

## CHAPTER TWO

### LITERATURE REVIEW

#### A. Definition of Academic Freedom

Ancient violation of academic freedom was believed to start at time of the Trial of Socrates in 399 BC. Since then, the world thought on how to protect the scholars as they have the critical role in the development. Academic freedom, later, was developed in 12<sup>th</sup> Century when Frederick I Barbarossa issued *Authentica Habita* as he wished to protect scholars during the time of war. Barbarossa felt it is important to protect scholars during their travels and stays in the city. At that time, roads were unsafe, and many threats were targeted to scholars.<sup>1</sup>

The academic freedom concept in modern era was developed in 19<sup>th</sup> Century in Germany and expanded over the time. Humboldtian Ideal was the proponent concept on how to run the higher education. Basically, the idea of modern academic freedom concept is “scholar in universities ought to be free to teach and to learn what and how they wish goes back to the middle age”, but the custom of guaranteeing this privilege by popular consent dated only from the nineteenth century. It is the freedom of faculty members to teach and the freedom of students to learn without interference

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<sup>1</sup> Saturday, Nicole Slack, *Op.Cit.*

during that period which has been expanded based on historical periods and contexts.<sup>2</sup>

The term, “academic freedom” is defined by various scholars in different ways. According to Eric Ashby (1966), academic freedom is the freedom of individual university teacher to teach according to his conscience and conviction and to publish his views on his own subject.<sup>3</sup> Additionally, The Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics (1990)<sup>4</sup> defines academic freedom as the freedom members of academic community, individually or collectively, in pursuit, development, and transmission of knowledge through research, study discussion, documentation, production, creation, teaching, lecturing, and writing.<sup>5</sup>

Academic Freedom is not only about internal matters, but also external. Geoffrey Caston (2006) defines academic freedom as the freedom of the individual academic to teach, to do research, and to publish without any interference externally.<sup>6</sup> Based on Caston’s definition, universities and

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<sup>2</sup> Karki, Chhatra Bahadur, 2015, *Academic Freedom for Faculty Members and Students: A Case Study of the Faculty of Education at Tribhuvan University in Nepal*, Ph.D Thesis, Oslo, Faculty of Education Sciences Universitetet I Oslo, p. 22

<sup>3</sup> Ashby, Eric, 1966, *Universities: British, Indian, African. A Study in the Ecology of Higher Education*, Cambridge, Harvard University Press, p. 292

<sup>4</sup> The Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics was adopted by delegates from six academic staff associations at the end of the Inaugural Workshop held at Silversands Hotel on 19th April 1990. University of Minnesota Human Rights Library, *The Dar es Salaam Declaration on Academic Freedom and Social Responsibility of Academics*, <http://hrlibrary.umn.edu/africa/DARDOK.htm>, accessed on 14<sup>th</sup> of May 2018 at 1:33 pm

<sup>5</sup> University of Minnesota Human Rights Library, *Op.Cit.*

<sup>6</sup> Caston, Geoffrey, “Academic Freedom: The Third World Context”, *Oxford Review of Education*, Volume 15(3), 2006, Oxford, Taylor & Francis Ltd., p. 307

scholars must be independent and free from external matters such as, commonly, political interference and economic power.

William Warner Van Alstyne (1972) further explains that academic freedom is characterized by a personal liberty to pursue the investigation, research, teaching, and publication of any subject matter of professional interest without vocational jeopardy or threat or threat of other sanction, save only upon adequate demonstration of an inexcusable breach of professional ethic in the exercise of that freedom.<sup>7</sup>

Robert M. Berdahl (1990) defines academic freedom as the freedom of the individual scholar in his/her teaching and research to pursue truth wherever it seems to lead without fear of punishment or termination of employment for having offended some political, religious, or social orthodoxy.<sup>8</sup> Berdahl tries to describe that academic freedom also refers to the freedom of scholars to seek and transmit the truth. In so that, academic freedom protects scholars to reveal the truth based on their knowledge in regards with the professional standards.

