

**PROTECTION OF ACADEMIC FREEDOM FOR SCHOLARS IN
INDONESIA UNDER THE UNIVERSAL DECLARATION OF HUMAN
RIGHTS**

PUBLICATION MANUSCRIPT



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FACULTY OF LAW

UNIVERSITAS MUHAMMADIYAH YOGYAKARTA

2019

APPROVAL PAGE

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Protection of Academic Freedom for Scholars in Indonesia under the Universal Declaration of Human Rights

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ABSTRACT

Academic freedom is an actual issue since long time ago. In 399 BC, when Socrates was charged for an allegation of corrupting youth minds, scholars have been in danger. In Indonesia, on the New Order era led by Soeharto, attack to scholars were widespread throughout the country. Many people have realized that such threats have continued right up to the present. From Hermansyah of ITB's Telecommunication expert, who was gotten into bloody attack on July 2017 by strangers after revealing an Islamic scholar's pornography chat is fake to Suteki of UNDIP's Professor of Law, who was suspended from his teaching post on May 2018 after being accused of supporting an extreme religious group called Hizbut Tahrir Indonesia (HTI), academic freedom for scholars in Indonesia seems disrespected and unprotected 'again' nowadays. Many scholars argued that the interferences to academic life is not a one-off incident but forms a general trend toward a restrictive regime of control over ideology based on their interests. Also, external political interests count for being a motive to attack scholars. Universally, Article 19 of the Universal Declaration of Human Rights (UDHR) emphasizes that everyone has the right to freedom of opinion and expression free from any interferences and powers. However, scholars still found themselves being targeted or limited to do academic activities. By using the juridical-normative method with comparative and statutory approach, the research aims to elaborate the history and development of academic freedom in the world and to know how far the protection of academic freedom for scholars in Indonesia based on the UDHR.

Keywords: *Attack on Scholars, Academic Freedom, Interference, Scholars, Universal Declaration of Human Rights (UDHR)*

I. Background of Research

In the mid of 2018, a Professor of Law from Universitas Diponegoro (UNDIP) in Semarang,¹ Central Java, was just suspended from his teaching post after being accused of supporting a banned-religious group called Hizbut Tahrir Indonesia (HTI). It was reported that Prof. Suteki, Head of Master of Law studies program at UNDIP Postgraduate Program, was removed from his position because of his postings on social media account which commented as hardline topic related to the Islamic movement and giving it support.² This case is one among many miserable freedoms of speech in Indonesia for expressing and practicing the knowledges.

Internationally, the preamble of the Universal Declaration of Human Rights (UDHR) declares that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for human rights. Furthermore, Article 19 of the Declaration emphasizes the enjoyment of freedom of expression as stated below:

“Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interferences and to seek, receive and impart information and ideas through any media and regardless of frontiers.”

UDHR specifically provides the right to the education and mandates the availability and accessibility of the educational institutions and the scientific resources that these two shall be directed to the fulfilment of the human personality in respect to human rights and fundamental freedoms. Human Rights Watch (HRW) believes that without the fulfillment of the basic rights of educators and students, educational institutions cannot achieve their goals.³

¹ Universitas Diponegoro or UNDIP is an Indonesian public university located in Semarang, Central Java. It was a private university named Universitas Semarang and renamed to be Universitas Diponegoro in 1960. The decision made by Ir. Soekarno as a tribute to the university's performance in development of higher education in Central Java. Universitas Diponegoro, <https://www.undip.ac.id/language/en/profile/history>, accessed on 14th of May 2018 at 10:56 am

² Suherdjoko, 2018, *Lecturer Suspended for 'Supporting' Hizbut Tahrir*, The Jakarta Post, <http://www.thejakartapost.com/news/2018/06/05/lecturer-suspended-supporting-hizbut-tahrir.html>, accessed on 14th of May 2018 at 11:01 am

³ See further at Saunders, Joseph, *Academic Freedom in Indonesia: Dismantling Soeharto-Era Barriers*, Human Rights Watch Report, 1998, p. ix

Freedom of expression is much larger in scope than academic freedom. This principle of freedom of expression encourages the enjoyment of freedom for academicians to do discourses free from any interferences and interventions. However, there are many cases subjected to academicians where they have been in a condition of fear to do research and to teach even to voice out their opinions based on the educational backgrounds that they possess. The problem is, somehow, interfered by the external political matters on the countries. Article 19 paragraph (2) of the International Covenant on Civil and Political Rights (ICCPR) clearly mentions the right to freedom of expression.

