

# Academic Freedom in Post New Order Indonesia \*

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## Abstract

It is quite surprisingly. There have been several threats of academic freedom in last five years in Indonesia. The university reap many complaints. Campus is very likely to be assessed no longer have academic freedom, and even accused of being involved in human rights violations projects. Recently, the discussion about post International People Tribunal 1965 (IPT) at Gadjah Mada University (UGM) has been banned by faculty (1<sup>st</sup> February 2016). It seems that the banning was caused by the threat from hardline group which would attack the discussion. UGM is not alone. Many universities in Indonesia have been also taking similar decision in banning academic meetings or discussions.

Based on research, these have been found three major reasons why such threats happening. First, the ban is connected to New Order's authoritarian legacy of communism stigma, which seems perceived as ideological conflict. Third, the use of old colonial legacy's penal code to silence criticism. Such threats are inseparable from its political economic context of post authoritarian. Post- the fall of Suharto's New Order regime, the campus does not necessarily changed dramatically into a more open and democratic. War ideology in the form of indoctrination still looks easily occur, ranging from personal pressure to institutionalised in a campus organisation.

This article addresses why academic freedom has been easily attacked in last few years, and to what extent legal protection could be applicable for liberating academia to express their opinion at campuses. Second, university has been controlled by corporation and capital owners. This research argues that it is still too far away to say that academic freedom is protected and guaranteed under Indonesian legal system. In reality, the deficit of academic freedom, not only showed campus' insensitivity over issues of human rights, but now it is also as a part of academic institution which involves in human rights violations.

Keywords: Academic freedom, Indonesia, authoritarian legacy, capital subjugation

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## I. Academic Freedom, Legal Framework and Elements

Academic freedom is very limited to be discussed among human rights activism in Indonesia's post Soeharto. The related discourse is quite progressive in discussing free expression rather than academic freedom per se. Therefore, unsurprisingly if academic freedom has been very limited to be discussed or reported specifically in human rights report.

However, there are several related studies on it. The role of intellectual in society and its context of authoritarian regime of Soeharto had been discussed by Daniel Dhakidae through his work on *Cendikiawan dan Kekuasaan dalam Negara Orde Baru / Intellectual and Power in New Order State* (2003). Another comprehensive study on this issue had been written by Joseph Saunders through its report for Human Rights Watch, titled as *Academic Freedom in Indonesia: Dismantling Soeharto-era Barriers* (1998). The strength of these publications are related to political-economy analysis of academic freedom, and its relation to authoritarian regime of Soeharto. These studies are necessary to understand the context of authoritarian legacy's academic freedom in Indonesia.

Hence, this study attempts to fulfill the hole of academic freedom in Indonesia's post new order, especially dealing with the current development of law on higher education and the legal cases happened in various conflict issues within the campuses. Fulfilling the absence of an update and comprehensive research on academic freedom in Indonesia after the demise of New Order is the main purpose to be dealt with. This study would not only provide a base line study, but also dismantle the problem of academic freedom by using socio-legal approaches. Hence, study of legal norms is necessary to give context and basis to furthering analysis.

As a socio-legal study, hence this study is expected to be a reference to understand a thoroughly discussion Indonesia's academic freedom which is necessary for law makers or university management in order to improve their perform for changing academic society and intellectual climate at higher education. Therefore, academic freedom in practice is the idea of supporting better society, which is as believed by this study that academic freedom is a fundamental prerequisite for an effective university, and a core value for academia.

## *Constitutional and Legal Framework*

There is no explicit constitutional rules mentioning academic freedom. However, all related laws in defining higher education and academic freedom always refer to Article 31 of the Indonesian Constitution. This article is about education as citizen's rights. Under this article, especially section 3, 4, and 5, says that,

Table 1

Article 31	Constitutional Basis
Section	(3) The government shall manage and organise one system of national education, which shall increase the level of spiritual belief, devoutness and moral character in the context of developing the life of the nation and shall be regulated by law.
	(4) The state shall prioritise the budget for education to a minimum of 20% of the State Budget and of the Regional Budgets to fulfil the needs of implementation of national education.
	(5) The government shall advance science and technology with the highest respect for religious values and national unity for the advancement of civilisation and prosperity of humankind.

Hence, key elements discussing about education are related to rights, budget priority, religious values and national unity as part of civilisation and prosperity of humankind.

Nevertheless, the idea of academic freedom is inseparable to the concept of freedom itself, (Karran, 2007: 289–313), such as freedom of thought, freedom of speech, freedom of opinion, freedom to receive and to impart information, etc. Hence, at least four constitutional basis which could be related to academic freedom, as described below.

Table 2

Articles	Constitutional Basis for Academic Freedom
28	The freedom to associate and to assemble, to express written and oral opinions, etc., shall be regulated by law.

Articles	Constitutional Basis for Academic Freedom
28C	(1) Every person shall have the right to develop him/herself through the fulfilment of his/her basic needs, the right to get education and to benefit from science and technology, arts and culture, for the purpose of improving the quality of his/her life and for the welfare of the human race.
28E (2-3)	(2) Every person shall have the right to the freedom to believe his/her faith (kepercayaan), and to express his/her views and thoughts, in accordance with his/her conscience. (3) Every person shall have the right to the freedom to associate, to assemble and to express opinions.
28F	Every person shall have the right to communicate and to obtain information for the purpose of the development of his/her self and social environment, and shall have the right to seek, obtain, possess, store, process and convey information by employing all available types of channels.

