

A Study on the Protection of Lecturer's Rights According to Employment Law No. 13 of 2003 for Higher Education Organisation

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ABSTRACT

Lecturers are crucial for enhancing higher education in Indonesia, and their well-being and rights must be secured for optimal performance. This study examines the protection of faculty rights based on the application of Law No. 13 of 2003 on Employment by higher education foundations. Using normative juridical methods along with conceptual and contextual approaches, the research involved literature reviews, legislation analysis, and interviews with 30 lecturers and foundations. Findings reveal that faculty rights protection by foundations is insufficient. Evidence includes lecturers not receiving salaries and benefits per legislative provisions and an imbalance between their workload and rights. Additionally, there is a lack of clear legal protection for lecturers. The study suggests that improvements are needed from various stakeholders. The government should strengthen regulations related to lecturers' rights protection, university foundations must commit more to safeguarding these rights, and lecturers need to be more aware of and assertive about their rights. By addressing these issues, the research aims to enhance the quality of higher education in Indonesia by ensuring lecturers receive their due rights.

Keywords: *Education; Human Resources; Lecturer; Legal; Rights*

Background

Lecturers are human resources (HR) and the key for higher education institutions in carrying out the tri dharma, namely education, research, and community service. The quality of lecturers directly influences the quality of education provided to students, which ultimately has an impact on the nation's competitiveness. So the quality of a higher education institution depends on the professional level of the lecturers (Sinambela, 2017). In general, human resources are an important asset for every company operation, which is expected to be able to uphold global competition (Erniwati, Parlindungan, & Fatia., 2023). Furthermore, to support the acceleration of national development, the quality of human resources must be of special concern (Mardhiyah *et al.*, 2021). This means that improving the quality of human

resources must be carried out comprehensively, not only focusing on formal education but also non-formal education, vocational training, and character development. Improving the quality of human resources is one of the emphases of educational objectives, as stated in Law No. 20 of 2003 concerning the objectives of National Education Chapter II Article 3, which reads, "National Education aims to develop abilities and shape the character and civilization of a dignified nation to educate the nation, to develop students' potential to become human beings who have faith and are devoted to God Almighty, have a noble character, are healthy, knowledgeable, capable, creative, independent, and democratic and responsible citizens."

High-quality lecturers are vital assets for higher education institutions, as they not only convey knowledge and skills to students but also drive educational progress (Qasim & Saleem, Farida, Yadewani, 2022). Sustainable lecturer development is crucial for improving educational quality and national competitiveness. Indonesian laws (Law No. 14 of 2005 and Government Regulation No. 37 of 2009) define lecturers as professional educators responsible for transforming, developing, and disseminating knowledge, technology, and art. Lecturers can be permanent, non-permanent, or honorary, with legislation ensuring their presence in both public and private universities. However, there are concerns about the protection of lecturers' rights, including human rights, resource allocation, legality, and morality. Justice for lecturers involves ensuring equality, respect, and fair treatment, as well as recognizing their contributions and providing opportunities for professional growth. Universities must support lecturers with adequate resources, transparency, and accountability in decision-making, and protect their intellectual rights. By upholding these principles, institutions can create a more equitable and sustainable environment for lecturers to thrive and contribute to higher education.

Protection of lecturers' rights as a form of justice in the context of higher education administration is also related to higher education regulations, namely Law Number 12 of 2012 concerning Higher Education. Article 54 of Law Number 12 of 2012 states that "Every lecturer has the following rights and obligations:

- a) Rights and obligations are regulated in the implementation and development documents of the tridharma of higher education;
- b) The rights and obligations regulated in this document include the rights of lecturers to receive fair and non-discriminatory treatment in terms of promotions, awards, and career development, as well as guarantees of legal certainty in carrying out their duties and obligations as lecturers;
- c) Lecturers' rights to obtain protection for academic freedom in carrying out their academic duties and functions;
- d) Lecturers' rights to receive awards, incentives, and facilities by work performance and achievements;
- e) Lecturers' rights to obtain recognition for scientific work, research, and publications produced;
- f) Lecturers' rights to receive awards for the discoveries and creations they produce;
- g) Lecturers' rights to obtain sustainable education, training, and development;
- h) Lecturers' rights to obtain academic facilities;
- i) Lecturers' rights to obtain legal protection for their rights