Historically, academic freedom cannot be separated from the role of university since the existence of University in the world during 9th century. Academic freedom has become a distinguished concern between university and other institutions ever since. The *Authentica Habita*,⁴ an important document which was written in 1155 AD by the Roman Emperor Frederick I Barbarossa,⁵ is claimed as the key founding document of academic freedom in the European medieval university history. Internationally and widely recognized, on the date of 18th of September 1988, 430 university rectors signed the *Magna Charta Universitatum*,⁶ a document that was founded by University of Bologna and

⁴ *Authentica Habita* or *Privilegium Scholasticum* was a law issued by Roman Emperor Frederick I Barbarossa at the Diet of Roncaliga in 1155 to ensure the safety of scholars during their travel to universities and during the time they spend at such schools. In a time where roads were unsafe, and cities were becoming dangerous, Barbarossa felt that scholars need to be protected from the threats they were faced with. He believed that scholars shed light on the world, and he felt compassion for those “who for love of learning choose exile and poverty and divest themselves of their patrimony while exposing themselves to every peril and suffering what must be most grievous to endure bodily injuries without cause from the vilest of men”. See further at Saturday, Nicole Slack, 2012, *Authentica Habita and the Protection of Medieval Roman Scholars*. Thin Tweed Line: The History and Practice of Higher Education, <http://humanstudy.org/2012/03/17/authentica-habita-and-the-protection-of-medieval-roman-scholars/>, accessed on 7th of November 2018 at 3:23 pm

⁵ Frederick I Barbarossa was known as the Holy Roman Emperor from 2nd of January 1155 until his death. He was elected King of Germany at Frankfurt on 4th of March 1152 and crowned in Aachen on 9th of March 1152. He was crowned King of Italy on 24th of April 1155 in Pavia, Roman Emperor by Pope Adrian V on 18th of June 1155 in Rome. Moraw, Peter, “Heiliges Reich, in: Lexikon des Mittelalters”, *Munich & Zurich: Artemis 1977 – 1999*, Volume 4, 1999, Cambridge, Cambridge University Press, p. 28

⁶ See further at Observatory Magna Charta Universitatum, *Magna Charta Universitatum*, <http://www.magna-charta.org/>, accessed on 8th of November 2018 at 8:05 am

serves as a universal inspiration for European universities to celebrate traditions and encourage bonds.

Proponent of academic freedom believe that scholars, as a part of university, have had critical role in prevailing and disseminating truth.⁷ However, in fact, scholars are being targeted for repression because of their ability to control and to shape the information for public. In the information era like nowadays, it is undeniable when scholars have the role to shape the quality and flow of information in society. It is repressive authorities and other external powers that create the threat to scholars' obstacle.⁸ When scholars attempt to speak for the ideas, facts, even truths that are inconvenient to external political groups or to authorities, they may find themselves being targeted even a threat to job loss, imprisonment, or death.

II. Research Method

A. Type of Research

This research is a juridical-normative⁹ research which uses a combination of comparative and statutory approach¹⁰ in analyzing the issue of the protection of academic freedom for scholars in Indonesia under the Universal Declaration of Human Rights 1948. Beforehand, it tries to elaborate in-depth discussion on how academic freedom develop historically. In this study, the author uses the method of exploration method that aims to recognize or get a new view of a phenomenon which is often

⁷ Tierney, William G. and Vicente M. Lechuga, "The Social Significance of Academic Freedom", *Cultural Studies Critical Methodologies*, Volume 10(2), 2010, New York, SAGE Publications, p. 129

⁸ De George, Richard T., 1997, *Academic Freedom and Tenure: Ethical Issues*, United States of America: Rowman and Littlefield Publishers.

⁹ Soerjono Soekanto and Sri Mamudji, 2007, *Penelitian Hukum Normatif, Suatu Tinjauan Singkat*, Jakarta, PT. Raja Grafindo Persada, p. 12

¹⁰ Gusti Ngurah Wairocana, 2013, *Pedoman Pendidikan Fakultas Hukum Universitas Udayana*, Bali, Fakultas Hukum Universitas Udayana, p. 75

able to formulate the research problem more precisely or to formulate the research hypothesis.¹¹

B. Type of Data

Source of data in this research were collected by secondary data method. It is a method of research to collect data from the library research or literature study. The secondary data to be searched are:

1. Primary Legal Material such as legal documents, legislations, and treaties which have relevancy to the research should be obtained.
2. Secondary Legal Material consists of several books, journals, news, and related articles to the protection of academic freedom for scholars under the Universal Declaration of Human Rights 1948.
3. Tertiary Legal Material is a material, which supports the research. It covers the legal materials that provide instructions or explanations of primary and secondary legal materials from the outside field of law, e.g. the field of politics, sociology, language as supporting material or complementary.

C. Method of Collecting Data

The method of collecting data in this research is done by library research such reading, analyzing, and deriving conclusion from related documents (Charters, Declarations, Law Books, Legal Journals, Websites and other documents which related to the main problem of the research).