Albeit this article connects those academic freedom to other freedom under constitutional framework, this does not mean laws, regulations and or policies follow this logic. Indeed, there is no explicit law or formal explanation to relate such logic.

Specific legislation on higher education as well as academic freedom is adopted by the Law Number 12 of 2012. Higher education system is regulated under the Law Number 12 of 2012, and under this law clearly stipulates academic freedom on it. Under the Chapter of Science of Knowledge and Technology Development, there is section of the importance to establishing Academic Freedom, Academic Assembly Freedom and Science Autonomy. In its elucidation of article 8, the meaning of 'academic' in academic freedom and academic assembly freedom is a scientifically and theoretically in nature of Higher Education, and free from political practice influence.

This freedom is carried out by academic society through scientific learning and research by highly concerning religious and nation unity values for advancing human civilisation and welfare (Article 8 section 2). In implementing such academic freedom, academic assembly freedom and science autonomy at higher education is at individual accountability of academic society, which should be protected and facilitated by higher education leadership (article 8 section 3).

Academic freedom as stipulated above is a freedom for academic society especially in developing responsible science of knowledge and technology through the imple-

mentation of three mandates of higher education (*Tridharma Perguruan Tinggi*) (article 9 section 1).

While academic assembly freedom is limited to professor and/or lecturer authority and scientific dignity to state openly and responsible for things as related to his/her science and branch of science (article 9 section 2).

Science autonomy is defined as “academic society autonomy at branch of science of knowledge and technology in discovering, developing, unravelling, and or defending the scientific truth in accordance of science method and academic culture” (section 3).

Academic society at this law is not only for lecturer, but also clearly referring student. These are all required to promote and develop academic culture, and maintain science of knowledge and technology as process and product of moral responsibility and paradigm. In its elucidation of law, it is stipulated that “the principle of accountability” for academic society should be realised under Three Mandates in implementing academic freedom, academic assembly freedom, and science autonomy, by considering religious values, nation unity, and related legislations.

It is clear stated by the law (article 54) that “Higher Education Standard must be developed by concerning academic freedom, academic assembly freedom, and science autonomy for achieving Higher Education purposes”.

In general, under the Indonesian constitution and laws, although this is stated several times in the law, but academic freedom is not clearly enough to be formulated as legal basis to protect academic society. Those definitions need more interpretation in clearer formulation especially in operationalising how the law could be applicable for protecting academic freedom.

Interestingly, such laws have been interpreted and translated into more operational rules under university management. Those rules are, in fact, are not really operational regulations which giving more protection for academic freedom. The university rules are not only “more replica” of superior legislations which enacted by minister of education, but also often defining a more restrictive one, such as stipulating religious and/or morality values for determining freedom. Or, such definition does

not include student as rights-holder for academic freedom. “Replica” here seems rather a “copy-paste” regulation for emphasise the importance of consistency notion of higher education standard, instead of promoting a new character of particular university to protect their academia.

Even, such operational regulation is more limited in comparison to government regulation. For instance, UII (University of Islam Indonesia) Regulation No. 03/PU/REK/IX/2012 concerning on Principles of Academic Freedom, Academic Assembly Freedom, and Science Autonomy Implementation (signed by Rector, Prof. Dr. H. Edy Suandi Hamid, M.Ec., 28 September 2012). According to this regulation, Article 1 (F) and (G), which says that academic freedom is academic society freedom for deepening and developing responsible science and technology through four mandates (*Catur Dharma*). This states academic assembly freedom is authority for professor and/or lecturer who have scientific authority and dignity to state openly and responsible related to his/her science and sub-knowledge science.

This regulation is simpler than government regulation, in the sense defining academic freedom and not applying academic assembly freedom for student. Therefore, this might be possible to be interpreted as desired by university management.

### *Associations and UNESCO Legal Framework*

Actually on the basis of international academia associations, there have been several initiatives to promote academic freedom, as shown by American Association of University Professors (AAUP), International Studies Association (ISA), and Scholars at Risk (SAR). Also, necessary to understand the UNESCO legal framework for promoting academic values.

#### *(i) AAUP (United States)*

Protecting academic freedom is the AAUP’s core mission. This started in 1915, when the Committee on Academic Freedom and Academic Tenure of the American Association of University Professors formulated a statement of principles on academic freedom and academic tenure (known as the 1915 Declaration of Principles). Then in

1925, AAUP made a shorter statement of principles on academic freedom and tenure (known as the 1925 Conference Statement on Academic Freedom and Tenure, was endorsed by the Association of American Colleges (now the Association of American Colleges and Universities (AACU) in 1925 and by the AAUP in 1926).

In 1940, representatives of the AAUP and AACU agreed upon a restatement of principles set forth in the 1925 Conference Statement on Academic Freedom and Tenure. This restatement is known to the profession as the 1940 Statement of Principles on Academic Freedom and Tenure.

According to AAUP principles, that academic freedom is essential to both teaching and research. Freedom in research is fundamental to the advancement of truth. Academic freedom in its teaching aspect is fundamental for the protection of the rights of the teacher in teaching and of the student to freedom in learning.

Academic freedom is inseparable to 'tenure' issue. Tenure at this context is a means to certain ends; specifically: (i) freedom of teaching and research and of extramural activities, and (ii) a sufficient degree of economic security to make the profession attractive to men and women of ability. Freedom and economic security, hence, tenure, are indispensable to the success of an institution in fulfilling its obligations to its students and to society (AAUP, 1940 Statement of Principles on Academic Freedom and Tenure).