The presence of the foundation, as stated in Law No. 16 of 2001 concerning the foundation, that as the organizer of Tiggi College, has the responsibility to protect the rights of lecturers following applicable laws and regulations. This is stated in Law Number 13 of 2003 concerning Employment, which regulates workers' rights, including efforts to improve the quality of lecturers. In reality, there are still foundations that ignore lecturers' rights, and there are still foundations that do not comply with agreements or work contacts with permanent or non-permanent lecturers. As a result, (private) higher education administrators, in this case the Foundation, must comply with the provisions stipulated by the Higher Education Law to ensure the protection of lecturers' rights, including fairness in the academic, administrative, and welfare procedures. To guarantee the protection of lecturers' rights as workers, regulations need to be made under Law No. 13 of 2003

concerning labor. This is done because lecturers are members of the workforce who contribute significantly to the provision of education. The rights and obligations of workers and lecturers include decent wages, reasonable working hours, leave, protection from discrimination, and protection of occupational health and safety. This employment law is crucial and must be followed by foundations as employers since it serves as the legal basis for preserving lecturers' rights in the workplace.

From the explanation above, 1) How are the legal aspects of employment in higher education? 2) How is Implementation Law Number 13 of 2003 concerning Employment by Foundations as Higher Education Organizers? Furthermore, this research aims to analyze the implementation of Law Number 13 of 2003 concerning employment by foundations as private providers in protecting the rights of lecturers. This research will also look at how lecturers are treated as the main human resource with their employment rights.

Methods

This research is a legal study that employs the normative jurisprudence method, which means that it will use applicable statutory regulations as a source of current law evaluating and interpreting them in a normative manner through an in-depth analysis of the norms and related legal norms, to understand the meaning, intent, and context of these norms. Furthermore, this study will evaluate the topic using references to books, literature, and law (Nasution & Mavondo, 2008), which are utilized to strengthen the analysis of legislation and increase research discourse. This study relies on primary data sources, namely applicable laws and regulations such as Employment Law No. 13 and other associated legislation. Furthermore, secondary data sources include book references, legal literature, scientific journals, and other publications pertinent to the research issue. These sources will be used to improve legal and regulatory analysis as well as to broaden academic debate. Data collection approaches include documentation and literature review. The data analysis technique entails examining applicable laws and regulations in order to discover, interpret, and comprehend legal norms governing the protection of lecturers' rights. Apart from that, legal interpretation and evaluation are carried out.

Results and Discussion

Aspects of Employment Law in Higher Education

Indonesia has made its regulations to regulate labor, namely Law Number 13 of 2003 concerning Employment. With the existence of this law, it is hoped that the rights of workers and other matters regarding labor can be guaranteed and are in line with the provisions stipulated in Article 27 Paragraph (2) of the 1945 Constitution, which states "Every citizen has the right to work and livelihood, which is appropriate for humanity," as well as Article 28D Paragraph (2) of the 1945 Constitution, which states "Everyone has the right to work and receive fair and decent compensation and treatment in employment relationships."

Referring to the provisions regulated in the 1945 Constitution, lecturers, as citizens, have the right to work and receive compensation in the form of salaries and fair and decent treatment, work relationship. Lecturers are appointed and placed by the organizing body, namely the foundation. Regarding this placement, it is an important thing and must be observed by lecturers who are appointed and placed by the organizing body, namely the agreement contained in the work agreement or work agreement per the provisions of laws and regulations, especially Law No. 13 of 2003 concerning employment. The employment connection that has been formed collaboratively between lecturers as teaching staff and educational organizational organizations cannot be seen solely via one piece of legislation but must be seen through other laws, including those governing teachers and lecturers. This must be done so that the major duties and functions of lecturers are in line with the provisions established in statutory regulations

and not merely place lecturers as production instruments for the sake of creating profits alone for the corporation.

