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MORAL AND JUSTICE AS THE PHILOSOPHICAL BASIS OF LEGAL EDUCATION: A CRITICISM OF THE INDONESIAN MINISTRY OF EDUCATION'S "MERDEKA BELAJAR" AND "KAMPUS MERDEKA" CONCEPTS

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Abstract: The Indonesian Ministry of Education and Culture has applied the 'Merdeka Belajar' (Freedom to Learn) and 'Kampus Merdeka' (The Freedom Campus) (abbreviated MBKM) learning concepts. In legal education, these concepts aim to form legal students who master the knowledge, skills, and competence demanded by the job market. Unfortunately, these programs lack the fundamental vision to create honest individuals of law that have integrity. This paper analyzed the MBKM program that only envisions catering students to the needs of the job market and how that policy neglects the essence of legal education, namely morals and justice. This research employs the philosophical approach. Without morality, the legal sector will become a facility for destruction through moral hazards such as corruption, collusion, and manipulation. A legal expert should ideally strive to demand and uphold justice, truth, goodness, and virtue, as well as the integrated and personal moral ideals that are non-existent in the MBKM concept. The MBKM policy in legal education needs to be revised as legal education should emphasize its philosophical essence; namely the perspective of justice can only be achieved through moral integrity. Contribution of completed study to modern education to remind, the philosophical essence is still needed.

Keywords: Merdeka Belajar, Kampus Merdeka, law, education, philosophy, morality, justice.

Introduction

The Indonesian Ministry of Education and Cul-

ture has issued and applied the 'Merdeka Belajar' (Freedom to Learn) and 'Kampus Merdeka' (The Freedom Campus) learning concepts, in-

cluding to the realm of legal studies in this country. 'Merdeka Belajar' and 'Kampus Merdeka' (abbreviated MBKM or Merdeka Belajar Kampus Merdeka) are education concepts from the Ministry of Education and Culture (Siregar, 2021, pp. 142-151). In the context of legal education, these concepts aim to form legal students that master various knowledge, skills, and competence that are useful for entering the job market after graduating from the faculty of law (Ningsih, 2021).

Indonesia experiences an acute issue, namely the lack of law enforcement. Lawmakers and law enforcers have individual and group interests that can lead them to become involved in illegal cases. Law enforcement has turned into an arena of tug of war between various interests that aim to extract profits immorally and uphold interests other than truth and justice. Law enforcement that is not enlightened by philosophy, morals, and justice will become unclear. It will not be able to handle the arising legal issues. On the contrary, it will result in negative excess.

Many legal paradoxes have happened. They can visibly be seen in the various phenomena reported in electronic or mass media. For instance, police officers "made peace" with traffic law violators by accepting bribery (or what is locally called "money for peace", i.e. giving money to police officers, so traffic law violators do not need to attend a trial for their wrongdoing). Apart from that, there have been many cases where judges, prosecutors, and lawyers were red-handedly caught by the Commission for Corruption Education for their crimes of corruption.

There were events where judges' decisions upon cases hurt the sense of justice, such as convicting corruptors or perpetrators of serious crimes such as drug smuggling with light sanctions. Meanwhile, a prosecutor sued a poor old lady with severe sanctions for stealing fruits due to hunger. Then, the police force captured and imprisoned a person who tried to defend himself from robbery. There were legal issues that truly and philosophically contradicted morals and justice. Indonesia is a legal state, but unfortunately, it does not reflect it (Ediwarman, 2010, p. 2). Law enforcement is in chaos. Worse yet, Indonesia has a high rate of corruption, and it has terrible integrity (Shidarta, 2000).

Indonesians await law enforcers with morality and integrity that understand philosophical jus-

tice. Such law enforcers will create a just law that will civilize and develop the nation (Soejadi, 2003). But unfortunately, Indonesian law and its enforcement are almost always coloured with unobstructed deviations. The legal realm shows a messy reality. This saddening situation in the legal realm is filled with widespread legal deviations and the misuse of law committed by the law enforcement apparatus (Hastuti & Soehartono, 2018, pp. 34-41). This was proven by the many uncovered illegal cases that involved law enforcers. In the end, the legal realm is constrained by unconstructive individuals, thus failing to reach substantial justice (Darmodiharjo & Shidarta, 2006).

Messy law enforcement is not solely the responsibility of the government and the law enforcement apparatus. But rather, it is also the responsibility of all social components, especially during the legal education stage. In Indonesia, there are mentality patterns where people like to find shortcuts. They prefer the easy way rather than the correct way. They violate laws, or on the contrary, some blindly follow the laws without understanding the moral or justice philosophies. It cannot be denied that the essential issues that happen in the above examples illustrate terrible moralities and widespread injustice (Reihanhart, 1985, p. 1).