¹¹ Sukandarrumidi, 2002, *Metodologi Penelitian*, Yogyakarta, Gadjah Mada University Press, p. 61

D. Method of Data Analysis

The method of data analysis in this research is done by analyzing systematically through juridical qualitative. Systematically means the research will be analyzed international laws, municipal laws and other norms which related to the human rights matters especially academic freedom. Juridical qualitative means it would relate to the principle of law, convention, and other related regulations.¹²

III. Finding and Analysis

A. Academic Freedom: From the Ancient Greek Civilization to the End of World War II

The first noteworthy ancient history of academic freedom in western perspective occurred in 399 BC when Socrates, a great philosopher, was tried and executed to death by Athenians after spurious charges of his teaching's impiety and corruption.¹³ Socrates has won the people's heart. In histories of western philosophy, the execution of Socrates is represented as judicial murder where the Athenians attempted to stifle their conscience voice by terminating the cleverest and noblest.¹⁴ During his lifetime, Socrates tried to waken up the Athenians' moral and intellectual complacencies. The impact of his effort was creating his own enemies against the most powerful men in the city.¹⁵ At that time, the Athenians was in doubt about the effectiveness of democracy as the form of governance. There Socrates came up and criticized the government until he was charged to a trial as an expression of political infighting.¹⁶

¹² Hancock, Beverly, 2002, *An Introduction to Qualitative Research*, Leicester, Trent Focus Group, p. 2

¹³ Steward., Doug, "Taking Liberties: Academic Freedom and Humanities", *Profession*, 2008, New York, Modern Language Association, p. 146

¹⁴ Hansen, Mogens Herman, 1995, *The Trial of Sokrates – from the Athenian Point of View*, Copenhagen, The Royal Danish Academic of Science and Letters, p. 3

¹⁵ Crabtree, David, 2003, *Academic Freedom and Fundamentalism*, <http://msc.gutenberg.edu/2003/09/academic-freedom/>, accessed on 23rd of December 2018 at 7:30 pm

¹⁶ Wilson, Emily R., 2007, *The Death of Socrates*, Cambridge, Harvard University Press, p. 55

The issue of academic freedom continued until the turning period of Before Christ to Anno Domini. The issuance of *Corpus Juris Civilis* from 529 to 565 AD by Eastern Roman Emperor Justinian I marked the new era of academic freedom development in the western world. It was a modern collection of all fundamental works in Roman jurisprudence. The work marked the beginning of the modern time of academic freedom development in the western world. It was such an integral part of the old Roman law to modern Roman law as the previous law had been in ruling for over 1,000 years. The result was more comprehensive and systematic than any previous documents¹⁷. In this code, the protection of scholars was reasserted and emphasized whenever and wherever the Roman traditions were.

In the late 11th century AD, the first university in the Western world was established in 1088. It was University of Bologna (Italian: *Università di Bologna*, UNIBO) in Bologna, Italy, as the pioneer of what we call “University” today. The ruling Roman Emperor at that time, Frederick I Barbarossa, gathered four law experts, known as Four Doctors¹⁸ (Latin: *Quatuor Doctores*) namely: Bulgarus, Jacobus de Boragine, Martinus Gosia, and Hugo de Porta Ravennate¹⁹ and the founder of legal scholarship in Bologna, Irnerius²⁰ to express their opinions pertaining the controversy at the Diet of Roncaglia, a Roman Empire general assembly of the nobles and ecclesiasts. Except for Martinus Gosia, the others declared themselves in favour with the Empire. The result of the meeting was the promulgation

¹⁷ Anonymous, 2000, *Corpus Juris Civilis*, The Columbia Encyclopedia 6th Edition, <https://www.encyclopedia.com/social-sciences-and-law/law/law-divisions-and-codes/corpus-juris-civilis>, accessed on 25th of December 2018 at 9:45 pm

¹⁸ The Four Doctors of Bologna were Italian jurists and glossators in the 12th century based in the University of Bologna. The four doctors were teacher in the Bologna School of Law which based on glosses and commentaries on the rediscovered *Corpus Juris Civilis* or Code of Justinian. See further at Wessels, Johannes Wilhelmus and Michael H. Hoeflich, 1908, *History of the Roman-Dutch Law*, South Africa, Africa Book Co., p. 115

¹⁹ Wessels, Johannes Wilhelmus and Michael H. Hoeflich, *Ibid*.

²⁰ Irnerius, also spelled Guarnerius or Warnerius, was an Italian scholar during the year 1050 – 1125 who revived Roman legal studies in Italy and noted legal glossators. He was the teacher of the famous Bulgarus, the most prominent of Bolognese glossator in the second generation. See further at Anonymous, 2001, *Irnerius: Italian Legal Scholar*, Encyclopedia Britannica, <https://www.britannica.com/biography/Irnerius>, accessed on 26th of December 2018 at 9:45 am

of *Authentica Habita* or *Constitution Habita* or *Privilegium Scholasticum* by the Roman Emperor Frederick I Barbarossa consequently. By the time of the declaration, the University was legally declared as an independent place to do research and the Roman Empire undertook the role to protect scholars during their travel for the purpose of study from any political authorities' interference.²¹

The modern period of academic freedom occurred during the age of discovery until present. The beginning of modern Academic Freedom may be traced upon the founding of the Leiden University in the Netherlands in 1575. Leiden received less restrictions of a religious and political restraints upon the scholars and students.²² Subsequently, it was followed by the development of culture and education in European continent, especially in Italy, between the mid-14th and the late-16th centuries which is known as Renaissance.²³