When referring to the provisions regulated in Law No. 14 of 2005 concerning Teachers and Lecturers, the position of teaching staff is very honorable. This can be seen from the provisions of Article 6 of Law No. 14 of 2005 concerning Teachers and Lecturers, which states: "The position of teachers and lecturers as professional staff aims to implement the national education system and realize the goals of national education, namely developing the potential of students to become human beings. who believe and are devoted to God Almighty, have a noble character, are healthy, knowledgeable, capable, creative, independent, and are democratic and responsible citizens." Sejalan dengan penelitian (Rizky *et al.*, 2022) tunjangan profesi bagi dosen yang sudah tersertifikasi diharapkan mampu meningkatkan kesejahteraan, sehingga dosen lebih focus dalam mendidik mahasiswa. In the Manpower Regulations (Article 7 Kepmenakertrans No.Kep-48/Men/IV/2004 concerning Procedures for Making and Ratifying PPs and Making and Registration of PKBs as amended by Permenakertrans No. Per08/Men/III/2006), it is mandatory to make Company Regulations (PP)/Foundation Regulations (PY)/Collective Labor Agreement (PKB) only for companies that have employed at least 10 workers/laborers. In this way, it is envisaged that employers and employees will be able to carry out their respective rights and obligations following mutually agreed-upon agreements, whether involving work agreements, work conditions, work relations, work welfare, or termination of employment.

In Law Number 12 of 2012, it is explained in Article 60 that "PTs are established by the community by forming a legal entity organizing body with a non-profit principle and are required to obtain the Minister's permission." What is meant by "non-profit principle" is the principle of activities whose aim is not to seek profit, so that all remaining business proceeds from activities must be reinvested in the HEI to increase the capacity and/or quality of educational services. However, because Law Number 12 of 2012 does not yet regulate employment in detail, all elements contained in the Higher Education Foundation must follow the rules of Employment Law No. 13 of 2003. The adoption and implementation of company regulations, also known as foundation regulations (for universities) or collective work agreements, provides legal clarity, particularly for employers and employees. Because it is envisaged that these laws would allow employers and employees to carry out their respective rights and obligations by mutually agreed-upon agreements, whether regarding work agreements, work conditions, work relations, work welfare, or the termination of work relations.

If examined from civil law, a Collective Work Agreement is a form of agreement that exists in society with the general principle of an agreement being freedom of contract (beginner contract *vrijheid*) or the principle of freedom of contract. This means that the parties are free to agree on anything and with anyone as long as they fulfill the conditions for the validity of the agreement as regulated in Article 1320 of the Civil Code regarding the conditions for the validity of the agreement, namely:

1. There is an agreement between the parties.
2. The parties agreeing are competent in carrying out legal actions.
3. There is an object that is agreed upon.
4. There is a lawful cause (*causa*).

Several definitions of employment agreements, both those put forward by legal scholars and statutory regulations, include:

- a. One definition of a work agreement is defined by Shamad, who believes that a work agreement is an agreement where a person binds himself to work for another person in exchange for wages by the conditions promised or mutually agreed upon. (Khakim, 2009).

- b. Law No. 13 of 2003 concerning Employment defines a work agreement as an agreement between a worker/employee and an entrepreneur or employer that contains work conditions, rights, and obligations of the parties.
- c. The Republic of Indonesia Government Regulation Number 37 of 2009 concerning Lecturers defines a work agreement as follows: A work agreement or collective work agreement is a written agreement between a lecturer and a higher education provider or Higher Education Unit that contains work conditions as well as the rights and obligations of the parties according to the principles of equality and fairness based on statutory regulations.