Based on AAUP 1940's Statement, Academic Freedom is

- 1 Teachers are entitled to full freedom in research and in the publication of the results, subject to the adequate performance of their other academic duties; but research for pecuniary return should be based upon an understanding with the authorities of the institution.
- 2 Teachers are entitled to freedom in the classroom in discussing their subject, but they should be careful not to introduce into their teaching controversial matter which has no relation to their subject. Limitations of academic freedom because of religious or other aims of the institution should be clearly stated in writing at the time of the appointment.
- 3 College and university teachers are citizens, members of a learned profession, and officers of an educational institution. When they speak or write as citi-

zens, they should be free from institutional censorship or discipline, but their special position in the community imposes special obligations. As scholars and educational officers, they should remember that the public may judge their profession and their institution by their utterances. Hence they should at all times be accurate, should exercise appropriate restraint, should show respect for the opinions of others, and should make every effort to indicate that they are not speaking for the institution.

This illustration is an example of how academic freedom has been regulated by professor associations, and it is an important document which could be learned in order to improve particular country or university for academic freedom.

*(ii) ISA (International, based in US)*

Another organisation, ISA, has also Academic Freedom Committee (AFC). The Committee (AFC) is charged with documenting instances where scholars in all disciplines related to international studies are persecuted for their peaceful, non-partisan, professional activities, particularly when engaged in activities related to scholarly research and teaching. The Committee will document such violations as: government revocation of academic degrees; demotion or dismissal; denial of a petition to emigrate, travel abroad or return to one's country of origin; and arrest, arbitrary detention, disappearance, and extrajudicial killing (isanet.org).

*(iii) SAR (International, based in US)*

The role of academic freedom protection is also a core issue for Scholars at Risk (SAR). Under SAR's Academic Freedom Monitor program, SAR focuses on developing greater understanding of the volume and nature of attacks on higher education communities in order to develop more effective protection responses.

In its website, it is said that like a free press and independent judiciary, a healthy higher education sector is essential to an open, just and prosperous society; an engine of the skills and ideas a society needs to resist oppression and meet new challenges. When weakened by neglect or abuse, the sector is unable to fill this role, leading inevitably to conflict, instability and social distress (see the link: <http://monitoring.academicfreedom.info/monitoring>).

The Monitor aims to identify, assess and track incidents involving one or more of 6 defined types of conduct which may constitute violations of academic freedom and/or the human rights of members of higher education communities. (i) Killings/violence/disappearances of members of higher education communities.<sup>1</sup> (ii) Wrongful imprisonment/detention based either on academic content or conduct or on any other exercise of fundamental human rights.<sup>2</sup> (iii) Wrongful prosecution: Relevant incidents include administrative, civil or criminal proceedings against higher education leaders, academic and nonacademic staff or higher education students involving false or otherwise wrongful grounds or charges directly relating to, or in retaliation for, the expression of academic opinions or other professional or student activity, or in retaliation for other exercise of fundamental human rights including free expression and freedom of association. (iv) Restrictions on travel or movement based on academic content or conduct. (v) Retaliatory discharge/loss of position/expulsion from study based on academic content or conduct.<sup>3</sup> (vi) Other significant events. Incidents which do not fit squarely within one or more of the 5 defined types of conduct yet which are of such importance, scale, scope and/or duration that they have already, or have the potential to, impair significantly higher education functions,

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<sup>1</sup> Relevant incidents include killings and disappearances either in retaliation for particular academic content or conduct, or targeting of members of higher education communities, including higher education leaders, academic and nonacademic staff and higher education students. Disappearance includes arrest, detention, abduction or other deprivation of liberty by government or quasi-government officials, or by groups or individuals acting on behalf of, or with support, consent or acquiescence of the government, followed by a refusal to disclose the fate or whereabouts of the persons concerned or a refusal to acknowledge the deprivation of their liberty, which places such persons outside the protection of the law. Violence includes violent physical assaults causing serious harm to individual members of higher education communities, including beatings, shootings or other injuries with weapons, and torture.

<sup>2</sup> Relevant incidents include the arrest, interrogation, detention and/or prosecution of scholars, students or other members of higher education communities on false or otherwise wrongful grounds or charges, directly relating to, or in retaliation for, the expression of academic opinions or other professional or student activity, as well as in retaliation against other exercise of fundamental human rights, including free expression and freedom of association. The latter may include incidents of scholars, students or other members of higher education communities engaging in protected free expression, such as writing a letter to a newspaper or participating in a protest rally, even if such letter or rally is unrelated to the individual's higher education sector status. (These incidents may not qualify as violations of academic freedom directly, but may still constitute violations of the human rights of members of higher education communities which in turn may indirectly impair academic freedom.)

<sup>3</sup> Relevant incidents involving higher education leaders or academic staff include discharge, demotion, loss of promotion or other professional penalty for a scholar's academic work, including statements made in the classroom, writings, research, professional association/union activity, engagement with (and criticism of) higher education leadership or education policy, etc. Relevant incidents involving students include dismissal or expulsion from studies based on academic work or student activities, including statements made in the classroom, writings, research, student association/union activity, engagement with (and criticism of) higher education leadership or education policy, etc. The offending penalties may be imposed by state authorities, higher education institutions, or other higher education-related authorities.

academic freedom or the exercise of human rights by members of higher education communities.

These three associations are examples for those organisation which strengthen academic freedom and rights. Unlike AAUP, ISA and SAR have open membership for non-america participants. However, Indonesia is neither member of ISA nor SAR. Personal involvement of Indonesia at SAR, has been for the first time joining at Scholars at Risk Network Global Congress, June 7-10, 2016, Faculty of Law, McGill University, Montreal, Canada. This is because of a main mandate of SEPAHAM Indonesia (Indonesian Human Rights Lecturer Association) is to promote and to strengthen human rights through academic freedom.