Along the modern period of Renaissance passed by, there were many scholars begun to produce their thoughts and writings. Martin Luther²⁴ pioneered the freedom of thought during that time by writing his thoughts on Ninety-five Theses or Disputation on the Power of Indulgences²⁵ in

²¹ University of Bologna, *Op.Cit.*

²² Brickman, William W., "Academic Freedom: Past and Present", *Journal of Thought*, Volume 3(3), 1968, Caddo Gap Press, p. 154

²³ Renaissance (French: Rebirth) is a period in European civilization transiting the Late Medieval Ages to the Early Modern Period. In this period, the European begun to develop their educational system. It also witnessed the age of exploration, where in this age knowledges were developed by bringing new ones from the destinations back to Europe to be learnt. See further at Monfasani, John, 2016, *Renaissance Humanism, From Middle Ages to Modern Times*, New York, Routledge, p. ii

²⁴ Martin Luther was a monk and scholar from Germany. He later became the Western most significant figure in history after he wrote a document named Ninety-five Theses attacking the Catholic Church for its corrupt practice of selling indulgences to the sinner. He pointed out two major beliefs, namely: the salvation may be given to human only if they have a faith to the God and not by their deeds in accordance to the Bible as the central religious authority and the campaign of Protestant Reformation. See further at Anonymous, 2009, *Martin Luther and the 95 Theses*, History.com, <https://www.history.com/topics/reformation/martin-luther-and-the-95-theses>, accessed on 5th of January 2019 at 12:52 pm

²⁵ Indulgence is a teaching of the Roman Catholic Church to reduce the amount of the sinner punishment after the death in the hereafter. The sinner will get a reduction of its punishment in the process of purification or commonly known as Purgatory. See further at Peters, Edward N., 2008, *A Modern Guide to Indulgences: Rediscovering this Often-Misinterpreted Teaching*, Chicago, Liturgy Training Publications, p. 13

1517. It was a rejection to the teaching of Indulgences by the Roman Catholic Church. In the Ninety-five Theses, he proposed an academic discussion of indulgences to discuss further and to know the efficacy of it. Luther voiced out that salvation and eternal life are not earned by good deeds but are given as gift from God's mercy and grace through Jesus Christ believers' faith. However, it resulted in his excommunication²⁶ and condemnation as an outlaw by the Pope Leo X and Holy Roman Emperor Charles V at the Diet of Worms in 1521²⁷.

The work that has been done by Martin Luther resulted to a change of religion course and cultural history in the West. The Catholic Church was divided, and the Protestantism emerged shaped by his ideas. Luther was not alone to fight the truth, he was accompanied by John Calvin²⁸ and Huldrych Zwingli²⁹ to reform the church and later founding the Protestantism, one of the three Christianity branches. From this case, it shows us the role of scholars to fight for the truth according to their educational backgrounds. After for centuries they have lived under the tyranny of priest and king combined. The Renaissance and Reformation movements teased the power of these two superpowers over men's mind³⁰.

²⁶ Excommunication is a medicinal type of punishment under the spiritual believe of Roman Catholic Church under the Canon Law that deprives the guilty of the sinner in the blessing of ecclesiastical community. This is regulated under the canon 1312 of the Code of Canon Law.

²⁷ Hillerbrand, Hans J., 1998, *Martin Luther*, Encyclopedia Britannica, <https://www.britannica.com/biography/Martin-Luther>, accessed on 5th of December 2019 at 12:21 pm

²⁸ John Calvin (French: Jean Cauvin) was a theologian and ecclesiastical statesman that leading the French Protestant Reformer as the result of Martin Luther ideas. He was the most important figure in the Protestant Reformation second generation. He later made *Insitutio Christiane Religionis* (Institute of the Christian Religion) as his interpretation of Christianity. See further at Bouwsma, William J., 1998, *John Calvin*, Encyclopedia Britannica, <https://www.britannica.com/biography/John-Calvin>, accessed on 5th of January 2019 at 1:52 pm

²⁹ Meanwhile in Swiss, the Protestant Reformation led by Huldrych Zwingli, a famous religious leader. The Swiss reformation was the only reformer in 16th century that were not evolve into the church. Zwingli accepted the Scriptures supreme authority but applied it more comprehensive to all Christianity doctrines and practices. See further at Bromiley, Geoffrey W., 1998, *Huldrych Zwingli*, Encyclopedia Britannica, <https://www.britannica.com/biography/Huldrych-Zwingli>, accessed on 5th of January 2019 at 1:57 pm

³⁰ De Dijn, Annelien, "The Politics of Enlightenment: From Peter Gay to Jonathan Israel", *The Historical Journal*, Volume 55(3), 2012, Cambridge, Cambridge University Press, p. 785