When the Ministry of Education and Culture launched the MBKM program, in the second paragraph of his speech, the General Directory of High Education stated that the MBKM concept was applied to create an autonomous and flexible learning process in high education, to create an innovative and unrestricted learning culture that caters to the needs of the college students. This policy also aims to increase the link and match between education and the business and industrial climates. This aims to prepare university students for the working climate from an early stage (*Empat Amanah Kebijakan Merdeka Belajar Kampus Merdeka*, 2020).

The expectation that there will be a substantial improvement in legal education is extinguished, as the MBKM program lacks a fundamental vision in legal education, namely how to create honest individuals of law that have integrity. This program only aims to increase the link and match between work opportunities and the legal students' needs. In other words, so far, legal education only tends to educate legal crafters to

become skilled in *a sich* applying procedural regulations without understanding the substance of the law, which is justice (Budiono, 2018, p. 241).

The philosophy of morals and justice are crucial values to be internalized in legal education. All individuals in the legal realm must necessarily behave and act morally and justly in their daily activities and in enforcing or upholding the law.

Learning legal studies without understanding the philosophical perspective of the law will trap and make the learner feel lost. This is because she only learns the law from the narrow legal rationality perspective. This narrow legal rationality is learning the law for the sake of law rather than learning it for the sake of humanity or justice. Moral and justice philosophies in legal studies can bring people to a better civilization and achieve an enlightening legal dimension (Shobroh, 2013, p. 17). The paper will analyze and criticize the MBKM program that only envisions creating educated and skilled individuals in the legal realm and how that policy neglects the essence of legal education, namely morals and justice, which are philosophically the soul of legal studies.

Method

This research method was normative juridical research with a philosophical approach. Judicial empiric methods mean this research is based on data, curriculum and the concept of MBKM and seeks comparison with previous legal education concepts. The philosophical approach or method perceives the philosophical factor as a core item in legal education. It must be acknowledged that law without justice will lead to arbitrariness (Kusumohamidjojo, 2011). Moral and justice are the most fundamental virtual values of law. Thus, these philosophical values cannot be exchanged with anything. The relationship between philosophy as the mother of science and the law, as well as justice, is to seek a rational exit from the restraints of life by using the applicable laws to reach justice. The role of philosophy will never end because it does not only examine one side. Rather, philosophy examines an unlimited number of sides (Kuswardani, Kurnianingsih, & Prakoso, 2018, pp. 18-27).

A philosophical approach is used to see the essence and value of the MBKM program, starting from the ontological, epistemological, and axiological sides. By dissecting the MBKM program from a philosophical perspective, the values and essences in the program will show their compatibility or incompatibility with a legal education that contains morality and justice as essential values in law. So it was found that there was a discrepancy in values with the essence of legal education that already existed at this time, so criticism or reconstruction became an offer to show the weaknesses of the current MBKM program.

The philosophical approach is an approach that finds, examines, and arranges data using theories or philosophy. The philosophical approach is employed because philosophy concentrates on values and essence. This approach is necessary because it results in critical and logical answers. The philosophical approach contains metaphysics, ontology, epistemology, and axiology as the departing point in answering the contexts of legal education (Budiono & Izziyana, 2018, p. 94).

Discussion

The Merdeka Belajar-Kampus Merdeka Policy: An Idealism

The formulators of the MBKM policy forgot the essence of the Republic of Indonesia's Law No. 20 of 2003, which stipulated that the National Education System is the entire of the educational components that are integratively related to achieving a national education aim which is responsible, and skilful (Khairunissa, Baiquni, & Pratama, 2021). Law No. 20 of 2003 on the National Education System has, as such, illustrated the ideal Indonesian citizen (Sugiarta, Mardana, Adiarta, & Artanayasa, 2019, pp. 124-136). It means that having good morals and being responsible are the main philosophies of education. This is then followed by skills and knowledge in legal education.

