



## Legal Education in Indonesia Towards an Industrial Revolution 4.0

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### **Abstract**

This study aims to uncover and explore the role of legal education in Indonesia in preparing skilled workers in facing the industrial era 4.0. The method used in this study is a normative method with a legislative approach and a historical approach. The results showed the need for a Diploma in Law Education (D4) specifically to educate Applied Bachelor candidates in the field of law that were prepared to be professionals in their respective fields (lawyers, prosecutors, judges and others). Applied Bachelor (D4) is specifically given practical legal material and therefore graduates are not to continue to master's level. This adopted the Juris Doctor education pattern in several Western countries. This graduate to work as an Advocate must take an examination by the Supreme Court or Advocate Organization without going through additional education / training and without having to do more internships.

**Keywords:** Legal Education; Industry 4.0

### **Introduction**

The issue of the direction of legal education in Indonesia is not a new and simple problem. However, this issue has been going on for a long time and continues to be debated by academics and legal practitioners. The question of where and where to go for legal education in Indonesia when legal tertiary education began in Indonesia in the early 20<sup>th</sup> century, legal education fully followed the pattern of legal higher education in the Netherlands.<sup>1</sup> The curriculum and teaching patterns also fully followed the teaching patterns in the Netherlands, although there were adjustments to the objective conditions of the Dutch East Indies as a colony. The duration of legal education (*rechtshogeschool or fakulteit der Rechtsgeleertheit*) which opened on October 28, 1924, led by Paul Scholten, was 5 years, divided into 3 stages namely:

The first stage is completed in 2 years with a candidate exam. The second stage with a doctoral examination is taken for 2 years, and the third stage, added in the last year as the final doctoral exam

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<sup>1</sup> Makdir, Seminar Paper and Workshop on Curriculum Studies of the Faculty of Law, Faculty of Law UII, 23 December 2006.

through taking majors (*richtingen*) - civil law, criminal, constitutional law, and sociology-economy. After completing all these stages, the student has the right to hold the title “*Meester in de Rechten*”.<sup>2</sup>

Then continued through the changes in 1946 with *Hoogeronderwijs Ordonnantie* 1946 (Stb. No. 47/1947) and *Universiteitsreglement* 1946 (Stb. No. 170/1947). As is the case with the administration of higher law education in the Netherlands before, the legal education in Indonesia is still more focused on academic education (academic schooling) and less attention to its “professional schooling”.<sup>3</sup>

It was also conveyed by Himahanto Juwana in his paper *Legal Education Reform in Indonesia* that the purpose of legal education cannot be separated from the goals desired by the government.<sup>4</sup> This means that when the initial legal education was introduced by the Dutch Colonial Government, law graduates were expected to be able to fill bureaucratic positions in the field of law (*rechtsambtenaren*) such as prosecutors, judges, clerks.

Therefore, the legal education curriculum is designed to achieve the main goal that students truly master the rule of law (legal norms) in legislation. Students really must master the articles of the law that will be applied in the courtroom and in government.

However, it is so difficult to become and achieve the title of *Meester in de Rechten (MR)* considering that the degree is the same as the Strata 2 degree, even because of the importance and urgency of that need, the Government established the School of Judges and Prosecutors (SHD), legal skills education plus, which was taken for 4 years, and the graduates were immediately accepted as court employees or prosecutors (or had previously been employees of the Court and Prosecutors’ Office).

The SHD education ended in 1980 in line with the issuance of Law on Prosecutor’s Office No. 5 of 1991 and the Judicial Power Law No. 14 of 1970 where the requirements to become a judge must be a Bachelor of Laws.

So the point is that law schools in Indonesia initially only educated law that teaches knowledge about the rules (Normwissenschaft or *sollenwissenschaft*, i.e. knowledge about Norms (statutes)). This includes most of the subjects taught in Indonesian law faculties, such as: Criminal Law, Civil Law, State Constitutional Law, Administrative Law, International Law, etc. Besides that, *Verstandnis Wissenschaft’s* Knowledge is also taught, namely the knowledge of the main notions in law such as legal subjects, rights and obligations, legal objects etc.<sup>5</sup> Whereas *Tatsachenwissenschaft*; The science of reality (empirical studies), including the Sociology of Law, Anthropology of Law, Psychology of Law, Law and Society,