As for example for the use of academic freedom in revealing the truth, one of the evidences in the Indonesian criminal judiciary system is expert testimony. Indonesia puts expert testimony on its evidentiary system

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<sup>7</sup> Van Alstyne, William Warner, 1972, *The Specific Theory of Academic Freedom and the General Issue of Civil Liberty*, Stanford, Faculty Publication, p. 141

<sup>8</sup> Berdahl, Robert M., "Academic Freedom, Autonomy and Accountability in British Universities", *Studies in Higher Education*, Volume 15(2), 1990, United Kingdom, Routledge, p. 171-172

based on article 184 paragraph (1) of Law No. 8 Year 1981 on Criminal Judiciary.<sup>9</sup>

Constitutionally, Indonesia has regulated the principle of academic freedom as a part of freedom of expression in Human Rights chapter of the 1945 Constitution of Republic of Indonesia and being regulated further on some legal instruments such Law Number 20 Year 2003 on National Education System and Law Number 12 Year 2012 on Higher Education. This Higher Education Law 2012 defines academic freedom in article 9 paragraph (1) as the freedom of faculty members on higher education institution to deepen and to develop science and technology with responsible through *Tridharma*.<sup>10</sup>

## **B. Types of Academic Freedom**

Academic freedom consists of both an individual and an institutional right. Individual academic freedom is in which protects the scholar and the other type is institutional academic freedom which protects universities from any interferences such external political interests. Individual academic freedom has basically two aspects namely: the student freedom to learn and the faculty freedom to teach and to do research. This point of view indicates that individual academic freedom is considered for both

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<sup>9</sup> Tri Wijayanto, 2015, *Alat Bukti Petunjuk dalam Penyelesaian Perkara Pidana*, Surakarta, Fakultas Hukum Universitas Muhammadiyah Surakarta, p. 12

<sup>10</sup> Based on Article 1 paragraph (9) of Indonesian Law Number 12 Year 2012 on Higher Education, *Tridharma* is the obligation of universities to organize education, research, and community service. It is the vision and goal of entire higher education institutions in Indonesia and must responsible to it.

faculty members and students in the field of teaching, learning and research. John Goodlad further suggests four aspects of academic freedom as follows:

- a. The freedom of students to study at all: an issue concerning access;
- b. The freedom of students in what they learn and how they learn it: an issue concerning curriculum and pedagogy where the differences are between high levels of independences in learning contrasted with very closely controlled curricula;
- c. The freedom of faculty (members of the lecturing staff) to decide what to teach and how; issues concerning course approval, validation, and accreditation;
- d. The freedom of faculty to carry out research: an issue concerning choices to be made both by faculty themselves and by those who fund their researches on the relative intellectual, practical, financial and other merits of the claims of different programs and projects for time and attention.<sup>11</sup>

Institutional academic freedom is generally considered as the right of the higher education institution in order to determine its own goals and degree standards. It provides the right to the university to select faculty and students and to prepare curriculum contents as long as it is not against the norms. Indonesia has regulated this matter on Article 54 of Higher Education Law 2012.

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<sup>11</sup> Goodlad, S., 1988, *Academic Freedom and Responsibility*, Stony Stratford, Open University Press, p. 49

### C. Importance of Academic Freedom

Academic life cannot be done well if it is not supported by academic freedom. This freedom takes place on the protection of the scholars in doing teaching and research. In order to develop the nation, academic freedom is so important. Besides, the role of scholars is also important to share the information and to reveal the truth to public based on their knowledge regarding professional standards. Therefore, higher education managers are obliged to strive and to guarantee all academicians to get their academic freedom and scientific autonomy responsibly and independently.<sup>12</sup>

Academic freedom is required to conduct academic activities. It is necessary in such cases “where academic activities are legitimately performed, the academic freedom is called for”.<sup>13</sup> In this regard, academic freedom is important because it enables scholars to teach, to conduct research and publish the results without interferences. Without academic freedom, they cannot do it and many external parties will interfere the scholars. This shows how important academic freedom is. Furthermore, academic freedom is obviously such a two-faced concept. It establishes a zone of protection and self-regulation in the interest of furthering the ends of academic activity-that is, of teaching and inquiry.<sup>14</sup> Menand explained

