

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

A. Conclusion

Since the classical civilization, academic freedom has become a distinguished concern of many empires. Scholars were protected during the stay, travel between places, and bestowed to special privileges and immunities as well as foods subsidy. In the modern period, the protection for scholars has widely constituted on many legal instruments. Scholars enjoy freedom to learn, to teach, to express opinion, to do research and to publish it. However, for some reasons, scholars can be a threat against certain external political interests as they have critical role in prevailing and disseminating the truth. Because of that reason, many scholars find themselves being targeted for a threat to job loss, imprisonment, and even death.

Historical analyses show that academic freedom was difficult to win against the political powers. Socrates, Martin Luther, Galileo Galilei, Edward Ross, Tan Malaka, Pramoedya Ananta Toer, Munir, Suteki, and the latest Rocky Gerung are only some of many scholars who have got into trouble because of executing their roles as academicians. To most people in the world, the key success of a developed country is the extent enjoyment of rights and freedoms. The struggle of academic freedom has demonstrated that due process is crucial to achieving the great end of the country. The growth of knowledge

and the advancing of information technologies are making the civil society complex.

Academic freedom is a core of higher education. Without it, higher education institution, as the center for learning; teaching; and research, will not be truly and effectively operated. University, scholar, and student are the subject as well as the object of academic freedom. Their role in living the academic life is crucial. If there is a controversy on what academic members done, the one who supposed to deal with it is other academic members or university, not judicial powers. Universities are place for open minds assess knowledge, not where academic activity is closed-down or academic member is persecuted.

Historically, Indonesia was not pay full attention to the enforcement of human rights. The government focused on building the country, infrastructure, and people after being colonialized for more than 350 years. In ruling the government and founding the foundation of the state, ideology became a sensitive issue that divided the people. People who were not in the government lane but criticize the policy became the target of oppression. Old Order and New Order are two historical reason that freedom was not really enjoyed by the people of Indonesia back then.

After the Reformation, Indonesia has put adequate Articles on the 1945 Constitution of the Republic of Indonesia to protects academic freedom, even though it is not clearly mentioned but only a part of freedom of expression as general. The further legal instruments are also provided by the country to

strengthen the protection. Unfortunately, scholars are still targeted and found themselves on a threat. It is because of the strong political power that crossed the borderline to control over academic life to save their interests by forcing scholars to step back from the stage. In short, the struggle of academic freedom lies in the and of those who rules the government. Political will is indeed count.

If scholars are being limited to explore the knowledge, the country would stay stagnant in development. None invention even innovation will be made to build the country. The struggle to put academic freedom in the constitution is real. Many European countries have realized that how important academic freedom is in developing the country. As most developed countries located in Europe and the USA, most sophisticated sciences are also founded in western world. The freer the academic life in a country, the more developed the country will be. Despite widely enjoyment scholars must enjoy, there are certain points of academic freedom that can be restricted.

As regulated on Article 19 (3) of the ICCPR, if it disrespects other rights and for the sake of national security, public order, public health or moral, academic freedom are legally allowed to be limited. Eventually, academic freedom is not the same with freedom of expression as general and the demand of it is considerably beyond the principle of freedom of expression. To reach the dream of academic freedom, synergy between the government and academic members are undoubtedly needed. These two parties must cooperate altogether to ensure that both interests are well-respected.

B. Recommendation

Constitutionally, Indonesia must amend the 1945 Constitution of the Republic of Indonesia to protect academic freedom on the Constitution. As a Rule of Law country, to put academic freedom on the Constitution is the best way to protect it. Since Indonesia recognizes a principle “*Lex Superiori Derogat Legi Inferiori*” or higher legal instrument can override the lower legal ones. Besides, the Article on the Constitution shall be the reference of the lower legal instruments in its formulation.

Legislatively, Indonesia has provided academic freedom principle, but at a little number only. The provisions of academic freedom are regulated sporadically. The National Education System Law 2003 and the Higher Education 2012 regulate few Articles in general but do not really concern on the matter of protection. Moreover, those Articles are only applied to the activity inside the university. Indonesia needs to formulate a new and specific law concerning academic freedom and make it as comprehensive as possible.

Practically, when there is an intersection between academic activities and political, criminal, or civil matters, the Indonesia’s law enforcer shall do a pre-investigation by assessing whether the case is worth handling or not. Learning from the cases above, the Police shall do an in-depth research on the matter of the case. If the Police directly execute the case by calling the alleged scholar for a Police investigation, it violates the academic freedom.

Lastly, the political will is necessary to uphold the justice for scholars. No matter how numerous the provision on academic freedom is, if there is no

political will to do justice, it will be nonsense. The urge of having a good democracy by letting freedom of expression being enjoyed as wide as possible is crucial. The government must respect academic life by giving less or even no interference on it. Letting the science develop liberally would bring Indonesia into advancement. However, Indonesia might also limit the freedom of expression but not as radical as *status quo*.