In the 18th and 19th century, there were many newly established nation-states universities which received threat to their universities' autonomy from the government. Scholars were subject to governmental authorities and could teach what government has agreed before. Napoleon Bonaparte, a famous Emperor of the French, made some restrictions upon academic freedom and tried to centralize higher education.³¹ This problem led to a reform in Germany initiated by Wilhelm von Humboldt,³² later so-called Humboldtian Education Ideal. Humboldt enshrined the educational reform with two concepts of *Lehrfreiheit* (Freedom to Teach) and *Lernfreiheit* (Freedom to Learn) under the rubric of *Akademische Freiheit* (Academic Freedom).³³ These two concepts were firmly established and applied into some universities around Europe with state permission such University of Leiden in the Netherlands which provided freedom from political and religious restraint for its academic members.³⁴

The outbreak of World War I (WW I) and World War II (WW II) have given many changes to the development of human rights in the world. One major important event that happen after the end of the WW II was the declaration of Universal Declaration of Human Rights (UDHR) on by the UN.³⁵ It remarked the beginning of the new era for human rights in the world. It was introduced by Franklin Delano Roosevelt on 6th of January 1941 and was adopted by the UN as it was grounded from the insufficient

³¹ Brickman, *Op.Cit*, p. 155

³² Friedrich Wilhelm Christian Karl Ferdinand von Humboldt (1767 – 1835) was a philosopher, diplomat, linguist, and government functionary from Prussia who founded Humboldt University of Berlin. He was famous for his theory of Education Ideal which later known as Humboldt Model. It is a concept of academic education in the 19th century which its core idea is a holistic combination of research and studies and integrates comprehensively between arts and sciences. See further at Hohendorf, Gerd, "Wilhelm von Humboldt", *Prospect: The Quarterly Review of Comparative Education*, Volume 23(3-4), 1993, London, Cambridge University Press, p. 622

³³ Dea, Shannon, 2018, *A Brief History of Academic Freedom*, University Affairs, <https://www.universityaffairs.ca/opinion/dispatches-academic-freedom/a-brief-history-of-academic-freedom/>, accessed on 13th of January 2019 at 6:15 pm

³⁴ Anonymous, 1998, *Academic Freedom*, Encyclopedia Britannica, <https://www.britannica.com/topic/academic-freedom>, accessed on 13th of January 2019 at 7:13 pm

³⁵ Article 19 of Universal Declaration of Human Rights (UDHR). GA Res 217A (III). 10 December 1948. A/810 91.

of the basic freedoms' definition in the UN Charter.³⁶ Consist of 30 articles in which its Article 18 – 21 focused on the constitutional liberties with political, spiritual, and public freedom such as freedom of thought, freedom of opinion, freedom of religion, and freedom of conscience. Article 19 emphasizes the essential freedom of opinion and expression without interference.

B. A Long Journey of Academic Freedom in Indonesia: From the Proclamation to the Reformation

Gained its independence on 17th of August 1945, Indonesia begins to build the country after being colonized by British, Portuguese, Dutch, and Japanese for more than 3 centuries consecutively. It was led by Soekarno and Mohammad Hatta, two of Indonesian's most prominent nationalists, who pronounced Indonesian's proclamation and started the Order under the leadership of Ir. Soekarno as the first President of Indonesia and accompanied by Drs. Mohammad Hatta as its Vice President.³⁷ Since then until now, there has been three eras of Indonesian government, namely Old Order (1945 – 1965),³⁸ New Order (1965 – 1998), and Reformation Era (1998 – Present).

Academic freedom cannot be separated from basic political freedom. Freedom to express academic opinions, to pursue research and scholarship, showing that the important role scholars have, yet, it can be a threat to the authorities whom their interest are against. Authorities,

³⁶ Universal Declaration of Human Rights, <https://archive.is/AsgR>, accessed on 20th of January 2019 at 9:11 pm

³⁷ See further at Haryono Rinardi, "Proklamasi 17 Agustus 1945: Revolusi Politik Bangsa Indonesia", *Jurnal Sejarah Citra Lekha*, Volume 2(1), 2017, Semarang, Universitas Diponegoro, p. 143 – 149

³⁸ Soekarno was promoted as a lifetime president of the Republic of Indonesia by Majelis Permusyawaratan Rakyat or MPR (English: People's Consultative Assembly) based on MPRS Decree No. III/MPRS/1963 on the Promotion of the Leader of Indonesian Revolution Bung Karno to be the Lifetime President of the Republic of Indonesia. This decision was argued both positively and negatively by many scholars.

somehow, perceive scholars are their burden to achieve their interests. In case of Soeharto, the second President of Indonesia, in fact, New Order brought Indonesia into the stability on politics and sustainability on economic policymaking, however, it cost for undemocratic political situation created by the government through strong repression to the press and opposition groups.³⁹

At the same moment, as an international effort to uphold justice on human rights matters, the UN issued the International Bill of Human Rights as the result of the UN General Assembly Resolution 217 (III). This resolution consists of the UDHR which was adopted on 1948 and established two covenants in 1966 namely the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social, and Cultural Rights (ICESCR). These two covenants officially came into force on 1976. The ICCPR covers the basic political rights of human such rights to life,⁴⁰ freedom of religion,⁴¹ freedom of speech,⁴² freedom of association,⁴³ electoral rights,⁴⁴ rights to due process as well as fair trial,⁴⁵ etc. Meanwhile, the ICESCR covers the economic rights such labour rights,⁴⁶ rights to health,⁴⁷ rights to education,⁴⁸ rights to standard of living,⁴⁹ etc. Soeharto's regime did not pay attention a lot on the international affairs on human rights until his two-third terms of presidency.