<sup>2</sup> Hooge Onderwijs Ordonnantie (Stb 1924/No.456, jo Stb 1926, No 338 jo 1927 No.395 jo 1929 No. 222 jo Stb 1932 No.14. jo Stb 1933 No.345. Jo 1934 No.529. The duration of education at *Rechtshogeschool* is five years divided into two stages. The first stage is completed in two years with a candidate exam (*candidaatsexamen*), and the second phase with a doctoral exam (*doctoraal-examen*). In the last year, which is known as the third part of the doctoral exam, there are solutions in four majors (*richtingen*) that students can choose from, namely: Civil Law, Criminal Law, Administrative Law, and Sociology-Economics. Those who have passed this examination are entitled to use the title *Meester in de Rechten* (article 10). This title authorizes the person concerned to be appointed as: (a) advocate and lawyer and other positions in the field of justice, and (b) government employees and in education sector (article 20). The *Rechtshogeschool* education regulations have been issued in S. 1924 No. 457 which was lastly added and modified by S. 1936 No. 106 and 438.

<sup>3</sup> The same thing was said by Soetandyo Wignjosoebroto: 2000, *Pembangunan Hukum Nasional dan Pendidikan Hukum di Indonesia Pada Era Pascakolonial*, p.2, accessed from <http://www.huma.or.id>

<sup>4</sup> Himahanto Yuwana, *Reformasi Pendidikan Hukum di Indonesia*, p.3

<sup>5</sup> Zainal Asikin, *Pengantar Ilmu Hukum*, Publisher RajaGrafindo Persada, Jakarta, 2015, p. 9

and others are considered not too important.

In line with that, the curriculum or courses offered (taught) are not too many, namely: 1. Introduction to Legal Studies, 2. Administrative and Administrative Law, 3. Civil Law and Civil Procedure, 4. Criminal Law and Criminal Procedure, 5. Customary Law, 6. Islamic Law and Institutions, 7. Commercial Law, 8. Sociology, 9. Governmental Science, 10. Dutch East Indies, 11. Malay, Javanese, Latin, 12. Philosophy of Law, 13. Roman Civil Law Principles, 14. International Civil Law, 15. Intergentile Law, Criminology, 16. Psychology, 16. Forensic Medicine, 17. International Law, and Statistics. With the decision of the Governor General, the courses mentioned above can still be added to maintain that legal education can follow and direct the development of society.

Then until the 70s the legal education curriculum pattern in Indonesia was still the same as the above pattern so lectures in legal education were often divided into 3 levels, namely Preparation Level (PIH, State Science, PHI and Principle of Legal Principles), Bachelor Level I (subjects Law I), Bachelor Level II (Law II, Research Methods, Philosophy of Law and Mandatory Choice and Free Choice). So that the courses offered range from 30 to 40 subjects covered in a span of 4 years to infinity (because there is no known drop out term). Each course is taken in 1 year (not a semester) so that the lecturers and students really have enough time to understand the lecture material.

At that time, lecture material was merely a variety of doctrines, dogmas, adage, principles, and articles of positive legislation. In conclusion, at that time higher education in law was new in the context of legislation and positive law only. So, it can almost be said to the extreme that at that time the law faculty was nothing more than a law faculty.

## ***Result and Discussion***

### ***Changes to Professional Based Curriculum***

Changes and renewal of the direction of legal education in Indonesia began to be developed in the 70s. One of the pioneers of this renewal of legal education was Mochtar Kusumaatmadja, who argued that the law was not only a rule, but also a means of development. This theory is a modification to the theory of law as a tool of social engineering from Roscoe Pound.<sup>6</sup> During this period professional skills training, professional ethics and professional responsibility were introduced.<sup>7</sup>

This curriculum renewal continues to be thought out and carried out and later became famous by the name of the 1993 curriculum. With this curriculum it is expected that all Law Faculties will proportionally teach aspects of legal expertise and aspects of legal knowledge or science. Thus, it is expected that after graduation they will have enough provision to enter the world of legal practice.<sup>8</sup>

This curriculum came to be known as the Indonesian law higher education curriculum.

This curriculum applies based on Minister of Education and Culture Decree No. 0325/ U/1994 and No. 056/U/1994 which subsequently underwent a slight change in 2000 with the Minister of

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<sup>6</sup> Mochtar Kusumaatmadja, 2006, *Konsep-konsep Hukum Dalam Pembangunan*, Alumni, p. 59-60.