What stands out according to Abdul Khakim is that the principle in a work agreement is the attachment of a person (worker/laborer) to another person (employer) to work under orders and receive wages. (Khakim, 2009). If someone has entered into a work agreement, it means that he must automatically be willing to work under the orders of the person who gave him the job according to the collective agreement. The collective agreement contained in the content regulated in the work agreement between the lecturer and the foundation depends on the agreement of both parties, as long as it does not conflict with statutory regulations, morality, and order. This is usually called freedom of contract (Subekti, 2005).

Regarding the position of lecturers in labor law, it can be seen from several definitions put forward in Law Number 13 of 2003 concerning Employment Article 1 numbers 3 and 4, which state that:

1. Worker/laborer is every person who works and receives wages or other forms of compensation;
2. Employers are individuals, entrepreneurs, legal entities, or other bodies that employ workers by paying wages or other forms of compensation.

The provisions in the article mentioned above can be interpreted to mean that anyone, whether an individual or a group, binds himself or herself to a work agreement or collective agreement with another party, whether an individual or a business entity, then an employer-employee relationship has arisen. Therefore, it must be acknowledged that private lecturers are the same as workers/employees, to be precise, skilled workers. Furthermore, it can be inferred that the foundation continues to give no assurance for lecturers' rights, which has an impact on their professionalism. According to a study undertaken by Yudi & Surbakti (2020) foundations frequently overlook and intervene in government policies affecting lecturers' rights.

Implementation Law Number 13 of 2003 Concerning Employment by Foundations as Higher Education Organizers

The 1945 Constitution of the Republic of Indonesia Article 27 Paragraph (2) states that every citizen has the right to work and a living that is worthy of humanity. From this perspective, "work" is a basic right of every person, because work is not solely for earning income, but more than that, self-respect and human dignity are also assessed from the work activities concerned. The legal aspect regulated in the Foundation Regulations, Collective Labor Agreement, is compensation. The form of compensation is a salary that is paid regularly based on a fixed period. This compensation can also take the form of allowances, awards, or facilities. This can be interpreted as meaning that wages, salaries, and other income are a sub-system of the compensation system. Broadly speaking, compensation consists of 3 types, namely (Arep & Tanjung, 2002):

1. Direct compensation is an award in the form of salary or wages that is paid regularly based on a fixed period;
2. Indirect compensation is the provision of a share of profits or other benefits to workers outside of salary or fixed wages, which can be in the form of money or goods;

3. Incentives are awards given to motivate workers to have high work productivity that are not fixed or given at any time.

This type and compensation are in line with the wage and non-wage components as stated in the Circular Letter of the Minister of Manpower of the Republic of Indonesia, I Number SE-07/Men/1990 concerning Grouping of Wage and Non-Wage Income Components, and Law Number 13 of 2003 concerning Employment that the compensation received by workers is grouped as a wage component, including:

1. Basic salary, which is employee compensation according to level and type of work, the amount of which is determined based on an agreement;
2. Fixed allowance fixed allowance, for example: wife's allowance, child allowance, housing allowance, death allowance, or regional allowance; and
3. Non-fixed allowances, such as transport allowances and/or meal allowances, which are based on attendance

Apart from the wage components contained in the Circular Letter, income earned by workers is also grouped and categorized as non-wage, including (among others):

1. Facilities such as vehicle facilities, free feeding, prayer facilities, babysitting, cooperatives, canteens, and others.
2. Bonus, which is a payment that workers receive from company profits or because workers produce greater work output (based on productivity) than normal production targets or because of increased productivity. The amount of the bonus payment is determined based on the agreement.
3. THR, gravity, and other profit sharing