Soeharto was succeeded by his last Vice-President, Bacharuddin Jusuf Habibie or Habibie. Since then, Indonesia experienced extensive legislative changes in the country. Habibie's short time of Presidential office

³⁹ Saunders, *Op.Cit.*

⁴⁰ Article 6 of the ICCPR

⁴¹ Article 18 of the ICCPR

⁴² Article 19 of the ICCPR. As such stipulated-on Article 19 of the UDHR, ICCPR also mandates the guarantee and protection of the freedom of speech. This Article is the basis of the academic freedom protection in the world.

⁴³ Article 22 of the ICCPR

⁴⁴ Article 25 of the ICCPR

⁴⁵ Article 14 and 15 of the ICCPR

⁴⁶ Article 6, 7, 8, and 9 of the ICESCR

⁴⁷ Article 12 of the ICESCR

⁴⁸ Article 13 and 14 of the ICESCR

⁴⁹ Article 11 of the ICESCR

focused more on the effort to lift economy of Indonesia out from the Asian financial crisis.⁵⁰ On the other hand, he also restored the freedom back to the people by lifting restriction on political parties and dissolving the Ministry of Information that was responsible for the censorship.

Habibie initiated to hold a democratic election in 1999.⁵¹ Issuing many democratic legal provisions to protect freedoms, post-Soeharto's government tried to dismantle the Soeharto's barriers and its legacies. MPR held a *Sidang Istimewa* (Special Session) and issued the MPR Decree No. XVII/MPR/1998 on Human Rights. This Decree granted a freer freedom and mandated the state institutions to disseminate, respect, and protect human rights.⁵² There were not many important events happened during Habibie's rule. His short period was ended in 20th of October 1999 and was succeeded by Abdurrahman Wahid who colloquially known as Gus Dur.

Period of Gus Dur was full of tolerance. Gus Dur often laughed at all comments and critics directed to him. His sense of humour made him easy-going with all of it.⁵³ However, due to the radical policies he made for such changing ministries without his Vice-President of Megawati Soekarnoputri's approval and revoke the MPRS Decree No. XXV/MPRS/1966 on the Dissolved of the PKI, Statement as the Prohibited Organization in the Entire Territory of the Republic of Indonesia, and Prohibition on Every Activity to Spread or to Develop

⁵⁰ Indonesia faced the Asian financial crisis in July 1997. It was all started by the attack on currencies. Thailand was the first one who suffered the attack. Thai Baht (THB) was depreciated in July 1996 and contagiously impacted to the Indonesian Rupiah (IDR) the next year later. Following the THB depreciation, Bank Indonesia committed a preemptive action by widening its intervention band from 8% to 12%. Due to that action, many Indonesian banks went bankrupt and the rest chose to merger to avoid the worst result. The crisis led to the massive demonstrations in Indonesia resulted to the fall of Soeharto in the following year. See further at Hong Kong Institute of Economic and Business Strategy, 2000, *Asian Financial Crisis: Causes and Development*, Hong Kong, Graphicraft Limited, p. 7 – 8

⁵¹ O'Rourke, Kevin, 2002, *Reformasi: The Struggle for Power in Post-Soeharto Indonesia*, Sydney, Allen & Unwin, p. 145

⁵² Article 1 of the MPR Decree No. XVII/MPR/1998 on Human Rights

⁵³ Tri Agus Siswiharjo, 2018, *Cara Gus Dur Mengkritik dan Menjawab Kritik Sambil Menertawakan Diri Sendiri*, Mojok.Co, <https://mojok.co/tas/esai/cara-gus-dur-mengkritik-dan-menjawab-kritik-sambil-menertawakan-diri-sendiri/>, accessed on 31st of January 2019 at 9:15 pm

Communism/Marxism-Leninism Teachings that made him left alone by his own cabinet ministers. He was impeached by the MPR on 23rd of July 2001⁵⁴ and succeeded by his Vice-President, Megawati Soekarnoputri as the fifth President of the Republic of Indonesia.

Diah Permata Megawati Setiawati Sukarnoputri or Megawati is the first woman President ever in Indonesia and the sixth to lead a Muslim-majority country in the world.⁵⁵ She was in office for president from 23rd of July 2001 – 20th of October 2004. Her presidency was an icon for the rise of Soeharto's regime opposition. However, her presidency gave not much significant developments even went to indecisiveness, unclear ideological direction, and lack of action on important policy issues.⁵⁶ Besides, a famous and prominent human rights violation case occurred few months before her fall of presidency, that was the case of the assassination of Human Rights activist, Munir.

