

Chapter 4

A Normative Juridical Study of Internationalization of Indonesian Higher Education Institution

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ABSTRACT

Internationalization is an emerging trend in the development of higher education institutions (HEIs). Around the world, several projects and university associations and collaborations are launched to enhance internationalization including in Indonesia. For Indonesia, internationalization is an inevitable process and considered as a strategic step that Indonesian government should take in the globalizing world, especially after the ratification of the General Agreement on Trade in Services (GATS) by the government in 1994. Since then, the Government of Indonesia revises and produces policy and statutory regulations to promote international education in Indonesia and guarantee a good practice of integration of international dimension. Although many studies have been conducted to analyze this trend, very few studies focus on the legislations support for internationalization. For this purpose, the authors analyze the regulation with a normative juridical approach.

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INTRODUCTION

Background

Internationalization is an emerging trend in the development of higher education institutions (HEIs). It has become the goal of many academic presidents, rectors, or vice-chancellors. Around the world, projects, university associations, and collaboration programs are launched to enhance the internationalization of higher education institution, such as China 211 Project, Brain Korea 21 Project, and Japan's Global 30 Project, NAFSA: Association of International Educators in U.S.A., and Spanish Agency for International Cooperation (AECI) in Latin America (Foskett, 2010; De Witt & Callan, 1995; Teichler, 2005). A study by Henard, Diamond, and Roseveare (2012) on the perceptions and experiences of the members of the OECD Higher Education Programme (IMHE) towards internationalization revealed that both HEIs and government consider internationalization a significant factor for development. They believe that it will lead to innovation, modernization of the pedagogy, collaboration, and stimulation of new approaches to learning assessment.

According to Jane Knight (2008), internationalization is a process of integrating international, intercultural, or global dimension into the purpose, functions, or delivery of higher education at the institutional and national level. It is an ongoing and continuous readjustment of the system (Knight, 2004; Luijten-Lub, 2007) and a change of internal dynamics of a HEIs (Ellingboe in Bartell, 2003) to internalize international dimensions. With the increasing attempts for internationalization, more and more higher education institutions implement international activities such as improving the standards of educational delivery to international level, promoting international linkages through research, academic mobility for students and staffs (Oyewale, 2009), encouraging international participation, and reducing curricular parochialism (Mauch & Spaulding, 1992). The result of internationalization is to enable HEIs to be responsive to the challenges put forward by globalization as well as to enrich the competitive advantage and survive the global competition.

Universities in Indonesia also embark on internationalization. According to Ainun Na'im, a Secretary-General for Higher Education at Ministry of Education and Culture (Humas UGM, 2009), internationalization is an inevitable process and considered as a strategic step that Indonesian government should take in the globalizing world, especially after the ratification of the General Agreement on Trade in Services (GATS) in 1994. Following, the Government of Indonesia revises and produces policy and legal documents to promote international education in Indonesia, to guarantee a good practice of mobility, and to support the balance of outbound and inbound students. Law Number 20 of 2003 on National Education System¹ sets the purpose of education system as to create quality, relevant, and globally competitive education for the betterment of Indonesian society. To achieve this goal and to cope with the challenges presented by globalization, the government upgrades the standard of national education and adapts to international standard. Consequently, in 2005 the government produces Government Regulation Number 19 of 2005 on National Standard of Education². The regulation emphasizes that global environment should be taken into account in creating the standard of national education (Article 2), establishment of internationally-oriented secondary education in each province in Indonesia and one international higher education institution is necessary (Article 61), and 3) educational institutions will be evaluated in term of their performance at global level (Article 83).

To support the implementation of internationalization agenda, the government produces Higher Education Long Term Strategy (HELTS) and the Ministry of National Education Strategic Plan 2010-2014

(hereinafter referred to as 2010-2014 MONE *Renstra*). The first document perceives internationalization as a means to increase national competitiveness (Direktorat Jenderal Pendidikan Tinggi, 2004); whilst the second document emphasizes that the way to internationalize the HEIs in Indonesia is by enhancing the institutional competitiveness at both national and global level. In addition, the government expands the higher educational autonomy. The Law Number 12 of 2012 on Higher Education³ certifies the right of HEIs to administer independently their academic activities; organize their teaching, research and service function; and generate external income from society with upholding the principles of public accountability.