#### *(iv) UNESCO*

However, as international legal standard, this is necessary to consider the application of UNESCO legal framework. UNESCO as an international institution to promote and formulate in detail concerning academic freedom. This refers to particularly several points which promote academic freedom as rights, as defined below (point 25-32, Recommendation concerning the Status of Higher-Education Teaching Personnel, 11 November 1997).<sup>4</sup>

#### VI. Rights and freedoms of higher-education teaching personnel

##### A. Individual rights and freedoms: civil rights, academic freedom, publication rights, and the international exchange of information

25. Access to the higher education academic profession should be based solely on appropriate academic qualifications, competence and experience and be equal for all members of society without any discrimination.

26. Higher-education teaching personnel, like all other groups and individuals, should enjoy those internationally recognised civil, political, social and cultural rights applicable to all citizens. Therefore, all higher-education teaching personnel should enjoy freedom of thought, conscience, religion, expression, assembly and association as well as the right to liberty and security of the person and liberty of movement. They should not be hindered or impeded in exercising their civil

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<sup>4</sup> The General Conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO), meeting in Paris from 21 October to 12 November 1997, at its 29th session, Conscious of the responsibility of states for the provision of education for all in fulfilment of Article 26 of the Universal Declaration of Human Rights (1948). This can be accessed at: [http://portal.unesco.org/en/ev.php-URL\\_ID=13144&URL\\_DO=DO\\_-TOPIC&URL\\_SECTION=201.html](http://portal.unesco.org/en/ev.php-URL_ID=13144&URL_DO=DO_-TOPIC&URL_SECTION=201.html) (accessed 5 June 2016).

rights as citizens, including the right to contribute to social change through freely expressing their opinion of state policies and of policies affecting higher education. They should not suffer any penalties simply because of the exercise of such rights. Higher-education teaching personnel should not be subject to arbitrary arrest or detention, nor to torture, nor to cruel, inhuman or degrading treatment. In cases of gross violation of their rights, higher-education teaching personnel should have the right to appeal to the relevant national, regional or international bodies such as the agencies of the United Nations, and organisations representing higher-education teaching personnel should extend full support in such cases.

27. The maintaining of the above international standards should be upheld in the interest of higher education internationally and within the country. To do so, the principle of academic freedom should be scrupulously observed. Higher-education teaching personnel are entitled to the maintaining of academic freedom, that is to say, the right, without constriction by prescribed doctrine, to freedom of teaching and discussion, freedom in carrying out research and disseminating and publishing the results thereof, freedom to express freely their opinion about the institution or system in which they work, freedom from institutional censorship and freedom to participate in professional or representative academic bodies. All higher-education teaching personnel should have the right to fulfil their functions without discrimination of any kind and without fear of repression by the state or any other source. Higher-education teaching personnel can effectively do justice to this principle if the environment in which they operate is conducive, which requires a democratic atmosphere; hence the challenge for all of developing a democratic society.

28. Higher-education teaching personnel have the right to teach without any interference, subject to accepted professional principles including professional responsibility and intellectual rigour with regard to standards and methods of teaching. Higher-education teaching personnel should not be forced to instruct against their own best knowledge and conscience or be forced to use curricula and methods contrary to national and international human rights standards. Higher education teaching personnel should play a significant role in determining the curriculum.

29. Higher-education teaching personnel have a right to carry out research work without any interference, or any suppression, in accordance with their professional responsibility and subject to nationally and internationally recognised professional principles of intellectual rigour, scientific inquiry and research ethics. They should also have the right to publish and communicate the conclusions of the research of which they are authors or co-authors, as stated in paragraph 12 of this Recommendation.

30. Higher-education teaching personnel have a right to undertake professional activities outside of their employment, particularly those that enhance their professional skills or allow for the application of knowledge to the problems of the community, provided such activities do not interfere with their primary commitments to their home institutions in accordance with institutional policies and regulations or national laws and practice where they exist.

## B. Self-governance and collegiality

31. Higher-education teaching personnel should have the right and opportunity, without discrimination of any kind, according to their abilities, to take part in the governing bodies and to criticise the functioning of higher education institutions, including their own, while respecting the right of other sections of the academic community to participate, and they should also have the right to elect a majority of representatives to academic bodies within the higher education institution.

32. The principles of collegiality include academic freedom, shared responsibility, the policy of participation of all concerned in internal decision making structures and practices, and the development of consultative mechanisms. Collegial decision-making should encompass decisions regarding the administration and determination of policies of higher education, curricula, research, extension work, the allocation of resources and other related activities, in order to improve academic excellence and quality for the benefit of society at large.

UNESCO's legal framework above is necessary and important to be adopted since Indonesia is part of UN system. Also, the domestic law does not provide clear and strong protection for academic freedom, except those freedom for the sake of institutional freedom (university's interest), rather than protecting intellectual freedom.

### *General Concerns on Legal Framework*

Nevertheless, learning from Karran's research framework (2007), there are parameters for measuring academic freedom, from legal point of view. First, constitutional protections for freedom of speech, academic freedom, freedom of training and research, institutional autonomy; Second, specific national legislation relating to academic freedom, freedom of training and research, institutional autonomy; Third, institutional autonomy and internal governance of the university (self-governance); Fourth, method of appointment of the university rector; and Fifth, existence of academic tenure.

In short, albeit many constitutional and legal basis which are related to academic freedom, the practice or implementation of law on this issue is still at perilous situation for academic freedom.