SBY took the presidential office since 20th of October 2004 until 20th of October 2014. His 10-years of presidency has failed to live up his promises in solving the past human rights violation cases and the murder of Munir case as he promised during his campaign in 2004. However, many scholars appreciated SBY for protecting press freedom in the country.⁵⁷ What SBY did to deal with critics directed to him was only complaining. SBY did not even use repressive means against the critics.⁵⁸

⁵⁴ Sunarno, "Pemberhentian Presiden Republik Indonesia Dari Masa ke Masa", *Jurnal Wacana Hukum*, Volume 9(2), 2011, Palembang, Univertas Sriwijaya, p. 88 – 89

⁵⁵ The first is Benazir Bhutto of Pakistan's Prime Minister (1988 – 1990 and 1993 – 1996), the second is Khaleda Zia of Bangladesh's Prime Minister (1991 – 1996 and 2001 – 2006), the third is Tansu Çiller of Turkey's Prime Minister (1993 – 1996), the fourth is Sheikh Hasina Wajed of Incumbent Bangladesh's Prime Minister (2009 – Present), and the fifth is Mame Madior Boye of Senegal's Prime Minister.

⁵⁶ Lindsey, Tim, 2008, *Indonesia: Law and Society*, Australia, The Federation Press, p. 17 – 19

⁵⁷ Wahyu Haryo, 2014, *SBY dan Jurnalis, Benci tapi Rindu*, KOMPAS, <https://nasional.kompas.com/read/2014/09/08/07000061/SBY.dan.Jurnalis.Benci.tetapi.Rindu>, accessed on 3rd of February 2019 at 6:15 pm

⁵⁸ Anonymous, 2014, *Kebebasan Pers Diapresiasi Selama 10 Tahun Pemerintahan SBY*, Suara Pembaharuan, <https://sp.beritasatu.com/home/kebebasan-pers-diapresiasi-selama-10-tahun-pemerintahan-sby/64069>, accessed on 3rd of February 2019 at 6:22 pm

One year after he took the office, SBY ratified two covenants namely the ICESCR and the ICCPR into the Law. The Law No. 11 Year 2005 on the Ratification of the International Covenant on Economic, Social, and Cultural Rights and the Law No. 12 Year 2005 on the Ratification of the International Covenant on Civil and Political Rights. The consequence on these ratifications is to seek Indonesia's government effort in upholding the basic human rights. Substantially, this is one step forward for the enforcement of human rights in Indonesia.

C. Jokowi's Democratic Decline and Academic Freedom

SBY ended his second term as the President of the Republic of Indonesia in 2014 and replaced by Joko Widodo as the seventh President of the Republic of Indonesia. Joko Widodo or Jokowi was named president-elect on 22nd of July 2014 after defeating Prabowo Subianto as his opponent. Jokowi is a low-profile person and a former governor of the Capital City Jakarta before he goes to 2014 presidential election. Because of his down-to-earth personality and his style of campaign which is known as a *Blusukan* (impromptu visit), he won many people hearts thereof. However, within his 4 years of presidential term office, many people argued that his regime turns to be an authoritarian leader with unclear ideological direction.⁵⁹

As time goes by, Jokowi's regime becomes anti-critics to the public. DPR proposed an article of "Majesty" law which imprison individual who insults President in the public with 5 years of imprisonment on Article 263 and 264 of the Bill of Criminal Code. Furthermore, it was getting worse when the Police issued the Chief Police Circular Letter No. SE/6/IX/2015 on the Handling of Hate Speech. Looking back to New Order, Soeharto ever used such these regulations to 'fight' back his political opponents.

⁵⁹ Power, Tom, 2018, *Jokowi's Authoritarian Turn*, New Mandala, <https://www.newmandala.org/jokowis-authoritarian-turn/>, accessed on 4th of February 2019 at 3:04 pm

Fortunately, those laws were canceled by the MK because it against the Constitution, the President is treated equal before the law, and the Articles are so vulnerable to be abused.⁶⁰ Jokowi's regime is argued to take an authoritarian turn and goes further than his predecessor in post-Soeharto periods in treating executive bodies, law enforcement bodies, and security apparatus to achieve their personal agendas.⁶¹

Year 2017 was a year of political tense in Indonesia between the Islamic Political issues and Indonesian governmental affairs.⁶² The aftermath of Ahok case led to an issuance of a policy made by Jokowi to crack down what so-called 'radical Islam'. The policy was the Regulation-In-Lieu of Law No. 2 Year 2017 on the Changes of Law No. 17 Year 2013 on Community Organization or PERPPU⁶³ Ormas. The first victim of this policy went to Hizbut Tahrir Indonesia (HTI) as its permission was revoked. Despite the HTI case, this policy has wrecked the peace of religious life in Indonesia and SARA become more intense to be talked than ever in the country. Even worse, it goes to academic life which many scholars have been accused for being 'radical' and 'intolerant' of supporting the HTI.