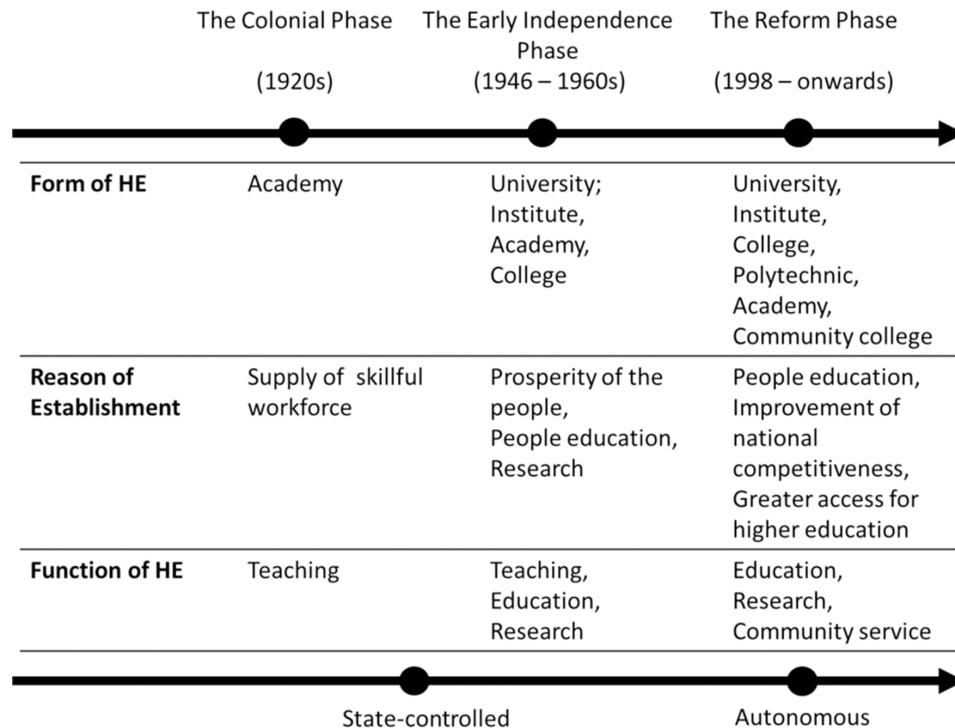
In the last fifteen years, internationalization of HEIs has been studied and become a trending topic in Indonesia. Previous analyses on the internationalization of Indonesian higher education mainly focus on the reasons and strategies of internationalization (see Zulfa 2012; Hakim, 2013; Nayono, 2012), the government's role in the process of internationalization in Indonesia (see Soejaminah, 2009), and the strategy for internationalization (see Effendi, n.d.; Fuadi, 2016). Very view study focuses on the national policy on higher education internationalization. Trondal, Gornitzka, and Gulbrandsen (2003) argue that the study of the internationalization of higher education should heavily focus on the political-executive level including analysis of the national policy reforms. They believe a political-executive level is a meeting place of long term planning and execution of policies for internationalization. With this regard, this study analyzes the national policy on internationalization of higher education in Indonesia from a normative juridical approach.⁴ In specific, this study aims 1) to know if legislation in Indonesia supports the internationalization of higher education, 2) to know the extent to which the provisions contained in the legislation support internationalization, and 3) to highlight the effective implementation of the regulations.