The '*Merdeka Belajar*' educational paradigm is currently directed to the efforts to (Yamin & Syahrir, 2020, pp. 126-136):

1. Equalizing the opportunity for all Indonesians to obtain a quality education so that it can also be accessed by isolated, underdeveloped, and

- bordering areas as opposed to only being available in the cities.
2. Forming professional and accountable educational institutions as the culturing centre of knowledge and skills.
 3. Optimizing society's roles in establishing education based on the participative principle in the context of the Republic of Indonesia Unified State.
 4. The learning in the *Kampus Merdeka* provides challenges and opportunities to develop the creativity, capacity, personality, and needs of university students, as well as developing independence in seeking and finding knowledge through the reality and dynamics in the field, such as skill requirements, real issues, social interactions, collaboration, self-management, performance demands, targets and its achievements (The Republic of Indonesia's Ministry of Education and Culture, 2020, p. 2).

The MBKM formulation only emphasizes the aspects of skill and knowledge so that law students are educated in legal education. It is dangerous if legal education does not have the vision to increase the process quality of the legal education system to optimize the creation of a personality that does not only have morale but also knowledge. Without morality, skills, management, and knowledge in the legal sector, it will become a facility for destruction through moral hazards such as corruption, collusion, and manipulation (Ahmad, Fadilah, Ningtyas, & Putri, 2021, pp. 66-85).

The MBKM Policy's Negative Excess in the Legal Education Aspect in Influencing the Nation and the State

Critiques were also expressed by the Secretary of the Assembly of High Education, Research, and Development, the Central Leadership of Muhammadiyah (a large Muslim organization in Indonesia), and Muhammad Sayuti. Sayuti perceived that the Minister of Education and Culture, Nadiem Makarim, did not conduct an in-depth analysis of the MBKM policy. "It is unfortunate that the Minister created a policy without an in-depth political analysis. Even though an academic script is not required for a Ministerial Decree, without a better understanding of the

campus life, the changes he made were so drastic," he said (Radianto, 2020).

Apart from thinking capabilities and skills, the learning process in the MBKM program for legal education should not only involve the philosophical aspects of morality and justice. Studying for legal education also requires two other skills, namely mental attitude and activities. According to Benjamin S. Bloom, as quoted by Djamarah (2001), this domain is named the philosophical essence in education, including legal education, that has become the educational essence up to now. Because of that, the aim of learning should not only be oriented towards material mastery, but it must also provide long-term experiences in the form of philosophical internalization. In this case, the values are honesty, integrity, and justice (Djamarah, 2013).

It seems that the Minister of Education and Culture was in a hurry to socialize the MBKM policy without comprehensive analysis. This Ministry should have a comprehensive preparation before applying to the MBKM program. Comprehensive examinations and pilot projects should be conducted by involving some universities in undergoing research. The evaluation results of the comprehensive examinations must then be observed together. The improvement on the application model should emerge from university academicians that understand the legal education that should not *an sich* legal capabilities in the skill aspect. Through this pattern, if the MBKM is effectively applied, its participants will have a sense of belonging, namely, a sense of morality and justice.

Legal Education in Indonesia with the moral and justice philosophies will overlap with the doctrinal-empiric and the profanity-realist. The philosophies of justice and morality are the main and fundamental ideas in clear and inclusive legal education. They will become the rational consideration that eradicates the normativism constraint that often contradicts justice. In legal education, the students must be able to think critically rather than merely becoming funnels of laws with mentalities that are free from dogmatism and fanaticism (Sidharta, 2006).

A person who undergoes legal education needs common sense and morals to reject the negative influences that will mislead her from reaching justice. She must be able to read contextual and psychological interpretations. She must

also understand the law and its philosophies. This is so that she may understand the law and justice beyond what is merely written in the legal codes (Philosophy Lecturer Team Universitas Gadjah Mada, 2006).

The aim of legal education in MBKM that was proclaimed by the Ministry of Education and Culture cannot be separated from what is happening in Indonesia and what the government wills. The aim of legal education is “not an autonomous process” but “it is a process that functionally demands the following of political developments, especially politics that concern governmental policies and efforts to make use of the law to reach objectives that are not always in the realm of law and/or justice” (Cholisin, 2010).

With this research, the authors proposed the revision of the MBKM legal education concept. The law that is in the hands of a legal expert that is a funnel of the law will fail to understand the context behind legal actions or issues. Thus, he will maximally prosecute a hungry old lady who took a piece of bread due to hunger, or he became an obstruction of justice, as the authors indicate in several cases. This is because the legal expert fails to understand beyond the script.

A legal expert must understand the *juridisch denken*, which is a special inter-logic used by legal scholars with the foundation of legal philosophy, values, principles, concepts, and systems with the essence of morality and justice. Without these essences, the law will be completely meaningless. With this research, the authors proposed to give the MBKM the philosophical essence of legal education, which is justice and moral integrity.

