

The Study Program Efforts to Implement the Independent Campus, Freedom to Learn (MBKM) Based on the View of Legal Positivism in Realizing an Advanced Campus

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ABSTRACT

Universities in order to prepare students to face changes in social, cultural, world of work and rapid technological advances, student competencies must be prepared to better keep up with the times. The study program must strive to create an advanced campus with the characteristics of meeting the main performance indicators. This implementation process must be strengthened by making various regulations. The research method used is a normative juridical method with descriptive analytical research specifications. The results of this study indicate that at Universitas Suryakencana in implementing MBKM, various regulations have been made at the university, faculty and study program levels. This shows the form of the study program's efforts in implementing MBKM based on legal positivism.

KEYWORDS: MBKM, Advanced Campus, Legal Positivism,

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I. INTRODUCTION

Various forms of learning activities outside of tertiary institutions, including conducting internships/work practices in the industry or other workplaces, implementing community service projects in villages, teaching in academic units, participating in student exchanges, operating research, conducting entrepreneurial activities, conducting studies/ independent projects, and following humanitarian programs. All these activities must be carried out with the guidance of the lecturer. Separate campuses are expected to provide contextual field experiences that will improve student competence and be ready to work or create new job opportunities.

The learning process in an independent campus is one of the essential manifestations of student-centered learning. Independent on-campus learning provides challenges and opportunities for the development of innovation, creativity, capacity, personality, and student needs, as well as developing independence in seeking and finding knowledge through realities and field dynamics such as ability requirements, real problems, social interaction, collaboration, self-management, performance demands, targets, and achievements. Through an independent learning program that is well designed and implemented, students' hard and soft skills will be formed strongly.

The MBKM program is expected to answer the challenges of higher education to produce graduates who are following the times, advances in science and technology, the demands of the business and industrial world, and the dynamics of society. The government has made the legal basis for implementing the policy program for the Right to Learn Three Semesters Outside the Study Program. The legal basis above shows that various laws and regulations relevant to MBKM policies have been issued. This, when viewed in legal science, shows the flow of legal positivism. There are legal schools, protestantism legal schools, and empiricism legal schools in legal science. These schools are still being studied as a theoretical basis for studying law. Based on written law as a positivism regime (Haryono, 2019). Based on the above, the author will examine the legal efforts of the study program in implementing MBKM policies based on the legal positivism view.

II.METHOD

Researching Study Program Efforts to Implement the MBKM Curriculum Based on Legal Positivism Views in Realizing Advanced Campuses using Normative Juridical Methods, Processing qualitative data using Secondary Data (Primary, Secondary and Tertiary Legal Materials).

III. RESULTS AND DISCUSSIONS

Law is a set of behavioral rules that apply in society (Sri SoemantriMartosoewignjo, 1992), the law is the foundation of development with the meaning of the accumulation of legal functions as a tool of social engineering/development (law as a tool of social engineering), an instrument of problem-solving (dispute resolution), and instruments for regulating public behavior (social control), as well as for the Indonesian context, the law has played an essential role through its three functions (WirjonoProdjodikoro, 1989).

Hamid S. Attamimi (1992), citing Burkens, said that the rule of law (*rechtsstaat*) is simply a state that places law as the basis of state power, and the exercise of that power in all its forms is carried out under the rule of law. In a state of law, everything must be done according to the law. The law practice dictates that the government must be subject to the law, not that the law must be subject to the government (Wade, 1971). In a state of law, the law is placed as the rule of the game in the administration of the state, government, and society, while the objectives of the law itself include "...opgelegd om de samenlevingvreedzaam, rechtvaardig, endoelmatigteordenen" (placed to organize a peaceful society, fair, and meaningful) (NE Algra and HCJG Jansen, 1974). This means that the rule of law's goal is to create a state, government, and community activities that are based on justice, peace, and benefit or meaning. In the form of law, the law is used to manage the life of the state, government, and society.

In the formation of laws and regulations, there are 3 (three) foundations that must be met, namely the philosophical basis, the sociological basis, and the juridical basis. The view of legal positivism provides the basis for normative legal research. The theory of legal positivism defines the nature of law as positive norms in the system of laws and regulations. There are three basic views of legal positivism. The first basis is that law is a human command that separates law from morals. The two studies conducted on law were separated from outside the law, such as historical, sociological, and political. All three legal systems are closed logical systems in which correct decisions can be deduced from pre-determined legal rules with logical intent alone. The strength of the legal positivism view is the argumentation based on favorable norm structures to concrete cases. The reasoning pattern used is top to down with a deductive design.

