Journal of Management and Social Studies

Volume 2, Issue 2, February 2024, pp. 01-04

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homepages: http://cstij.org/

Transformation of State Higher Education of Legal Entity in Indonesia

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ABSTRACT

This research analyses three forms of the management of higher education in, government unit, public service agency, and legal entity in Indonesia. However, dealing with implementation, the management of higher education often gives rise to legal cases. The theory used is a noble industry about institutional changes that are specifically formed. The approach used is in the form of Case Approach. This approach is conducted by doing a study on the cases related to the legal issues related to higher education. The result of this research shows that there are lots of problems occurred at institutional and management issues. Those of nstitutional issues including regulation about higher education, employment, student and lectures. While those of management issues are assets problem, document and fraud. In order to solve these problems, the author recommends a new institution called the Higher Education of Legal Entity resembling corporate.

Keywords: Transformation; Higher Education; Legal Entity.

1. Introduction

Laws No. 12 year 2012 article 57 and 62 explains that there are three forms of the management of higher education in Indonesia. They are government unit, public service agency, and legal entities. Based on the data collected in 2016, there were 11 legal entities in State Universities, 24 State Universities in the Public Service Agency, and 86 State Universities in the government units entity (35 New Higher Education and 3 Community Academy). However, in managing these colleges often leads to various legal cases. From 2005 to 2016 there were 10 cases related to Higher Education in the Constitutional Court of Indonesia. In addition, there were also 41 State Administrative Court decisions in 2010 to 2015 and 7 District Court decisions between 2009 to 2012 with higher education issues. Many cases in the Constitutional Court about higher education, the cases dominated about 20% education budget in the Budget of State, the rules of the National Education System, management of state finances and autonomy in Higher Education. In the State Administrative Court, the Judgment contains a decision about employment, drop out of students, department, asset ownership, professors degree, and transitional status of higher education. There is also cases in the District Court which are a criminal case about corruption and document forgery, while the civil case about ownership status of higher education.

2. Literature Review

Legal cases that occur in the Constitutional Court, the State Administrative Court and the District Court from 2005 until 2016 is about higher education issues which reach 57 decisions. The government realized that the forms of the management of higher education, especially the Legal Entity still has many weaknesses. Because of these problems, the government designs institutional management for a new legal entity. Therefore a new Legal Entity for Higher Education is needed.

The Aim of the Research

Based on the underlying problem, this research is aimed to identify and create better institution of higher education in Indonesia. Therefore, the result of this research may become a positive advice for government to determine the form of the new institution of higher education, and also the various legal issues can be avoided.

3. Methodology

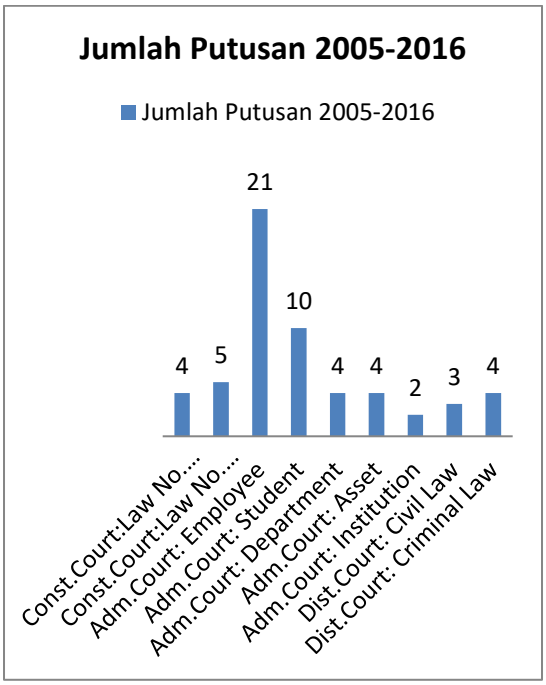
The approach used is in the form of Case Approach. This approach is conducted by doing a study on the cases related to the legal issues related to higher education. The data were collected by reviewing the judge consideration in every decision on document analysis about judge consideration related to the legal issues which have obtained a court decision legally binding. It can be used as an argument to indicate the legal issues in higher education. To solve the issues faced on 57 decisions of the Constitutional Court, the State Administrative Court and the District Court. Penelitian ini dianggap konsisten dengan teori industri mulia. Dimana Pendidikan tinggi harus dikembangkan dengan badan hukum terutama sesuai dengan prinsip-prinsip yang pertama, perlunya pemisahan antara badan hukum keuangan dengan APBN, kedua, memperkenalkan

gagasan sistem manajemen korporatis, dan ketiga, perlu ada untuk mendapatkan atau keuntungan sebagai ukuran keberhasilan manajemen.

4. Finding

In the period 2005 to 2016 there are many cases about higher education in the Constitutional Court, State Administrative Court and District Court. The firsts cases in the Constitutional Court dominated about 20% education budget in the Budget of State, the rules of the National Education System, management of state finances and autonomy in Higher Education.

There are also many cases in the State Administrative Court. The Judgment contains a decision about employment, drop out of students, department, asset ownership, professors degree, and transitional status of higher education. There is also cases in the District Court which are a criminal case about corruption and document forgery, while the civil case about ownership status of higher education. This is a one big problem this country. Here is a graph that shows the case:



Source: Result of research from analysis, 2005-2016

The result of this research shows that there are many problems in the institutional and management issues. Institutional issues include such as regulation about higher education, employment, student and lectures. Management issues include such as problem assets, document and fraud.

To solve these problems there is a new institution called the Higher Education of Legal Entity Look like Corporate. Higher Education of Legal Entity Look like Corporate is considered consistent with the noble industry theory (Jimly Asshidiqie, 2010). Higher education should be developed with legal entity especially in accordance with the principles which are first, the need for separation between the financial legal entity with State Budget, second, introducing the idea of management systems corporatist, and third, there needs to gain or profit as a measure of management success.

Legal entities must comply with the characteristics; (a) have wealth and the rights and obligations of its own, (b) the state as the largest shareholder, (c) have an organized committee, (d) was not personally responsible and (e) core business is clearly geared towards the field of education. Higher education management that unifies corporate value with higher education, need to have some exceptions to the tarifts set by the government, the entire faculty salaries of all government and institutional objectives must be noble industry.

Higher Education of Legal Entity Resembling Corporate will have both advantages and disadvantages. The surplus will no longer fears a shortage of funds, it is not worried about the hassle of sharing the role of the state Higher Education, easy collaboration with many others, and more professional. While the lack of predictable, likely in bankruptcy if loss and concern towards the goal of higher education will be distorted.

The new form of management of Higher Education Legal Entity Resembling Corporate, it is recommended to be regulated by law. As an effort to give legal certainty to the implementation. About the implementation, should be able to apply to all Higher Education in Indonesia. This is to minimize quality centralization and eliminate stratafikasi of higher education in Indonesia.

5. Discussion & Conclusion

The implementation of Legal Entity of Higher Education brings institutional and management issues. Institutional issues include such as regulation about higher education, employment, student and lectures. Management issues include such as problem assets, document and fraud. To solve these problems the author recommends a new institution called the Higher Education of Legal Entity Look like Corporate. Those problems can be solved with the new ideas in the form of institutional model and also give an input for the government to design a good regulation and that can be immediately implemented in higher education institutions in Indonesia.

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