From the background of the study above, it is indicated that the MBKM program in Indonesian legal education is contrary to the essential values of Indonesian law, where the basic essence and value is morality and justice. If the MBKM program is not in accordance with these values, it will affect the progress of learning also its learners. Hence by doing philosophical research, it hopes that the program made by the government can use the essential values to show its epistemological, ontological, and axiology to construct new legal education based on morality and justice.

Those who do not study legal studies (graduates of law) will be confused and fail to understand due to a different logical thinking frame-

work. Logic is thinking straightly and correctly, but it is not the truth itself. To understand the *juridisch denken* logic, the way to go is to study the philosophy of morality and justice. Why should law students understand the philosophy of morality and justice? Because that is the essence of the law.

Legal studies is a rational science. But the rationality perspective in legal studies does not only emphasize legal dogmatics. Many opinions have views in a narrow perspective that the law is dogmatic. Textually, the law is dogmatic as it is created from authoritative texts, i.e., the products of the authorities that are applied to the people under their rule (Ibrahim, 2019, pp. 170-180).

But beyond the sheath of legal dogmatics, some values are deemed to contain moral messages. The philosophical messages from the law are values of justice, benefit, and moral integrity (Busro, 1989).

These values emerge from a high legal education that works to create legal graduates that are able to apply the *juridisch denken* logics, thus later becoming the foundation of the law graduates' mindset. This must be considered in the MBKM concept.

If one wishes to achieve *juridisch denken*, there is no other way but to study the philosophy of justice and morality. Its understanding is closely linked to learning various perspectives on the essence of the law. Thus, by studying and strongly upholding justice and morality, a thought paradigm will resolve various legal issues critically, scientifically, and philosophically. When a legal issue is resolved using morality and justice, it means that the law has achieved the ideal expected by jurists and legal experts from time to time (Shidarta, 2000).

As a legal state (*Rechtsstaat*), Indonesia principally aims to uphold legal justice (*justitie protectiva*). The law and legal ideals (*Rechtidee*) as a manifestation of justice for all Indonesians are one of the five Indonesian national principles. The manifestation of legal justice and human civilization stands due to the legal system, legal objective, and legal ideals (*Rechtidee*) that are upheld in justice that presents morality, integrity, and virtue (Dimiyati et al., 2021, pp. 1-8).

A legal expert should ideally strive to demand and uphold justice, truth, goodness, and virtue, as well as the integrated and personal moral ideals that are non-existent in the MBKM concept. This

concept forms and educates legal experts to merely become law enforcers that are absorbed in the job market (Prasetyo & Barkatullah, 2017).

The MBKM concept does not understand justice and moralities that are essentially and philosophically the heart and soul of the law. It has no understanding of the legal education that emphasizes that justice (*justitie*) comes hand in hand with morals and integrity. The philosophies of morality and justice refer to the values and objectives of what and how commutative, distributive, and protective justice are to achieve the physical and mental welfare of all Indonesians. In essence, this is the first and most fundamental objective of the law.

The MBKM program may actually produce graduates that lack attention towards the sense of justice in society. There have been many cases where the judges' decisions hurt the people's sense of justice as they only orient towards procedures and regulations or they lack good morale. When graduates of law lack morality and integrity, what commonly happens is that law apparatus are red-handedly caught protecting criminal perpetrators, are involved in bribery, or committed corruption by 'selling' the law, i.e., catering the law to orient towards the interests of those who grant them money (Wignjosoebroto, 2002).

This condition happens due to the legal education in Indonesia. Legal education produces graduates that deviate from the objectives and essences that must ideally be reached. Legal education in Indonesia should be able to create law graduates that manifest a law that protects the people's interests. To be able to protect the people, the law must be applied strictly and justly.

A violated law must be upheld through law enforcement. Law enforcement desires legal justice to be achieved through morality and integrity. The law is justiciable protection against arbitrary actions. Society understands that philosophically and essentially, the law is the existence of justice. This is because, with legal justice and its moral and integrated application, there will be order, peace, and security in society (Khambali, 2014, pp. 1-18).

Society expects benefits from the enforcement of the law. The law is for humans. Thus, its application must benefit society. On the contrary, its application should not cause concerns. A so-

ciety that obtains good, just, and correct treatment will manifest an orderly and peaceful condition. The law will be able to protect the rights and obligations of each individual in true reality. The legal objectives will be achieved through strong legal protection.