## **II. Academic Freedom: Current Attacks**

Academic freedom is a fundamental prerequisite for an effective university, and a core value for academia. Indeed, the issue of academic freedom has been changed after the demise of New Order's authoritarianism in 1998. However, the character of Soeharto's rules still takes place in current situation.

Such character is connected to the role of discourse reproduction, especially dealing with 'communism stigmatisation'. This discourse actually had been used to ban and to silence criticism against the regime. They use it as justification strategy for claiming the truth through legalised manipulation over policies or acts. Attacks on campuses have been often accompanied by the use of 'communism stigmatisation'.

To give examples on it. The screening of Joshua Oppenheimer's "Jagal" (The Act of Killing) and "Senyap" (The Look of Silence) documentary was banned at the Sunan Kalijaga State Islamic University (Yogyakarta), University of Brawijaya (Malang) and several other universities. These banning happened as well when many campuses would like to screen "Pulau Buru: Tanah Air Beta" (Buru Island, Our Land). These films are considered, or stigmatised as communism vernacular during Jokowi's administration. The banning is indeed carried by mostly their own university management, either at faculty or university level. However, the role of internal banning has been much influenced by the role of military and its paramilitary groups, which have closely relation between them.

This is uneasy to find the clear evidence for explaining such relation, especially between military and paramilitary groups. However, the role of paramilitary, either by using privatised gangsterism style or religious hardline groups, is easily seen in various

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### Dikhawatirkan Dibubarkan, Film Senyap Justru Ramai Ditonton

Laporan J. Totok Sunarno | Senin, 11 Mei 2015 | 18:02 WIB



lence/disappearances of members of higher education communities.<sup>5</sup> (ii) Wrongful imprisonment/detention based either on academic content or conduct or on any other exercise of fundamental human rights.<sup>6</sup> (iii) Wrongful prosecution: Relevant incidents include administrative, civil or criminal proceedings against higher education leaders, academic and nonacademic staff or higher education students involving false or otherwise wrongful grounds or charges directly relating to, or in retaliation for, the expression of academic opinions or other professional or student activity, or in retaliation for other exercise of fundamental human rights including free expression and freedom of association. (iv) Restrictions on travel or movement based on academic content or conduct. (v) Retaliatory discharge/loss of position/expulsion from study based on academic content or conduct.<sup>7</sup> (vi) Other significant events.

There has no killings, disappearances, and physical violence, except what happened in Papua over students when they were arrested by police in several rallies. Even, these rallies lead to wrongful imprisonment or detention.

As widely known, academics in Papua has been constantly intimidated by authorities due to their criticisms on Jakarta policies and security forces violations. Intimidation of West Papua National Committee (KNPB) and student activists have been oc-

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<sup>6</sup> Relevant incidents include the arrest, interrogation, detention and/or prosecution of scholars, students or other members of higher education communities on false or otherwise wrongful grounds or charges, directly relating to, or in retaliation for, the expression of academic opinions or other professional or student activity, as well as in retaliation against other exercise of fundamental human rights, including free expression and freedom of association. The latter may include incidents of scholars, students or other members of higher education communities engaging in protected free expression, such as writing a letter to a newspaper or participating in a protest rally, even if such letter or rally is unrelated to the individual's higher education sector status. (These incidents may not qualify as violations of academic freedom directly, but may still constitute violations of the human rights of members of higher education communities which in turn may indirectly impair academic freedom.)

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curred for several times. For instance, 65 more activists arrested on the 13 June, including students in Sentani and 4 in Nabire. Such attacks are intended by the security forces for doing everything possible to stifle any raising of awareness of the issue of West Papua. They had been cracking down on peaceful rallies and arresting people for simply handing out leaflets, expressing rights, or gathering to do solidarity rally.

Just recently during Jokowi's administration, the situation has not changed much. Even, intimidation to West Papuan student had been carried out in Yogyakarta. Animal names and racist insults could be easily heard shouted at midday on Friday July



15, 2016. The shouts originated from members of mass organisations besieging the Kamasan I Papua student dormitory on Jalan Kusumanegara in the Central Java city of Yogyakarta.

Four mass organisations, around 100 or more people, arrived and intimidated Papuan students at their dormitories. There are, namely the Indonesian Veterans' Children (FKPPI), the Pancasila Youth (PP), the Paksi Katon [which sees itself as a guardian of Javanese culture and the Yogyakarta sultanate – JB] and the Yogyakarta Militia (Laskar Jogja).

The police officers failed to prevent, and they just ignored such racist behaviour. Indeed, police had deployed the officers in three or four trucks. Another resident said that the police arrive fully armed, seems like facing terrorists. Reported that not only police that were armed, but members of the mass organisations also carried weapons, such as wooden [clubs], crowbars and other sharp objects.

These attacks clearly violated not only those Papuan student's rights to express their opinion and assembly, but also excessive mass action without appropriate law enforcement. This intimidation has also influenced to Papuan students who studying freely without any threatens and discrimination (CNN, 2016).

In relation to wrongful prosecution, there has no specific case on academic freedom. However, since wrongful prosecution is merely referring to criminal justice system, this paper refers to not more dealing with criminal issues, but also any formal lawsuits and non formal prosecution against academia, or namely, informal justice system like indigenous people's court.