Law Number 14 of 2005 concerning Teachers and Lecturers, Article 52 Paragraph (1) means several salary components, namely a) basic salary is a unit of income determined based on rank, class, and length of service, b) allowances attached to salary are additional income as a welfare component which is determined based on the number of family dependents, c) professional allowance is an allowance given to lecturers who have teaching certificates as appreciation for their professionalism, d) special allowance is an allowance given to lecturers as compensation for the life difficulties faced in carrying out duties in special areas, e) additional benefits are additional welfare obtained in the form of insurance, health services, or other forms of welfare. In the private higher education environment, the level of productivity depends on the creativity, innovation, and human resources of the private higher education institution to get as many students as possible and actively collaborate with parties outside the higher education institution, as well as the existence of government policies and supervision and guidance for the development of the higher education institution. Tall. Even though these universities have been able to pay attention to the welfare of their lecturers, there are still many universities, especially private ones, that are "naughty" and ignore statutory regulations, especially regarding the welfare of their lecturers. Survey results show that the majority of lecturers receive salaries that are far from adequate. An academic who is also a management science lecturer at the University of Indonesia (UI), Kanti Pertiwi, said that the majority of lecturer salaries collected from 1,300 respondents were in the range of IDR 2 million to IDR 5 million per month. (Ramadan, 2023). The highest salary range is IDR 2-3 million per month, and there are IDR 4-5 million per month, so the majority is IDR 2-5 million per month. Some earn additional income by becoming structural officials on their respective campuses, although that is a problem in itself (Ramadan, 2023).

In a webinar held by the Indonesian Caucus for Academic Independence (KIKA) to welcome International Labor Day on Saturday (29/4/2023), entitled "Labor Day and Campus Workers' Unions," many lecturers

firmly said, "I am a lecturer, I am a worker." This statement is to emphasize that lecturers, even though they are called intellectuals, have the same status as other paid workers. In the definition of the Trade Union Law, those who work and receive wages or payments are also workers. A professor from the Indonesian University of Education, Vina Adriana, said that the condition of lecturers in terms of welfare and other things is not yet equal. Welfare is not yet standard, and opportunities to increase capacity are also not evenly distributed. Lecturers need to build empathy and solidarity that we do not yet have the same rights. Lecturers as campus workers, their position is increasingly weak. "It is necessary to start emphasizing the importance of the urgency of trade unions in the campus environment for lecturers and education staff,"(Napitupulu, 2023). Chairman of the Association of Indonesian Private Universities (APTISI) Budi Djatmiko revealed that the welfare of lecturers at private campuses is much worse than the welfare of lecturers at state universities (Ramadhan, 2023). This is because private universities (PTS) only have financial resources from students' single tuition fees (UKT). Budi said the UKT funds are used for various purposes, starting from lecturer salaries, operations, and campus needs. Because of this, Budi said that the salaries given to PTN lecturers tend to be better than lecturers at PTS. The remuneration system for PTN lecturers is the same as for other civil servants, which comes from state finances (Shabrina, 2023).

From the results of research conducted by Tuti Handayani, who is a lecturer at the Faculty of Law, Merdeka University, Surabaya, it was found that wages for employees are adjusted to the capabilities of the private university. However, employees do not claim under labor regulations in Law Number 13 of 2003 because they have been given information at the start of work and they have made a statement letter of no objection to the wages received. (Handayani, 2014). This should be a serious concern for the government through the Ministry of Education and Culture of the Republic of Indonesia and related institutions to carry out supervision and provide protection for workers/lecturers in higher education environments, especially private universities.

Conclusion

In this article, it can be concluded as follows:

1. Lecturers have the right to receive reasonable compensation for their work. Providing a decent salary commensurate with qualifications and performance is a fundamental right of lecturers. Providing fair compensation to lecturers is an important investment in the future of higher education in Indonesia. Lecturers who are prosperous and motivated will produce the nation's next generation, who are qualified and competitive.
2. Foundations as higher education administrators are obliged to fulfill this right, as regulated in Law Number 13 of 2003 concerning employment. Apart from that, the Foundation, as a higher education organizer, has a big responsibility to ensure that lecturers get their rights properly, including the right to fair compensation for their work.

Based on the explanation above, the suggestions that will be given are:

Urge the government to increase the education budget so that lecturers' salaries can be increased. By proposing the establishment of minimum salary standards for lecturers throughout Indonesia. Encourage university foundations to provide additional allowances for lecturers, such as performance allowances, research allowances, or special allowances.