OVERVIEW OF HIGHER EDUCATION IN INDONESIA

Higher education is firstly established in Indonesia in 1920 by the Dutch Colonial Government (Pambudi, 2008). The main purpose of higher education was to train and supply skillful workers to support the Dutch industrial sector, which was badly hit by World War I. In 1946, development of higher education began with the establishment of *Universiteit van Indonesie* by the Dutch government. Referring to the Higher Education Law of 1924, this university is a combination of faculty of Law, medical study, faculty of economy and literature that are based in Jakarta, faculty of agriculture and veterinary in Bogor, faculty of engineering in Bandung, faculty of dentistry in Surabaya, and faculty of economy in Makassar. Shortly after the independence, the Ministry of Teaching and Culture of the Republic of Indonesia created *Universiteit Gadjah Mada* in 1949 and developed higher learning institutions in some regions in Indonesia such as Yogyakarta, Klaten, Bogor, Malang, West- and North Sumatra. Furthermore, the newly established government took over *Universiteit van Indonesie* from the Dutch in 1950 and changed the name into *Universiteit Indonesia*. The Law Number 22 of 1961 on Higher Education⁵ was, hence, established to observe the development of science, the advancement of the culture of Indonesia, and the betterment of the administration of teaching and education in higher learning institution in Indonesia. Article 2 of the Law stipulated the main reasons for the establishment of higher learning institutions were to achieve prosperity of the people of Indonesia, to provide highly educated people to run the government, and to conduct research for the development of science, culture, and community. During this time, three main functions of higher education were teaching, education, and research (Hardjasoemantri in Pambudi, 2008).

Figure 1. Higher education development phase in Indonesia

Source: The authors



In the current time, higher education refers to a post-secondary education in form of diploma, undergraduate, post-graduate, and specialist programs.⁶ Higher education is conducted by HEIs⁷ and administered based on *Pancasila* (the Five Basic Principles of Indonesia), the Constitution of 1945, the unity of the Republic of Indonesia and *Bhinneka Tunggal Ika* (the ideology of unity in diversity).⁸ The main reasons for the development of higher education are to educate the people of Indonesia, to improve the national competitiveness, and to provide greater access for higher education. According to Law 12/2012, the purpose of higher education is to apply *Tridharma* (the three main tasks of higher education), which is education, research, and community service. Based on the Law, education means an effort to improve the quality of Indonesian citizens as a whole; research refers to scientific and systematic activity of information and data generation, which is related to science and technology; and community service is utilization of science and technology to advance the prosperity and intellectuality of the people.⁹

Contrary to the Dutch colonial era, the establishment of higher education institution by the government of Indonesia signifies the importance of scientific and academic freedom for the development of the institution. Article 4 of Law 22/1961 on Higher Education mentions that:

Kebebasan ilmiah dan kebebasan mimbar pada Perguruan Tinggi diakui dan dijamin sepanjang tidak bertentangan dengan serta mengindahkan dasar dan garis-garis besar haluan Negara. [Scientific and academic freedom for Higher Education Institution is acknowledged and guaranteed as long as not conflicted with and follows the foundation and the National Policy Guidelines].

Article 6 of Law 12/2011 enlists the foundations of national policy. They are protection of the rights of the citizen; consideration of the humanity, nationality, and kinship; inclusion of archipelagic aspect and the principle of unity in diversity (*Bhinneka Tunggal Ika*); the principles of justice, equity, legal assurance, balance and equality.

Protection of the rights of the citizen of Indonesia talks about the obligation to protect the rights to access quality education, the responsibility to sustain the quality of higher education for the children of the nation in every generation, and the requirement to uphold and guarantee public order. The principle of humanity concerns the protection, advancement, and fulfillment of basic human rights, including the freedom of the people to form association and assembly. The principle of nationality means national interest is the priority. There should be provisions that regulate the involvement of foreign party in higher education, that will increase the autonomy and welfare of the nation, that will ensure the national ownership of higher education institution and national role in higher education.

