicable juridical method, whose legal compliance is some are obedient and some have not complied in accordance with the abilities and readiness of each university in an effort to educate the life of the Indonesian nation.

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## INTRODUCTION

As a country of law (*rechtsstaat*), Indonesia is obliged to realize the development of national law as part of national development, including the development of higher education. Regulation of the management and implementation of higher education is a part of the national education system carried out by the Government of Indonesia in realizing the goals of national education. In an effort to increase the competitiveness of the Indonesian nation in the current globalization, higher education is needed to be able to develop science and technology, which can produce intellectual, professional, and creative graduates for the benefit of the nation and state.

The 1945 Constitution is the main foundation in the life of the nation and state, known as "domiciled as the basic law in laws and regulations".<sup>1</sup> The government is obliged to educate the life of the Indonesian nation, including through the higher education. As mandated that "Then it is to protect the whole nation of Indonesia, the whole blood of Indonesia, and to educate the life of the nation."<sup>2</sup> The main university activity is to organize learning, which is the process of interaction between students and lecturers and learning resources in a learning environment.

The policy of the Minister of Education and Culture on Independent Learning and Independent Campus, as a legal regulation that is popular today, is in accordance with permendikbud No. 3 of 2020 concerning National Standards for Higher Education. Facts shown that, in the era of digitizing higher education, it turns out that not all of the universities are ready with this circumstance. The problem that arises is to what extent is the campus legal compliance in implementing the independent learning process, which is based on the applicable laws and regulations?

## THEORETICAL REVIEW

### *Legal Compliance*

Obedience comes from the word "obedient," which means to submit, obey, and participate. To obey means to look down.. Obedience means submission, obedience, and the state of a person submitting to obey something or someone. Hence, it can be said that legal compliance is the state of a citizen who has the role as a subject to obey one rule of the game (law) applied. Legal compliance is the observance of the law, in this case, the written law. This obedience or obedience is based on consciousness. The law, in this case means written law or legislation that has various powers or "*rechtsgetung*".

If a law encounters formal requirements or has juridical power, but is sociologically acceptable to society, it is called sociologically applicable force. There is still a force of force called "*the filosofische rechtsgetung*", that is, if the content of the law has all three powers in force at once. In the context of legal compliance, there are both positive and negative sanctions. Obedience is a dependent variable based on satisfaction obtained with social support. According to Satjipto Rahardjo, there are three factors that cause society to obey the law :

1. Compliance is the expectation of a reward and an effort to avoid the punishment that may arise if someone violates the provisions of the law. There is strict oversight of the rule of law.
2. Identification, *that is*, if compliance with legal rules exists not because of their intrinsic value, but rather so that group membership is maintained and there is a good relationship with those who are authorized to apply these legal rules.
3. Internalization (*internalization*), *that is*, if a person obeys the rules of the law because intrinsically obedience has a reward. Its content corresponds to the value of its value from the person in question.

Obedience is an active attitude based on motivation after he has acquired knowledge. From knowing something, society is aware, having realized and will be moved to determine attitude or action. Therefore, the basis of that obedience is education, habits, expediency, and group identification. Because of self-awareness in education, habits, awareness of benefits, and identification in the group, the rules will be obeyed.

Therefore, everyone must know that the law exists to protect against human interests. Once it is known, the usefulness of its content and then determine the attitude to adhere to it will be realized.

#### *Independent Learning*

Independent Learning is one of the initiative programs of the Minister of Education and Culture, Mr. Nadiem Makarim, who wants to create an enjoyable learning atmosphere. The purpose of independent learning is the teachers, students, and parents can get a joyful atmosphere. "Freedom to learn is that the educational process must create happy atmospheres. Happy for whom? Happy for teachers, happy for students, happy for parents, and happy for everyone" (Syukri, 2020).

Independent learning according to the Minister of Education and Culture departs from the desire that educational *output* produces better quality and no longer produces students who are only good at memorization, but also have sharp analytical skills, reasoning, and comprehensive understanding in learning to develop themselves (Birawa Daily, 2020). The Minister of Education and Culture's version of Independent learning can be interpreted as the application of the curriculum in the learning process must be fun, coupled with the development of innovative thinking by teachers. This can foster positive attitudes in students in responding to learning (Fathan, 2020).

Independent learning is a natural learning process to achieve independence. It is necessary to learn independence first because there may still be things that shackle the sense of independence, the sense of not being free, and the narrow space for independence. The essence of Independent learning is to explore the greatest potential of teachers and students to innovate and improve the quality of learning independently. Independent is not only following the bureaucratic process of education but really educational innovation (Prayogo, 2020).