<sup>7</sup> *Ibid*, p. 67

<sup>8</sup> Sidharta Rohan Prastowo, *Legal Research Institute*, 2004, p. xii

Education and Culture Decree No. 232/U/2000. The main changes in the curriculum are not in substance but rather in (1). changes in the naming of national curriculum content into the core curriculum, and local curriculum into an institutional curriculum (2). The 1994 curriculum was basically structured on the basis of enthusiasm, as well as motivation to reform law education to be more able to prepare law faculty graduates ready to work in entering the workforce or be prepared to take up the legal profession, so that in this 1994 curriculum the introduction of legal subjects loaded with the weight of legal expertise. Prior to the enactment of the two SKs, the Bachelor of Law program curriculum referred to the “core curriculum” stipulated in the Ministry of Education’s Director of Higher Education Decree No. 30/DJ/Kep/1983 April 27, 1983. The core curriculum is more oriented and focuses on the interests of the justice and government functions.

In the guidelines for the preparation of tertiary education curricula (among others listed in the Decree of the Minister of National Education Number 232/U/2000), it was stated that the difference can be seen from the competency qualifications of graduate results, which are more or less the following differences:

**First**, the bachelor program is directed at the results of graduates who have the following qualifications:

- a) mastering the scientific basics and skills in a field of expertise to be able to find, understand, explain, and formulate ways of solving problems that exist within the area of expertise;
- b) able to apply the knowledge and skills they have in accordance with their fields of expertise in productive activities and services to the community with attitudes and behaviors that are in accordance with the common life order;
- c) able to behave and behave in bringing themselves to work in their field of expertise and in living together in the community;
- d) able to follow the development of science, technology, and / or art which is his expertise.

Since then, what has come to be called Prof. Satjipto Rahardjo as diversified into:

1. Profession Program; which emphasizes skill education
2. Scientific Program; the point is the search for truth (searching for truth).

Included in the professional program is the higher education of law at the bachelor’s level or what is often referred to as the Faculty of Law, because in the Bachelor of Law Science the goal is to get a Bachelor of Law who has practical science skills only. This is what is referred to as legal professional. As a result of the desire for legal education to produce professional staff, various courses are then included in the curriculum of at least 144 credits taken in the semester system. With the number and swelling of the number of courses, legal education is lost and is like a soap opera running, because the material that must be delivered is not balanced with the available time.<sup>9</sup>

Second, while in the master’s and Doctor programs are called scientific programs, because in that program, there should be an increase in levels, rather than just teaching the practical world as in bachelor’s degree. So, the bachelor’s degree program is a Juris school, while the master’s and doctor are a Scientist school.

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<sup>9</sup> Unfortunately, every lecturer who has just returned from school wants the Thesis and his dissertation to be made into a subject, because they are considered all important. Then the new subjects lined up to make the number of SKS become bloated.

So, the changes that occurred in the '80s, as if wanting to reverse the goal of the bachelor's degree in legal education which initially was academic education into professional education, while academic education (science) was pursued in the master's and doctor levels.

But unfortunately, the goal to make law education (bachelor's degree) give birth to skilled and professional graduates, is still far from what is expected due to too many courses being charged to students.

Furthermore, the Government re-issued Minister of Research and Higher Education Regulation No.44 of 2015 is set by the national standard of Higher Education by referring to Presidential Regulation No.8 of 2012 where the standard of graduation competency of Higher Education Concerns 3 things, namely:

1. Attitude;
2. Knowledge
3. Skills (General Skills and Special Skills)

Then in the Minister of Research and Technology and Presidential Regulation is divided into higher education levels into several strata, namely:

1. Diploma 4/Applied or Bachelor Education; namely the level of education that is expected to give birth to graduates who master the theoretical concepts of certain fields of knowledge and skills in general and the theoretical concepts of special sections in the field of knowledge and skills;
2. The master's program is directed at graduates who have the following characteristics: (a) has the ability to develop and update science, technology, and/or art by mastering and understanding, approaches, methods, scientific principles along with their application skills; (b) has the ability to solve problems in his area of expertise through research and development activities based on scientific principles; (c) has the ability to develop professional performance as demonstrated by the sharpness of problem analysis, the scope of the review, the integration of problem solving or similar professions; Graduates of master's programs, applied masters, and specialists at least master the theory and application theory of certain fields of knowledge
3. The doctoral program is directed at the results of graduates who have the following qualifications: (a) has the ability to develop new scientific, technological and/or artistic concepts in their fields of expertise through research; (b) has the ability to manage, lead and develop research programs; (c) has the ability of an interdisciplinary approach in working in his field of expertise. Graduates of doctoral, applied doctoral, and subspecialist programs have at least mastered the scientific philosophy of certain fields of knowledge and skills.