There was a case involving University Indonesia's Professor Thamrin Amal Tomagola in January 2011 (*Thamrin v. Dayak Community*). Since his witness statement before the District Court in Bandung (West Java), he was alleged by those people who define themselves as *adat* communities (indigenous peoples) from Dayak, Kalimantan. Thamrin has previously said that the porn videos with actors like Ariel is not disturbing for some people. Because, most of Indonesian people consider it normal. He refers to the Dayak, Mentawai, Papua and Bali communities. He even refers to studies that having sex without marriage bound was considered normal. As a result of that statement, the Dayak people protest.

Hence, the indigenous Dayak court asked Thamrin must fulfil several demands. Among others, an apology to the entire community before the Dayak court. The court imposed him for apology through print and electronic media both locally and nationally as well as indigenous Dayak media, customary fines handed 5 endured *garantung* (gong), and bear the cost of traditional court session for Rp 87 million.



The most serious was such Dayak court asked Thamrin destroy his research results. The court ordered him to retract his testimony in front of the judges the Bandung District Court. Dayak National Assembly President, Agustin Teras Narang, who also Governor, said, their hostilities and acts of violation of customs turned out to be completed by custom and consensus. Custom proceeding, according to the Governor of Central Kalimantan, is expected to reflect in order to respect and value differences

in customs, culture, and religion. Terrace, said people must be grateful for Thamrin willing to meet the demands of the indigenous Dayak assemblies.

According news (Tempo, "Majelis Adat Dayak Vonis Thamrin Amal Tomagola Bersalah", 22/01/2011), Teras Narang said, "It shows, even though we are different but all of that is a citizen of Indonesia". The Thamrin agreed to all the demands required custom assembly session. He also paid a fine directly in front of the assembly.

This case showed us that academia could be easily reported and fined by informal court, without considering what Thamrin has said actually as intellectual or research product of academics. While, the university or education minister also did nothing to protect him.

Another case was also necessary to be mentioned here is related the criminal file complaint to police carried out by a controversial judge. A defamation report filed by South Jakarta District Court judge Sarpin Rizaldi against Andalas University State Administrative Law School professors Charles Simabura and Feri Amsari, because of its criticism against judge's decision.

This case was started by pre-trial application to the South Jakarta Court, this was brought by Comr. Gen. Budi Gunawan, at the time the sole candidate for National Police chief, after he was charged in January with bribery and money laundering by the Corruption Eradication Commission (KPK). Judge Sarpin ruled that the KPK's basis for charging Budi was invalid, effectively quashing the case before he had even been indicted. His rule had been criticised by not only academia, but also the state institutions formally that mandated to monitor judicial institution, namely Judicial Commission. Sarpin filed the case to the police by bringing defamation issues, against not only commissioners of Judicial Commission, but also scholars, professors Charles Simabura and Feri Amsari from Andalas University (Padang) and Law Professor's Komariah Emong Sapardjaja from Padjajaran University (Bandung).

From interview, Feri Amsari told that the case actually has been brought to internal university forum, and involving alumni to withdraw the file. Then, finally the case has never continued to further legal process. On the other, the file against Komariah has remained unresolved, and it seemed unclear legal process.

Another current attack is related to restrictions on travel or movement. This case is also connected to retaliatory discharge, or loss of position/expulsion issues. Rosnida's case in Banda Aceh was the most prominent to be mentioned in this sense.

A university lecturer in Indonesia's Aceh province, Rosnida Sari was accused of apostasy and sentenced by her university (Ar-Raniry State Islamic University, Aceh), due to its a "wild" method of teaching for taking students to a church to hear a pastor explain gender relations in Christianity, in 2014. Rosnida believed that the church visit was designed to promote mutual understanding among different faiths.

Thereafter, she has received death threats and a dressing down from her institution following a field trip for Muslim students to a Christian church. Rosnida detailed her academic work via website, and her experiences studying and living in Australia, visits to places of worship, a field trip by her gender studies students to a church in Banda Aceh, and peace building in the province. Really unfortunate, web article went viral on Indonesian social media, triggering robust discussion about her work, with many comments objecting to her visit to the church.

According to ABC-Net (2016), a campaign has been launched by a coalition of 32 Indonesian civil society groups urging the government and local authorities to protect her and her family. The Ar Raniry Islamic State University, where Rosnida teaches, issued a written statement apologising to the people of Aceh and stating that it will review its policies on field studies and scholarships. During my interview in Banda



Aceh with her, the faculty still allowed her to teach, but now she teaches other subject which is different to previous one.

In this case, Indonesia's Minister of Religious Affairs, Lukman Hakim Saifuddin, responded on Twitter to the developments, especially trying to protect her position. The coalition asked the minister of religion to take serious action because the university is one which falls under his ministry. Interestingly comparing to other case, the government has paid

serious attention to protect her, although still need to be pressured for carrying out their obligation to protect and fulfil academic freedom.

The significant situation which really increasing facts during 2015-2016, which is related to various banning, prohibition to screening movies, theatre, or even academic forums, due to 1965/1966 tragedy. This fact is always assumed by officials and hard-line groups as the reincarnation of PKI (communist political party) or communism ideology, which is considered contravening Pancasila (five pillars of the state). These cases happened at many universities, academic forums. At the same time, the banning also happened at cases in relation to sexual orientation issues and capital pressures over the university management.

The cases listed below as numerous important cases which could be referred to understand current issues in academic freedom (see: Table 3)

## No place for dogma in the academic arena

Nicholaus Prasetya, Jakarta | Opinion | Wed, January 27 2016, 4:47 PM



From such data, at least during 2015-2016, this is quite surprisingly. The university reap many complaints. Campus is very likely to be assessed no longer have academic freedom, and even accused of being involved in human rights violations projects.