### *Higher Education*

Higher education is a level of education after secondary education that includes diploma, bachelor, master, specialist, and doctoral education programs organized by higher education. Higher education is organized in an open system. A College is an educational unit that organizes higher education and can take the form of an academy, polytechnic, college, institute, or university. The purpose of higher education is to develop the potential of students to become human beings who have faith and piety in God Almighty and have a noble character, healthy, knowledgeable, capable, creative, independent, skilled, competent, and cultured for the benefit of the nation in order to produce graduates who master the branches of Science and Technology to meet national interests and increase the nation's competitiveness in producing Science and Technology through research that pays attention to and apply humanities values to benefit the progress of the nation, as well as the progress of civilization and the welfare of mankind later.

The function of higher education is to develop abilities and form a dignified national disposition and civilization in order to educate the nation's life and develop an innovative, responsive, creative, skilled, competitive, and cooperative Academic Community through the implementation of the Tridharma. At a higher level, namely education at universities/universities as explained by (The government of the Republic of Indonesia, 2012) concerning Higher Education, where higher education as part of the national education system has a strategic role in educating the nation's life, advancing science and technology by paying attention to and applying humanities values, cultivating and empowering the Indonesian nation that is sustainable.

### **METHODOLOGY**

This research applied the normative legal research type, which is based on legal norms, especially secondary data sources in the form of laws and regulations and relevant legal documents, supported by real facts in society. The method of analysis based on qualitative-applicative descriptive methods referred to existing data.

### **RESULTS**

The readiness of campuses or universities to comply with and implement the independent campus learning program is not the same, some are ready and not ready. This fact shows that all fulfillment of teaching and learning facilities, in the form of learning infrastructure, financial resources, curriculum, academic resources, administrative resources, student willingness and ability, and the qualifications and competencies of their lecturers.

The qualifications and competencies of lecturers as facilitators and motivators in the implementation of independent campus learning are very important. "Lecturers are professional educators and scientists with the main task of transforming, developing, disseminating science, technology, and art through education, research, and community service".<sup>8</sup> Thus the complexity of various factors turns out to affect the compliance of universities in implementing independent campus learning.

In the era of globalization, digitalization, and the rapid flow of information today, universities must of course adapt and adjust the implementation and management of their education in accordance with government policies and the needs of stakeholders. The openness and professionalism of the campus must be the main characteristics, especially in producing graduates who are ready to enter the world of work. A bona fide and credible college, there is no need to bother looking for students, but students who come to find their dream campus.

In social life, including the university community has the expectations in order to imply legal regulations, which are based on legal awareness and legal compliance. "Citizens of society, that is, individual human beings who master a number of norms, through a process called the learning process, otherwise known as the socialization process".<sup>9th</sup> Thus, the independent learning of an independent campus, in which there is an orderly and responsible learning or socialization process.

"The implementation or enforcement of the law, in the form of legal regulation, lies in various factors, which have a neutral meaning, so that the positive or negative impact lies in the content of these factors".<sup>10</sup> These various factors, including in the form of their own legal factors, implementing or law enforcement factors, factors of facilities or facilities, community factors, and cultural factors. Thus, in implementing independent learning in the universities, there are several factors affected them in encouraging the emergence of legal compliance of universities in their applications.

## DISCUSSIONS

Laws and regulations are written regulations that contain generally binding legal norms and are established by state institutions or authorized officials, including legal norms of higher education. Independent learning on an independent campus in higher education is actually designed to encourage the autonomy of universities and spur innovation in the culture of higher education. This culture should be based on the values of Pancasila and the 1945 Constitution through its higher education programs. In this case, students are given the right to study three semesters outside the on-campus study program. This policy is certainly based on emergencies, such as a pandemic.

Universities are given flexibility and convenience, in the form of an accreditation process, opening new study programs, and legal entities, providing competitive matching funds and strengthening collaboration between universities and the business world. The goal is economic recovery and structural reforms so that the ministry's policies are prioritized on improving the quality of educators, improving the vocational field, and other fields. Universities, both state universities and private universities must always carry out the main duties of the Tin g gi College Tridharman in the form of education, research, and community service. In addition, it also applies supporting elements, including in the form of work practices / internships, projects in villages, exchanges of lecturers / students, entrepreneurship, independent projects and humanity.

The level of regulations in the field of higher education, including the policy on independent learning of independent campuses, is determined based

on law, juridical, and implemented sociologically at the personal, social, and institutional levels in the life of the national and state. Real perspectives and behaviors in social life, including in campus life, include mutual respect for religious freedom, upholding human values, placing the unity and unity of the nation and state above personal or class interests, prioritizing deliberation for consensus in making decisions, and realizing together just and equitable progress.