Life in the country has been polarized ever since. Those who are against Ahok, a criminal of blasphemous comment, and pro-HTI often called as 'radical', 'intolerant' even 'Anti-Pancasila'. This effect is often called as 'Ahok Effect'. Vice versa for those who comment Habib Rizieq case often gets intimidation even persecution.⁶⁴ Data which compiled by

⁶⁰ Constitutional Court Decision No. 013-022/PUU-IV/2006 canceled Article 134, Article 136 bis, and Article 137 from the Indonesian Penal Code and decided that these Articles have no legal power.

⁶¹ See further at Lindsey, Tim, 2017, *Is Indonesia Sliding Towards a 'Neo-New Order'?* Indonesia at Melbourne, <http://indonesiaatmelbourne.unimelb.edu.au/is-indonesia-sliding-towards-a-neo-new-order/>, accessed on 5th of February 2019 at 8:15 pm

⁶² Hasbi Aswar, "Destructing the Islamism in Indonesia: Joko Widodo Policy and Its Controversy", *International Journal of Malay-Nusantara Studies*, Volume 1(1), 2018, Makassar, Universitas Hasanuddin, p. 63

⁶³ PERPPU is an abbreviation for Peraturan Pemerintah Pengganti Undang-Undang or Regulation-In-Lieu of Law/Interim Law

⁶⁴ Lalu Rahardian, 2017, *The Ahok Effect, Warga Agresif Buru 'Penista Agama'*, CNN Indonesia, <https://www.cnnindonesia.com/nasional/20170527151727-20-217678/the-ahok-effect-warga-agresif-buru-penista-agama>, accessed on 7th of February 2019 at 9:44 pm

Southeast Asia Freedom of Expression Network (SAFE NET) for the first semester of 2017 shows that, at least, there are 59 people have been subjected to intimidation after criticizing HTI. Out of all cases, 34 took place after Habib Rizieq named as a suspect for pornography chat on May 2017.⁶⁵ All of them were alleged to violate Article 28 (2) of the Law No. 11 Year 2008 on Information and Electronic Transaction or the ITE Law.

This action of persecution has spread evenly throughout the country and even targets scholars. In the mid of 2018, a Professor of Pancasila at UNDIP Semarang was suspended from his teaching post because of his statements on social media of supporting HTI.⁶⁶ Suteki is known as he often updates status on Facebook regarding the *Khilafah* and Pancasila. As he is a Professor of Pancasila, he has a capacity to speak on Pancasila even to compare it with *Khilafah* teachings. He must have academic standing in saying that point.

The newest case of violation of academic freedom just happened on early 2019. A former philosophy lecturer at UI got reported to the Police for blasphemous comment when narrating “*kitab suci itu fiksi*” or “holy books are fictitious” at Indonesia Lawyers Club (ILC) Television Show.⁶⁷ The moment was happened on April 2018, but the case is being investigated on February 2019. Rocky Gerung called for five hours of Police Interrogation for word ‘Fiction’ that he said during the ILC show. Rocky, Suteki, and other victims are academicians who responsible for what they have spoken academically, not judicially.

⁶⁵ Marselinus Gual, 2017, *Korban Persekusi ‘The Ahok Effect’ Tercatat Mencapai 59 Orang*, CNN Indonesia, <https://www.cnnindonesia.com/nasional/20170601163649-20-218744/korban-persekusi-the-ahok-effect-tercatat-mencapai-59-orang>, accessed on 7th of February 2019 at 9:14 pm

⁶⁶ Damar Sinuko, 2018, *Diduga Pro-HTI, Guru Besar Undip Prof Suteki Dinonaktifkan*, CNN Indonesia, <https://www.cnnindonesia.com/nasional/20180606222408-20-304123/diduga-pro-hti-guru-besar-undip-prof-suteki-dinonaktifkan>, accessed on 9th of February 2019 at 7:15 pm

⁶⁷ Anonymous, 2019, *Lecturer Accused of Blasphemy Grilled for Five Hours Over the Word ‘Fiction’*, The Jakarta Post, <https://www.thejakartapost.com/news/2019/02/03/lecturer-accused-of-blasphemy-grilled-for-five-hours-over-the-word-fiction.html>, accessed on 9th of February 2019 at 8:45 pm

The urge of having a special action and provision to deal with academic activities which intersect with political, criminal, or civil matters is crucial. Before executing the report, Police might do pre-investigation to assess whether the case is worth handling or not. The assessment can be a way to still respect the academic freedom while enforcing justice. Indeed, the job of protecting academic freedom is not easy. The UDHR has promoted the enjoyment of academic freedom in Article 19 with its clear limitations and gave birth to many international legal instruments. The last effort lies to the political will of the country itself.

IV. Closing

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 food 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 a 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 of 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.

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.

B. Recommendation

Constitutionally, Indonesia must amend the 1945 Constitution of the Republic of Indonesia to protect academic freedom on the Constitution. Legislatively, Indonesia needs to formulate a new and specific law concerning academic freedom and make it as comprehensive as possible. Practically, 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. 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*.

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