Recently, the discussion about post International People Tribunal 1965 (IPT) at Gadjah Mada University (UGM) has been banned by faculty (1<sup>st</sup> February 2016). It seems that the banning was caused by the threat from hardline group which would attack the discussion.

UGM is not alone. Many universities in Indonesia have been also taking similar decision in banning academic meetings or discussions. This article addresses why academic freedom has been easily attacked in last few years, and to what extent legal protection could be applicable for liberating academia to express their opinion at campuses.

What could be learnt from those facts are about numerous major threats. Based on fieldwork, these have been found three major reasons why such threats happening. First, the ban is connected to New Order's authoritarian legacy of communism stigma, which seems perceived as ideological conflict. The Look of Silence (Senyap) film screening, by Joshua Oppenheimer, banned in many universities, among others in Yogyakarta, Malang and Surabaya. IPT discussion is also part of targeted to be banned. The banning of John Roosa's book (Pretext for Mass Murder), also confirms this threat type.

Second, university has been controlled by corporation and capital owners. Dissolution and the banning of the documentaries film, such as the ban on screening Samin v Semen (at UB) and Prahara Tanah Bongkoran (Untag Banyuwangi). Examination of the Semarang administrative court judge's ruling on a lawsuit related Rembang residents were dealing with the governor and PT Semen Indonesia, which was originally going to be held early in July 2015 also banned by UGM.

Third, the use of old colonial legacy's penal code to silence criticism. This is mostly related to attack human rights movement or anti-corruption criticism. Report of



defamation filed by the South Jakarta District Court Judge, Sarpin Rizaldi, against academics of Andalas University, Charles Simabura and Ferry Amsari, and also a Professor of the University of Padjadjaran, Komariah Emong, due to their criticism of the judge's decision. As explained previously, Rosnida cases were accused of giving "illegal doctrine" is also

penalised by the university (Ar Rainy State Islamic University, Aceh), because it brings students provide learning in church to listen the pastor explaining gender relations in Christianity.

Unfortunately, the increasing number of threats have been no serious legal consideration in protecting academia. University management seemed lack of attention. Even, they kept permissive and apology reason for not allowing such academic meetings.

In a research study by Human Rights Watch (HRW, 1998) on Academic Freedom in Indonesia's New Order, shows the pressure on academic freedom dominantly occur include, pressure of ideological ties to the anti communism, repression of political student as well as to the campus management, banning the books, criminalisation and dismissal of lecturers and students, indoctrination loyalty to the regime, suppression of freedom of expression and political activity.

In addition, also military intervention on campus, whether in the form of subordination of power campus organisations to repressive measures, restrictions on academic investigations are consequential on the career faculty or student failure. Not infrequently, the blacklist was done to get rid of the criticism. Disciplining the student movement through NKK (Normalisation of Campus Life) in the late 1970s became effective efforts to weaken the function of campus transformation.

Post- the fall of Suharto's New Order regime, the campus does not necessarily changed dramatically into a more open and democratic. War ideology in the form of indoctrination still looks easily occur, ranging from personal pressure to institutionalised in an campus organisation. Examples of the number of prohibition of "The Act of Killing" (Jagal) and The Look of Silence (Senyap) film screening on campus, or intimidation campus and external parties in a discussion about the violence of 1965, or the banning of the book John Roosa (Pretext for Mass Murder), is a series of facts legacy of the New Order authoritarianism still survive on campus.

Another case was in Salatiga, UKSW (The Satya Wacana Christian University). The university urged student magazine's Lentera to withdraw its magazines, saying it wanted to keep the situation in Salatiga calm.

Interview with Bima Satria in Surabaya (8 December 2015), Lentera editor-in-chief, they published the magazines on Oct. 9, 2015. Surprisingly, the university ordered the withdrawal of copies of Lentera Magazine Edition 3/2015, entitled 'Salatiga Kota Merah' (Salatiga, the Red City), which tells stories of the killings of Indonesian Communist Party (PKI) supporters and suspect members in Salatiga in 1965.

According to the Jakarta Post (20/10/2015), hundreds of copies of a student magazine published by student publishing institution (LPM) Lentera at the UKSW School of Social and Communication Sciences have been withdrawn from circulation for publishing about the 1965 massacre, drawing sharp criticisms from human rights activists. Telling stories about the massacre of 1965/1966, became very sensitive especially in commemorating 50 years of such human tragedy.

Terror attacks and campus related to the issue of communism, not only supported by the military and internal campus, but also invite the entry of paramilitary or thugs to campus. The manager of the campus, unfortunately, defending such attacks, in the name of "stability of lecturing or teaching". As a result, the campus is no longer a place that confirms *praesidium libertatis* (bastion of freedom), but become stooges of thuggish repression in the name of ideology of oppression that survived the authoritarian character.

Cases of prohibition and dissolution of seminars and international academic conferences, and even with the involvement of official institutions of government,

became a target. Banning discussion "Social LGBT community in Indonesia" (12 November 2015) at the Faculty of Law, University of Diponegoro, and UB International Youth Forum 2015 "The Rights of Minorities in a globalised World" (November 10 to 11 in 2015) by the FISIP UB, as well as threats statements Rector of the University of Lampung (December 3, 2015) that will dismiss faculty and students involved in LGBT activities, complementing the narrative how weak alignments campus to social problems.

Campus, getting away from the human community of learners virtue and advocate of truth, as well as academic beings who oversee the changes in society, *Homo Academicus*. Such cases make us aware of how campus increasingly difficult to keep the breath and stamina freedom of intellectual and social transformation of learning container.