Law is in the form of norms that exist in society, in line with the statement that "Law is a social activity, it is possible to discover the principles and mechanisms of its operation, and to predict when and how it comes into play in society".<sup>4</sup> The implementation of the legal norms of Pancasila and the 1945 Constitution, as well as laws and regulations related to higher education, must be based on the ability and readiness of each university, so as to support the development of national education.

Indonesia tends to adhere to the flow of legal theory (legal theory) which is a positivistic legal pattern, meaning that it prioritizes written laws in the form of laws and regulations. Legal regulations are arranged in tiers from the highest to the lowest. Higher legal regulations become a source of law (legal resource) for lower legal regulations. This can be seen from the statutory order (hierarchy). The legal regulations, "namely the 1945 Constitution, MPR Provisions, Laws, Government Regulations, Presidential Regulations, Provincial Regulations, and Regency/ City Regional Regulations".<sup>5th</sup> This condition is in accordance with Hans Kelsen's Stufenbau Theory, which states that laws are regulations that are arranged in a tiered manner, from the highest to the lowest, and boils down to the grunt norm. In this case, the basic norm is Pancasila.

Independent Learning has eight programs, consisting: students are free to choose courses, government assistance, student exchanges (Indonesian International Student Mobility), certified internships, certified independent studies, humanitarian projects, research / research, and building thematic villages / KKN. Thus, independent learning is a policy of the Minister of Education and Culture, which aims to encourage students to master various scientific fields, which are useful in entering the world of work. An independent campus is a university that provides opportunities for students to choose the courses they take, according to the curriculum of the study program.

Factors of legal awareness and legal compliance are aspects that affect the implementation or enforcement of legal regulations (legal enforcement), legal regulations for independent learning on independent campuses. Not always what has been determined by the authorized officials as legal regulations or positive laws, is implemented and obeyed by citizens of the community. In this case, there is a discrepancy between the validity of the law and the realities, in the form of obeying or obeying the law in the practice of social life. This is consistent with B. Kutchinsky's statement that "law awareness of the very fact that a certain type of behavior is regulated by law".<sup>6th</sup>

Legal compliance is actually related to the process of internalization of such laws. This condition as L. Pospisil stated, is that "A law is internalized when the majority of the group considers it to be binding, as when it stands for the only

proper behavior in a given situation".<sup>7</sup> This process of internalization begins at a time when society is faced with a new pattern of behavior, as expected by law in certain situations. Thus, campus compliance to implement the independent learning program for independent campuses is greatly influenced by the internalization of policies that have been set by the government.

The readiness of campuses or universities to comply with and implement the independent campus learning program is not the same, some are ready and not ready. This fact shows that all fulfillment of teaching and learning facilities, in the form of learning infrastructure, financial resources, curriculum, academic resources, administrative resources, student willingness and ability, and the qualifications and competencies of their lecturers. The qualifications and competencies of lecturers as facilitators and motivators in the implementation of independent campus learning are very important. "Lecturers are professional educators and scientists with the main task of transforming, developing, disseminating science, technology, and art through education, research, and community service".<sup>8</sup> Thus the complexity of various factors turns out to affect the compliance of universities in implementing independent campus learning.

In the era of globalization, digitalization, and the rapid flow of information today, universities must of course adapt and adjust the implementation and management of their education in accordance with government policies and the needs of stakeholders. The openness and professionalism of the campus must be the main characteristics, especially in producing graduates who are ready to enter the world of work. A bona fide and credible college, there is no need to bother looking for students, but students who come to find their dream campus. In social life, including the university community has the expectations in order to imply legal regulations, which are based on legal awareness and legal compliance. "Citizens of society, that is, individual human beings who master a number of norms, through a process called the learning process, otherwise known as the socialization process".<sup>9th</sup> Thus, the independent learning of an independent campus, in which there is an orderly and responsible learning or socialization process.

## **CONCLUSIONS AND RECOMMENDATIONS**

The 1945 Constitution as a written basic law that is the main basis for higher education, especially in the process of independent learning on an independent campus, is carried out based on an applicative juridical method, that its legal compliance is in accordance with the ability and readiness of each university to educate the life of the Indonesian nation. In applying the legal compliance with the Independent Learning on an Independent Campus, it is necessary for both lecturers and students to be adjusted to the competence and readiness of universities. Besides, the infrastructure gradually and beneficially for the stakeholder community should be supported.

## **FURTHER STUDY**

"The implementation or enforcement of the law, in the form of legal regulation, lies in various factors, which have a neutral meaning, so that the

positive or negative impact lies in the content of these factors".<sup>10</sup> These various factors, including in the form of their own legal factors, implementing or law enforcement factors, factors of facilities or facilities, community factors, and cultural factors. Thus, in implementing independent learning in the universities, there are several factors affected them in encouraging the emergence of legal compliance of universities in their applications.

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