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<sup>12</sup> See Article 17 paragraph (1) and (2) of Government Regulation No. 60 Year 1999 on Higher Education

<sup>13</sup> Shils, Edward, “Academic Freedom and Permanent Tenure”, *Minerva*, Volume 33(1), 1995, Switzerland, Springer, p. 6

<sup>14</sup> Menand, Louis, 1995, *The Future of Academic Freedom*, Chicago, University of Chicago Press, p. 6

that by the existing of academic freedom does not mean scholars can do anything. It still needs to follow the professional standards.

#### **D. Challenges to Academic Freedom**

Political situation of the country is one of the main challenges for academic freedom. Philip Altbach (2001) explained that there are many countries in which a considerable degree of academic freedom may exist for most scholars of the time, but where a political or other crisis may cause severe difficulties for the universities and for academic freedom, creating a general atmosphere of general unease for many academics.<sup>15</sup>

In this regard, on May 2018 in Surabaya's Institut Teknologi Sepuluh November (ITS), Professor of Marine Technology-Daniel M. Rosyid, Head of the Physic Engineering Laboratory-Arif Rahmadiansyah, and Head of the Master Program for Material Engineering-Lukman Noerochim were accused to support HTI from the memes that spread out in internet using their pictures and quotes.<sup>16</sup> Similar to them, one lecturer at Universitas Airlangga (UNAIR), Arif Firmansyah, got into the same trouble.<sup>17</sup> They have argued that those memes are not authentic and those were quoted differently from its origin words.

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<sup>15</sup> Altbach, Philip, "Academic Freedom: International Realities and Challenges", *Higher Education*, Volume 41(1), 2001, Ohio, Ohio State University Press, p. 212

<sup>16</sup> Hilda Meilisa Rinanda, 2018, *Minta Maaf, Begini Pengakuan 3 Dosen ITS yang Jadi Meme Pro HTI*, DetikNews, <https://news.detik.com/jawatimur/4013001/minta-maaf-begini-pengakuan-3-dosen-its-yang-jadi-meme-pro-hti>, accessed on 11<sup>th</sup> of December 2018 at 9:35 am

<sup>17</sup> Triono Wahyu Sudibyso, 2018, *Meme Dosen ITS dan UNAIR Soal HTI Yang Bikin Rektor Turun Tangan*, DetikNews, <https://news.detik.com/jawatimur/4012551/meme-dosen-its-dan-unair-soal-hti-yang-bikin-rektor-turun-tangan>, accessed on 11<sup>th</sup> of December 2018 at 9:37 am

Academic Freedom is the freedom for academic community to conduct research and express their opinion based on their knowledges. Basuki Wasis and Bambang Hero Saharjo, experts of Environment from Institut Pertanian Bogor (IPB) were sued by the culprits of an environmental crime after giving their expert testimonies in the court on 2018. Nur Alam, an accused of corruption, objected Basuki Wasis testimony, while PT. Jatim Jaya Perkasa, the forest burner, sued Bambang Hero Saharjo for Rp3.51 billion.<sup>18</sup>

These two cases show us how important and challenging academic freedom is. Although Indonesia has regulated it under the Law Number 12 Year 2012 on Higher Education, but *Das Sein* of it is not running well. Individual, group, and political interests seem haunting the academicians to practice their knowledges if it is in the sensitive field. As mentioned above, one of the works of academicians in to reveal the truths based on the knowledge.

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<sup>18</sup> Andi Saputra, 2018, *Gugatan 3,51 Triliun ke Dua Ahli IPB Ancam Kebebasan Akademik*, DetikNews, <https://news.detik.com/berita/d-4251932/gugatan-rp-351-triliun-ke-dua-ahli-ipb-ancam-kebebasan-akademik>, accessed on 11<sup>th</sup> of December 2018 at 9:40 am