From the description above it is increasingly unclear what and how the direction of legal education in Indonesia, whether the bachelor's level towards skills or academic education? Likewise, master education, whether to academic or professional education?

This lack of clarity impacts on the doubts of the public and users (stakeholders) of the ability and skills of law education alumni. As a result, a Bachelor of Law (who is said to have gained knowledge skills) to become an Advocate, must return to the professional advocate education and must have an apprenticeship for at least 2 years).<sup>10</sup>

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<sup>10</sup> Law No.18 of 2003 concerning Advocates, article 2, article 3 paragraph (1)

Even more unique is that a graduate of a law master who is studying a master notary /applied master must have doubts about his skills so that in order to be appointed as a Notary, he must have an apprenticeship for 2 more years in the notary's office and must be tested again in order to practice with quite severe conditions.<sup>11</sup>

Then a notary master to be able to practice and be appointed as a PPAT must follow an internship for one year and must be tested again by the Head of the National Land Agency with conditions that are not easy.<sup>12</sup>

All of that is a form of harassment of the output of legal education in Indonesia, which doubts the quality of the learning process. And those who also harassed the government in the field of higher education were also seen by the issuance of Minister of Research and Higher Education Regulation No. 5 of 2019 concerning Advocate Education, namely the need for 2 years of professional advocacy education for those who wanted to become advocates. This means that the undergraduate education at the Faculty of Law is still considered unskilled to undergo an advocate profession.

Finally, the ultimate question is where is the Indonesian law higher education going? The same question was raised by Prof. Sudarto.<sup>13</sup> Until now it seems that where the problem is still not found so that what is expected of law graduates meet the expectations of users, plus law graduates are not sure of their abilities, and users are still unsure of the ability of law graduates.

That is caused by the direction of legal education still looking for forms and groping in the direction between professional education (half-hearted) and skill education (which is still awkward).

Therefore, facing the era of industry 4.0, legal scholars must be able to master digital technology and the cyber world, because all forms of agreements or contracts in the future will not escape the use of telecommunications and technology facilities in the framework of international business. So, the curriculum of the Faculty of Law in the future must be able to prepare a Bachelor of Law Plus, namely legal experts who master information technology.

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<sup>11</sup> Law No.2 of 2014 concerning Notary Position, Article 3

<sup>12</sup> PP No. 24 of 2016 concerning PPAT, Article 6 paragraph 1

<sup>13</sup> Prof Sudarto, *Hukum dan Hukum Pidana*, Publisher Alumni, 1986, Bandung, p. 2.

## **Conclusion**

To resolve the tangled threads on the direction and objectives of legal education, it is necessary to determine a clear direction for legal education in Indonesia with a curriculum that supports it, namely:

1. The Need for a Diploma in Law Education (D4) specifically to educate applied Bachelor candidates in the field of law that are prepared to become professionals in their respective fields (lawyers, prosecutors, judges and others). Applied Bachelor (D4) is specifically given practical legal material and therefore graduates are not to continue to the master's level. This adopted the Juris Doctor education pattern in several Western countries. This graduate to work as an Advocate must take an examination by the Supreme Court or Advocate Organization without going through additional education / training and without having to do more internships.
2. Bachelor of Law Education (bachelor's degree) based on academic education curriculum that is prepared to become a legal expert who can continue to the master's in law and Doctor of Law. This adopted the Legume Bachelor education pattern.
3. Especially for applied masters such as Notary and PPAT, the graduates do not need to take an internship for 2 more years and do not need to take another examination, so directly apply for permission to the Government (Minister of Law and Human Rights or Minister of Agrarian and Spatial Planning).

Curriculum development must certainly involve all stakeholders, both the Advocate Association, Notary Association, Head of the National Land Agency, Minister of Law and Human Rights. Forming Laws, and so on so that the Legal Education curriculum becomes a system that is integrated with other laws.

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