### **III. Capital Subjugation and Academic Freedom: Disciplinary Attacks**

How has liberalisation of universities in Indonesia emerged and contributed in making state sponsored intensification of market penetration?

This is a current situation, especially dealing with new relationships that are developing between higher education, the State, the market, as well as society as a whole. Interestingly, this is always followed by significant influence of a constant social and political change towards the protection of human rights for democratic and more equitable societies.

Based on Unesco report (2005), there are four categories of relationships and influences related to academic freedom. First, academic freedom related to the control of the state government or on campus. The laws that function disciplinary faculty and students, or the role of government in determining positions on campus, an issue of academic freedom to depend on the political context of the ruler. Second, academic freedom associated with managerial university and their academics. The development of institutional autonomy, corporatisation campus, and the need of funding for education and research, have an impact on the efficiency of financing and limited funds, so the effect on the quality of research and teaching. Third, academic freedom is affected by surveillance operations (peer). For example campus

too busy disqualify academics on the basis of gender, religious beliefs, racial, ideological choice, which is mixed so that interfere with academic freedom on campus. Fourth, external interference campus and even kill restrict academic freedom. Criminalisation, terror, privatised gangsterism and the acts of vandalism that seeks to stop or nestle academic activities.

Based on these reports, it is recognised that the system of judicial power (judicial) and media freedom in a country becomes an important key to fortify academic freedom (UNESCO 2005). Nevertheless, in the era of the liberation of the market that requires the privatisation of education as well commercialisation of the campus in the name of autonomy, giving birth to a new model of pressure on academic freedom, not least in Indonesia. The higher education system was faced with the reality of corporatism and privatisation, globalisation, the acceleration of technology and communication, as well as the development of knowledge-driven economy and knowledge-based society (Suwanwela, 2005).

This context, the role of the college as sources of knowledge actually played important role as policy transmission and even the legitimacy of oppression. This is reflected in how the campus milked to make "truth claims" forming the law through what defined as 'academic paper' (naskah akademik). In addition, the campus just repress the poor or indigenous communities are faced with the financier or capital owner, while on the other hand it gives way and facilities influx of investors to get the defense of the campus. 'In the name of academic freedom' actually used as a manipulation of the truth. That is why, Foucault (1991) writes, the campus is like as a reproducing power through the creation of regimes of the truth). Dissolution of the film discussion Samin vs Semen and Alkinemokye produced by Watchdoc, May 1, 2015, at the UB, is one such example.

Market penetration situation which is coupled by a strong role of the state sponsored commercialisation of the higher education has affected academic freedom trapped into corporatism education. Therefore, academics and students can be easily disciplined and dismissed by such corporatism system.

As widely known that academic freedom has connection to university autonomy in its management sense. This means less control from state bureaucracy. However, interesting issue has been raised by UI workers group (Badan Pekerja Paguyuban

Pekerja Universitas Indonesia, 2014), that various threats or violations of academic freedom in post-Suharto era reflect the underlying social changes taking place in Indonesia. Hence, academic freedom should be seen in relation to the existing social configuration and societal pressures, rather than considering academic freedom and autonomy as abstract ideals.

The change situation started in 2000, when state owned universities have changed their status from public universities, indicated by high dependence on government funds and by government appointed university presidents, into a special form of legal entity called Badan Hukum Milik Negara (BHMN, literally means State Owed Legal Entity). Under the BHMN forms, universities are not fully dependence of government financial support. Instead, the universities have some kind of autonomy to find and allocate their own financial sources, determine their own admission/selection procedures and tuition fees, manage their own assets that are separated from the government's assets, manage their own organs, and choose their own university presidents. In short, universities with BHMN status actually enjoy a high degree of autonomy, both in procedural and substantive senses. Indeed, universities under BHMN scheme have undergone a form of privatization, especially in the absence of government intervention in some vital aspects.



Privatization in university means capital accumulation from various corner of payment. For student, simply seeing that privatisation means the increasing of tuition fee. Campus is similar like an industry, intellectual machine in producing capital through education.

The case of President University was interesting, especially dealing with this issue and how the court has resolved the case. Cited from Badan Pekerja Paguyuban Pekerja Universitas Indonesia (2014), said that there was student rally in 2000 opposing to the increased tuition fees, but such movement was silenced by severe sanction

imposed by the University President. The sanction included the suspension of one year. Students were prohibited to take any course during the suspension period.

The students challenged the sanction to the Jakarta Administrative Court, which then ruled the sanction illegal and could not be implemented. The University rejected, and filed an appeal to the Jakarta Administrative Court of Appeal and subsequently to the Supreme Court, as the University found that the Court of Appeal defended the Jakarta Administrative Court's ruling. Finally, in 2009, the Supreme Court decided that the sanction was illegal. At that time, all of the students had been graduated, despite the one year suspension they had to undergo.

This showed that the practices of university autonomy under the BHMN system, as a disguised of the privatization of public universities, have indicated some evidence contrary to the very essence of academic freedom and university autonomy.

In such a context, it is still too far away to say that academic freedom is protected and guaranteed in the Indonesian legal system. In reality, the deficit of academic freedom, not only showed insensitivity to the campus over the issue of human rights, but now it as a party to reproduce deceiving and human rights violations.

Hence, in conclusion, the liberalisation of universities in Indonesia has quickly emerged in post Soeharto. It indicated to the stronger role of the state in sponsoring commercialisation which has affected to education corporatism. Therefore, the academia could be easily disciplined and fired by such corporatism system. While during New Order, the state-military corporatism has played important to shape universities, but the present situation has changed to the control of state sponsored-market penetration.

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