Currently, the application of the MBKM concept in legal education emphasizes the education for legal skills as opposed to producing law graduates that understand the essence and philosophy of law, namely justice. Such a legal education results in law apparatuses that are restrained by procedures or artificial boundaries in the form of regulations. They are also trapped in conditions that lack morality and integrity. Such prevents the achievement of true justice (Dwisvi-miar, 2011, pp. 522-531).

The legal education concept that merely orients towards legal skills has so far created graduates that lack a holistic understanding of the essence of legal studies. The legal studies become dry and rigid. It fails to achieve justice in the realm of reality as the graduates do not understand the essence and philosophy of law. Justice that is produced from this type of legal education will only create no more than procedural justice. This condition brings concerns that require change so that there is no gap between *das sein* and *das sollen* (Absori, 2017).

These legal problems in Indonesia stem from the legal education that misses its essence. At the start of its establishment, the opportunity to obtain legal education in Indonesia (formerly called the Dutch East Indies during the Dutch colonial era) was only granted to Javanese royals as legal education was perceived as a way to prepare officials (*ambtenaar*) for the Dutch East Indies government. Even though it was coloured with rejections from Dutch experts, the Rechtschool was still opened to prepare professional workers or legal practitioners (Winarta, 2009, p. 67).

The application of the deterministic legal education that merely emphasizes legal skills was marked by the establishment of the first law school in Batavia (currently Jakarta, Indonesia's capital city) in 1922. This law school kept on developing until now. Its methods are taught to candidate advocates, prosecutors, and judges. Thus, it is no wonder that legal education's objectives strongly influence the law enforcement aspect (Kusumohamidjojo, 2011).

The MBKM policy should not emphasize the

vision of learning to only create graduates that are only absorbable in the job market (Hendri, 2020, p. 3), but they must also have a sense of justice and morality. The MBKM policy must not repeat the bitter history of legal education that turns the legal condition into a forest of formality with procedures and bureaucracy of legal establishment. The legal education materials in the MBKM policy do not orient towards growing the integrity and honesty of graduates. But it only aims to create an understanding of the new and old concepts as well as special constructions. The side effect of this type of legal education is that it only creates graduates that work as legal operators. As a result, the law only becomes an artificial institution that is far from society (Anwar & Adang, 2008, p. 108).

People will not be able to freely strive for justice unless it is channelled through legal mediators such as judges and advocates to reach procedural justice through the available legal lanes as they doubt integrity and honesty (Budiono et al., 2022, pp. 223-233). An ideal legal education cannot be separated from the application of the principle of *tut wuri handayani*. It is the Indonesian education's slogan, a short form of the full slogan, *ing ngarsa sung tuladha, ing madya mangun karsa, tut wuri handayani* meaning 'giving a good example from the front, igniting the spirit from the centre, and giving encouragement from the back'. It is a real manifestation that has meaning for the learners in education as the educators provide encouragement, guidance, and training from real examples (Hendri, 2020, p. 3). By applying the principle of *tut wuri handayani*, honesty and integrity will be formed.

The result of the survey showed that there is some deficiency in the MBKM program, especially for legal education, hence the government need to some review relate to the program does it will give good affection to the students or not because legal education does not only aim to create educated and smart people in law so that they are absorbed in the job market, but it also aims to create people with morale and a vision for justice. Legal education should be a comprehensive process to prepare law graduates that philosophically understand substantial justice with good moral philosophy, apart from having skills in the legal studies subject. Skills in legal studies without good philosophy of justice and morality will create a terrible disaster for humanity.

Conclusion

The Indonesian Ministry of Education and Culture needs to revise the MBKM policy, especially in legal education. Legal education should emphasize the philosophical essence of legal studies, namely the perspective that justice can only be achieved through integrity. Philosophically, the law's first and most basic foundation is to create a just condition. This can only be achieved through good morals, as the law has the job of achieving legal values and objectives according to the legal ideals. It also aims to create order in society.

On the contrary, legal education does not only aim to create educated and smart people in law so that they are absorbed in the job market, but it also aims to create people with morale and a vision for justice. Legal education should be a comprehensive process to prepare law graduates that philosophically understand substantial justice with good moral philosophy, apart from having skills in the legal studies subject. Skills in legal studies without good philosophy of justice and morality will create a terrible disaster for humanity.

Apart from skills, the great vision of the MBKM policy should emphasize the philosophies of justice and morality. The formulation of the MBKM policy that only emphasizes the aspect of skills and knowledge for the legal graduates will endanger Indonesia's future, as the skills and knowledge in the legal aspect will become a facility to destruct through moral hazards such as corruption, collusion, manipulation, and misappropriation.

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