The word "positive" is derived from the Latin *ponere-posui-positus*, which means to put something that has been presented (given). In law, something offered is a source of positive direction, which has been placed by political authorities. The view of legal positivism has existed for a long time, precisely since Comte. However, modern legal positivism just got its roots academically through the thoughts of John Austin, Hans Kelsen, and H.L.A Hart. This view gave birth to the foundation of modern positivism.

The role of law is significant for humans because it can maintain order when humans have different wills. Therefore, legal theory thinking will be influenced by legal thought figures who have succeeded in conceptualizing law based on their thoughts (Islamiyati, 2018). Positive Legal Stream or Legal Positivism is one of the schools in legal philosophy. This school sees the need for a strict separation between law and morals (between the applicable law and the law that should be, between *das sein* and *das sollen*). Legal Positivism highly exalts written law and assumes no legal norms outside of the positive direction. For this school, all problems in society must be regulated in the written law. The attitude of adherents of this school is motivated by an excessive appreciation of the power that creates written law, and they think that power is the source of law and governance is the law. Positivism, according to Hans Kelsen (Germany) or called *EineReineRechtehre* and Lendell with mechanistic Jurisprudence is a set of theories and teachings in legal science and modern legal practice based on the philosophical foundation of positivism which developed in the Galilean paradigm line (Anom Surya Putra, 2003).

Currently, the law in Indonesia is based on the philosophical foundation of positivism. Legal positivism is a school of thought that strongly influences the teachings of positivism in general. Thus, understanding the instructions of legal positivism is a positive norm in the statutory system. Positivism is a philosophical school which states the natural sciences as the only trustworthy source of knowledge and rejects activities related to metaphysics. There is no speculation, and everything is based on empirical data. Positivism is empiricism which in certain respects comes to extreme logical conclusions because any knowledge is practical knowledge in one form or another so that no speculation can become knowledge (Faissal Malik, 2021).

The flow of legal positivism under the umbrella of the positivism paradigm has a legal concept, namely what is written in the legislation, clearly separating law and morals. The law is characterized by rationalistic, technocentric, and universal nature. There is no law except the command of the ruler. Legal justice is formal and procedural. Based on this, the impact of the development of positivism on Indonesia is the emergence of legal

rigidities, which are considered that the law in Indonesia is not capable of creating justice which is a consequence of the domination of the doctrines of the positivism paradigm. One of the legal doctrines inspired by the teachings of positivism is "equality before the law or justice for all" (all are equal before the law), making this doctrine good in theory, but not in practice, where in reality, the law is only sharp downwards and the law blunt upwards because the law is not neutral. In other words, the operation of the law is strongly influenced by the presence of other forces.

Paristiyanti stated that in the Government's efforts to advance the education system in the country, the Ministry of Education and Culture had imposed some new policies. He studied from the Merdeka and Merdeka Campus, which was then followed by other related policies. Currently, the size of a state-of-the-art campus is these eight criteria or Key Performance Indicators (IKU), namely: 1. Graduates Get Decent Jobs 2. Students Get Experience Outside Campus 3. Lecturers Have Activities Outside Campus 4. Practitioners Teach On Campus 5. Lecturer's Work Results Used by the Community 6. Study Programs in Collaboration with World-Class Partners 7. Collaborative and Participatory Learning 8. International Standard Study Programs.

The implementation of MBKM based on the view of Legal Positivism must be guided by Legality/Policy Instruments (written) adjusted to the ability of the campus and has a target of meeting MBKM achievements towards Advanced Campus. The legal basis for the implementation of the Three Semester Learning Rights policy program outside the Study Program has been made by the government, including the following:

- a. Law Number 20 of 2003 concerning the National Education System;
- b. Law Number 12 of 2012, concerning Higher Education;
- c. Law Number 6 of 2014, concerning Villages;
- d. Government Regulation Number 04 of 2014, concerning the Implementation of Higher Education and Management;
- e. Presidential Regulation number 8 of 2012, concerning KKNI;
- f. Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 3 of 2020, concerning National Standards for Higher Education;
- g. Regulation of the Minister of Villages, Development of Disadvantaged Regions, and Transmigration Number 11 of 2019, concerning Priorities for the Use of Village Funds in 2020;
- h. Regulation of the Minister of Villages, Development of Disadvantaged Regions, and Transmigration Number 16 of 2019, concerning Village Deliberations;
- i. Regulation of the Minister of Villages, Development of Disadvantaged Regions, and Transmigration Number 17 of 2019, concerning General Guidelines for Development and Empowerment of Village Communities;
- j. Regulation of the Minister of Villages, Development of Disadvantaged Regions, and Transmigration Number 18 of 2019, concerning General Guidelines for Assisting Village Communities (Ministry of Education and Culture, 2020).