The principle of kinship refers to the priority of deliberation in decision making. Involvement of the people in policy making, greater possibility for people to access public information, and greater chance to express their opinion with regard to government policy in higher education are the essence of the principle of kinship. Inclusion of archipelagic aspect means national policy in higher education shall consider and prioritize national interest, national ownership, and national participation. The principle guarantees proportional distribution of power between parties including the power of the central and regional government and protects the interest of each province in Indonesia in the administration of higher education. The unity in diversity principle derives from the diverse cultural, social, religious, racial and group background of the nation. The principle promotes and ensures that policy on higher education include the consideration of this diversity. Accordingly, higher education shall take into account the local wisdom in its academic and managerial life. The principle of justice warrants equal opportunity to access available resources, to receive compensation for negative impacts, and facilitates marginalized community to participate in higher education. Based on this principle, government shall put priority in the involvement of community in remote areas and create affirmative action to cope with social discrepancy.

National policy on higher education must adhere to the principle of equity. It means that it has to admit the right of minority for access to higher education, to eliminate discrimination against minority, to allow woman participation. The principle of legal assurance and order describes the responsibility of the policy to promote clear coordination system and conflict resolution. Lastly, balance and equality refer to the responsibility of the national policy to prioritize public interest before private or individual benefit.

The Law 12/2012 echoes the significance of academic and scientific freedom as well as reinstates the need for scientific autonomy for higher education. According to Article 9 of Law 12/2012, scientific freedom is the liberty of the academics to explore and develop science and technology, academic freedom is the authority of the professor to perform public speech related to his or her discipline, and scientific autonomy means the authority of the academics to discover, develop, reveal, and/or defense scientific truth in accordance with scientific rules and methods and academic culture. Mohammad Mahfud MD (1997), a professor of legal study in University Islam Indonesia, states that academic freedom is fundamental for higher education institution because it eliminates external pressures and assures the academics to produce objective scientific work that can be used to improve the quality of education, national development, teaching and learning activity, research, and freedom of speech and expression.

Recent development of higher education highlights a greater autonomy for higher education institution to manage and control the institution. In the light of knowledge-based economy, the government of Indonesia expects higher education to improve its quality and produce creative, innovative and adaptive

graduates who are capable of overcoming existing problems so that Indonesia can develop a sustainable economic and social structure that is relevant to the changes in the global world (Direktorat Jenderal Pendidikan Tinggi, 2004). Like many countries in Asia, a new direction of higher education development in Indonesia begins with greater autonomy to public universities. The Law 12/2012 guarantees the autonomy of the institution to formulate policy;¹⁰ to manage and control the implementation of education, research, and community service;¹¹ to appoint supervisors and create internal quality assurance committee;¹² to plan and provide academic support or learning resources.¹³ Additionally, it is also authorized to design and execute administrative work and to hire and dismiss staff;¹⁴ to plan for income and expenses;¹⁵ and to manage student enrollment.¹⁶ The reform is ideal and futuristic (Sulistiyono, n.d.) because it gives wider opportunities for higher education institution to interact with stakeholders without having to encounter pressure from the government (Direktorat Jenderal Pendidikan Tinggi, 2004).

Autonomy is a significant ingredient to enhance the quality of higher education in Indonesia. It is given to higher education institution in two channels. The first channel is transforming the institution into a state legal entity. The Regulation of the Ministry of Education and Culture Number 88 of 2014 on Transformation of State-Owned University into State Legal Entity¹⁷ explains that the legal entity status of a university is granted to assure the autonomy of the institution but does not change the ownership of the university. Government of Indonesia remains the sole owner. Transfer of ownership from the government to private party is illegal under the law. The second channel is by granting the status of public service agency. This status indicates the autonomy of a university to manage their finance and budget (Keuangan Negara Indonesia, 2018). The basic principle of public service agency is performance-based budget, which means budget planning should refer to the output of an activity or a program.

WTO AND INTERNATIONALIZATION OF INDONESIA HIGHER EDUCATION

Ratification of WTO on 2nd November 1994 by the Government of Indonesia initiates a nation-wide effort to internationalize the higher education institution. Article 11 of Vienna Convention 1969 defines ratification as a tool used by the state to express a willingness to follow, comply with and implement the contents, provisions and regulations stipulated in an agreement or treaty. Ratification is written in Law Number 7 of 1994 on Ratification of Agreement Establishing the World Trade Organization (An Agreement on the Establishment of World Trade Organization). Accordingly, Indonesia amends the national regulations to ensure the application of trading system and procedures that are in accordance with the provisions and regulations contained in the WTO agreement. Amendment includes the substantial, structural, and cultural component of national legal system (Brotolusiusiolo, 1996).