References

Arep, I., & Tanjung, H. (2002). *Manajemen Sumber Daya Manusia*, Jakarta. Universitas Trisakti.

Erniwati, E., Parlindungan, G. T., & Fatia, A. (2023). *Pengaruh Human Relation dan Budaya Organisasi*

terhadap Etos Kerja Pegawai pada Badan Pengelolaan Keuangan dan Pendapatan Daerah Kota Pariaman. *Jurnal Point Equilibrium Manajemen dan Akuntansi*, 5(1), 1-11. <https://doi.org/10.59963/jpema.v5i1.120>

Handayani, T. (2014). PERSPEKTIF HUKUM TERHADAP POLITIK KETENAGAKERJAAN DALAM PERGURUAN TINGGI. *Jurnal Pamator: Jurnal Ilmiah Universitas Trunojoyo*, 7(1).

Khakim, A. (2009). *Dasar-dasar hukum ketenagakerjaan Indonesia*. Citra Aditya Bakti.

Mardhiyah, R. H., Aldriani, S. N. F., Chitta, F., & Zulfikar, M. R. (2021). Pentingnya keterampilan belajar di abad 21 sebagai tuntutan dalam pengembangan sumber daya manusia. *Lectura: Jurnal Pendidikan*, 12(1), 29-40.

Napitupulu, E. L. (2023). Membuka Tabir Suram Profesi Dosen di Indonesia. In *Kompas.id*. Kompas.id.

Nasution, H. N., & Mavondo, F. T. (2008). Organisational capabilities: antecedents and implications for customer value. *European Journal of marketing*, 42(3/4), 477-501. <https://doi.org/10.1108/03090560810853020>

Qasim, A., & Saleem, F. (2022). Impact of Human Resource Management Practices on Employee Retention in Education Sector of Hazara Division Pakistan. *Adpebi International Journal of Multidisciplinary Sciences*, 1(1), 307-317. <https://doi.org/10.54099/aijms.v1i1.295>

Ramadhan, Z. M. (2023). Soal Gaji Rendah, Aptisi Sebut Kondisi Kampus Berdampak pada Kesejahteraan Dosen Swasta. In *Republika*. *Republika*. <https://news.republika.co.id/berita/ru3vs3436/soal-gaji-rendah-aptisi-sebut-kondisi-kampus-berdampak-pada-kesejahteraan-dosen-swasta>

Rizky, M. C., Hakim, R., Anam, M., Alim, M. N., & Suhartatik, W. (2022). Implementasi Undang-undang Nomor 14 Tahun 2005 tentang Guru dan Dosen Terhadap Kesejahteraan Dosen Profesional di Universitas Sunan Giri Surabaya. *Jurnal Kolaboratif Sains*, 5(8), 561-569. DOI: <https://doi.org/10.56338/jks.v5i8.2734>

Shabrina, D. (2023). APTISI Sebut Kesejahteraan Dosen di Perguruan Tinggi Swasta Lebih Mengkhawatirkan. In *mediaindonesia.com*. *Media Indonesia*. *com*. <https://mediaindonesia.com/humaniora/600117/aptisi-sebut-kesejahteraan-dosen-di-perguruan-tinggi-swasta-lebih-mengkhawatirkan>

Sinambela, L. P. (2017). Profesionalisme dosen dan kualitas pendidikan tinggi. *Populis: Jurnal Sosial Dan Humaniora*, 2(2), 579-596. <https://doi.org/10.47313/pjsh.v2i2.347>

Subekti, R. (2005). *Hukum Perjanjian*, Jakarta: PT. Intermasa, Cetakan Kesepuluh.

Yudi, P., & Surbakti, K. (2020). Perlindungan Hukum Hak dan Kewajiban Dosen Terhadap Intervensi Yayasan pada Perguruan Tinggi. *JURNAL EKONOMI, SOSIAL & HUMANIORA*, 2(03), 85-91.