UniversitasSuryakancana, in implementing the MBKM policy, has shown the meaning of legal positivism by making various regulations, namely:

1. Rector's Decree No. 31/SK/REK/UNSUB/IX/2020 concerning Guidelines for the Implementation of the Independent Learning Curriculum at the Suryakancana University Independent Campus;
2. Academic regulations of Suryakancana University MBKM model 2020;
3. Rector's Decree No. 42/SK/REK/UNSUB/XI/2020 regarding the Internal Quality Assistance System (SPMI) Policy.

Furthermore, at the study program level, it can be seen in the law study program that makes various regulations relating to the implementation of MBKM, namely:

No	Decree Number	About
1	Nomor 155/DEK/FH-UNSUB/KEP/VIII/2021	The Second Change of the MBKM Curriculum, Faculty of Law, UniversitasSuryakancana
2	Nomor 160/DEK/FH-UNSUB/KEP/IX/2021	Appointment of Supervisor &Assistant Lecturer for Odd Semester Courses MBKM Student Exchange Program Faculty of Law UniversitasSuryakancana
3	Nomor 144/DEK/FH-UNSUB/KEP/V/2021	Appointment of Softskills and Hardskills Lecturer in the Internship Program, Humanitarian Project and Village Development, Faculty of Law, UniversitasSuryakancana

4	Nomor 131/DEK/FH-UNSUR/KEP/I/2021	The Transition Team for the Implementation of the MBKM Curriculum, Faculty of Law, UniversitasSuryakancana
5	Nomor 113/DEK/FH-UNSUR/KEP/VIII/2020	Implementing Grants for the Independent Curriculum Study Program Assistance Studying the Independent Campus
6	Nomor 139/DEK/FH-UNSUR/KEP/III/2021	Organizational Structure of the CoE (Center of Excellence) Program Implementing the Faculty of Law, UniversitasSuryakancana
7	Nomor 149/DEK/FH-UNSUR/KEP/VIII/2021	MBKM Curriculum, Faculty of Law, UniversitasSuryakancana
8	Nomor 116.A/DEK/FH-UNSUR/KEP/IX/2020	Determination of Guidelines for Conversion of Semester V Values According to the MBKM Curriculum, Faculty of Law, UniversitasSuryakancana
9	Nomor 142/DEK/FH-UNSUR/KEP/IV/2021	Appointment of Field Supervisors (DPL) and Determination of MBKM Participants, Faculty of Law, UniversitasSuryakancana
10	Nomor 151/DEK/FH-UNSUR/KEP/VIII/2021	Systemic Monitoring and Evaluation and Implementation of MBKM Learning, Faculty of Law, UniversitasSuryakancana
11	Nomor 156/DEK/FH-UNSUR/KEP/IX/2021	Determination of MBKM Participants at the Faculty of Law, UniversitasSuryakancana for the Academic Year 2021-2022
12	Nomor 147/DEK/FH-UNSUR/KEP/VII/2021	MBKM Selection Team, Faculty of Law, UniversitasSuryakancana for the Academic Year 2021-2022
13	Nomor 148/DEK/FH-UNSUR/KEP/VII/2021	Personal PIC (Person In Charge) Structure Responsible for the Implementation of the MBKM Model KKNI Curriculum and Recognition of Past Learning (RPL) Faculty of Law, UniversitasSuryakancana

IV. CONCLUSION

The implementation of MBKM at UniversitasSuryakancana refers to MBKM guidelines and applicable laws and regulations. Efforts made in implementing the MBKM policy are as follows: 1) Formed a Committee for Drafting Legal/Policy Instruments: a) University Level; b) Faculty level; c) Study Program Level; 2) Preparation of Legal/Policy Instruments in stages; 3) Socialization of Legal/Policy Instruments in stages; 4) Implementation of MBKM based on Legality/Policy Instruments. Based on the view of Legal Positivism, all MBKM Legality/Policy Instruments at UniversitasSuryakancana already exist and are legal according to the Act.

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