

CHAPTER ONE

INTRODUCTION

A. 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:

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 performace 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

“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

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. To be exact, this article emphasizes that the right shall include the freedom to seek, receive and disseminate information and ideas of all kinds, either orally

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

or in writing, in the form of art, or through other media of the choice. However, there are 2 exceptions recognized in Article 19 paragraph (3) of the ICCPR to restrict the freedom of expression as regulated in paragraph 2 and shall be provided by law, namely:

1. For respect of the rights or reputations of others;
2. For the protection of national security or of public order (*ordre public*), or of public health or morals.

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*

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

Universitatum,⁶ a document that was founded by University of Bologna and serves as a universal inspiration for European universities to celebrate traditions and encourage bonds. On the fundamental principles of the *Magna Charta Universitatum* Article 1 stated that:

“The university is an autonomous institution at the heart of societies differently organized because of geography and historical heritage’ it produces, examines, appraises and hands down culture by research and teaching. To meet the needs of the world around it, its research and teaching must be morally and intellectually independent of all political authority and economic power”.

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.

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

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.

Example of the targeted attack took place in 2017 when an Information and Technology's expert from Institut Teknologi Bandung (ITB), Hermansyah, received bloody attack from strangers in a highway around South Jakarta. The attack presumed as a revenge to what he has done in the trial which he revealed, based on his expertise, a fake chat of an Ulema named Rizieq Syihab.⁹ Maneger Nasution, Commissioner of *Komisi Nasional Hak Asasi Manusia* (KOMNAS HAM) or National Commission on Human Rights of the Republic of Indonesia, demanded to the Police to find and arrest the culprits of this attack because this case shows how bad the protection of human rights especially for academicians.¹⁰ Suteki and Hermansyah are not the only victims of violation of academic freedom. People know that during the early age of Indonesia, persecution against scholars were often used to fight the opponent on politics.

B. Statement of Problem

How is the history and development of academic freedom in the world and its protection for scholars in Indonesia based on the Universal Declaration of Human Rights 1948?

⁹ Callistasia Anggun Wijaya, 2017, *Police Arrest Two People who allegedly Attacked IT Expert*, The Jakarta Post, <http://www.thejakartapost.com/news/2017/07/12/police-arrest-two-people-who-allegedly-attacked-it-expert.html>, accessed on 14th of May 2018 at 1:55 pm

¹⁰ Maneger Nasution believed that the culprits behind the case of Hermansyah's attack are professionals. By seeing the wounds after the attack, it looks like it has been done by professional criminals. Although there is many news said that the Police of Indonesia presumes the culprits were drunk when they did the attack, but Komnas HAM is in opposite with that statement and believes that it was not an accidental attack but more to planned one. It has a mastermind. See further at Jay Akbar, 2017, *Spekulasi di Balik Pembacokan Terhadap Hermansyah*, Tirto.id, <https://tirto.id/spekulasi-di-balik-pembacokan-terhadap-hermansyah-csoZ>, accessed on 20th of December 2018 at 1:34 pm

C. Objectives of Research

The objective of the research is to know the history and development of academic freedom in the world and how it protects scholars based on the Universal Declaration of Human Rights 1948

D. Benefits of Research

1. Theoretical Benefits

The research reveals the history and development of academic freedom in the world. Furthermore, the research also grants an in-depth theoretical understanding of knowledge on freedom of academic and its protection for scholars in Indonesia based on the Universal Declaration of Human Rights 1948.

2. Practical Benefits

The research describes how far the protection of academic freedom for scholars in Indonesia and give recommendations to settle the problems that occur on the execution and implementation of freedom of academic in Indonesia based on the Universal Declaration of Human Rights 1948.

E. Systematic of Writing

The research consists of five chapters, namely: Chapter One of Introduction, Chapter Two of Literature Review, Chapter Three of Research

Method, Chapter Four of Finding and Analysis, and Chapter Five of Conclusion and Recommendation.

The aim of the research is to analyze the protection of academic freedom in Indonesia under the Universal Declaration of Human Rights 1948 by understanding the history and development of academic freedom in the world. The research also finds that the protection of academic freedom for scholars is essential. The role of scholars is important as they are brain resources of the country. Besides, scholars also have the ability to reveal the truth to the public based on their knowledges.

The major principle of academic freedom gives an enjoyment to the scholars and students to do the discourses free from any interferences and interventions. Chapter One of Introduction tries to elaborate the background of the issue by giving two cases as the example and historical background of the development of academic freedom. Classical principle of academic freedom was founded as the need to protect the scholars during the war time. In 1155 AD, Roman Emperor Frederick I Barbarossa issued the *Authentica Habita* as a written legal document to protect the scholars during their travel and stay.

It was followed by the declaration of the Universal Declaration of Human Rights by Franklin Delano Roosevelt during the World War II in 1941 introducing Four Freedoms. Later in 1948, the United Nations (UN) adopted the Declaration and issued the 30 articles of universal freedoms. This declaration is the foundation of many legislations in the future such the

International Covenant on Civil and Political Rights 1966, the International Covenant on Economics, Social, and Cultural Rights 1966, the *Magna Charta Universitatum* by the University of Bologna, and many more legislations.

Chapter Two of Literature Review elaborates the general theories related to the issue. It provides the definitions of academic freedom according to some scholars, types of academic freedom, importance and challenges of the enforcement of academic freedom in Indonesia. These four points are essential in understanding the issue comprehensively.

Methodology of the research is given in the Chapter Three of Research Method. In this chapter, the type of research, the type of approaches, the type of data consists of primary, secondary, and tertiary legal materials, and collecting data with its data analysis method are given comprehensively.

The main discussion is given in the Chapter Four of Finding and Analysis. The research tries to answer the issues by elaborating comprehensively the historical development of academic freedom in three periods, namely: Classical Civilization on the ancient Greek history, Medieval Ages, and Modern Period. Another sub-chapter is the long journey protection of academic freedom since the proclamation of the Republic of Indonesia until the Reformation Era which starts from Soekarno until Susilo Bambang Yudhoyono. Lastly, in this chapter, the research tries to expose academic freedom violations in the recent presidential period of

Joko Widodo and how it is supposed to be to protect academic freedom for scholars based on the Universal Declaration of Human Rights.

To sum up the research, Chapter Five of Conclusion and Recommendation concludes the research and gives some personal recommendations based on the findings and analysis throughout the research to answer the issue of the protection of academic freedom for scholars in Indonesia.