Trade in services between WTO member countries is arranged in General Agreement on Trade in Services (GATS). GATS is a multilateral agreement consisting of rules and principles governing international trade in services and establishes guidelines for negotiation for future trade liberalization (August in Vlk, 2006). There are four modes of trade and supply of service under GATS. Mode 1 is a cross-border trade. This mode allows the user to receive the service at home country. The second mode is consumption abroad, which means the user travels abroad to receive the service at the hosting country. Next mode is commercial presence. This sort of mode of supply allows foreign provider to enter and trade its service in one country by establishing affiliation with local institution and/or a representative office at the destination country. Lastly is the mode of movement of natural persons. This mode allows

foreign nationals to relocate to a foreign country and provide service at the destination country. These modes of trade and supply set the guidelines for providing international higher education in Indonesia.

METHODOLOGY

Design

This study aims to understand the implementation of higher education internationalization in Indonesia from a juridical point of view. In specific, the authors seek to know if legislation in Indonesia supports the internationalization of higher education, to know the extent to which the provisions contained in the legislation support internationalization, and to highlight the enabling and hindering legal factors for the implementation of the agenda of internationalization. To achieve this purpose, a normative juridical approach is deployed. Legislations are written regulations containing generally binding legal norms and are established or stipulated by state institutions or authorized officials through procedures stipulated in legislation.¹⁸ They function to manage and regulate life in a country as well as provide legal certainty. Analysis of the legislations is based on Law 12/2011. Analysis is performed to see if the provisions postulated in the Laws and Regulations are clear and correct, therefore, providing legal certainty for the implementation of internationalization of higher education. This research aims to answers the three research questions as follow:

1. Do the legislative regulations support the internationalization of higher education in Indonesia?
2. To what extent the legislation supports the implementation of internationalization of higher education in Indonesia?
3. To what extent the legislation can be implemented effectively?

Data

The primary data in this study is the provisions contained in the legislations that support the internationalization of Indonesian higher education. Table 1 highlights the regulations along with the legal percepts that serve as the legal basis for internationalization. The list on the table is arranged in a hierarchical order for analysis purpose.

Data Analysis

This study refers to Law 12/2011 in the analysis of the statutory regulations on higher education internationalization in Indonesia. The Law concerns the establishment of laws and regulations in Indonesia and highlights the standard methods in the establishment of statutory regulations to enforce an integrated, planned, and sustainable legal system. The Law makes sure that the legislations comply with the mandate of the 1945 Constitution to protect the rights and the obligations of the people of Indonesia.¹⁹

Natabaya (2006 as cited in Anggono, 2018) mentions that two types of order are required to uphold the rule of law. They are the order of the basis and the order of the formulation of regulations. The order of basis refers to the basic principles, types, hierarchical order, and content material of regulations. For the purpose of this study, analysis is taken on the order of basis of the regulations.

A Normative Juridical Study of Internationalization of Indonesian Higher Education Institution

Table 1. List of Laws and regulations supporting internationalization

Regulatory Framework	Description	Legal Basis for Internationalization
The 1945 Constitution of the Republic of Indonesia	-	Paragraph 4 of the Preamble, Article 28C (1), 28D (2).
Law Number 20 of 2003 (Law 20/2003)	Regulation on the System of National Education.	Article 12 (3); 33 (3); 36 (3) (c), (f), (i); 50 (3); 65 (1), (3), (4).
Law Number 14 of 2005 (Law 14/2005)	Regulation on Teacher and Lecturer.	Article 65.
Law Number 13 of 2003 (Law 13/2003)	Regulation on Labor	Article 42, 43, 44, 46, 47
Law Number 12 of 2012 (Law 12/2012)	Regulation on Higher Education.	Article 37 (3), 40 (1), 46 (3), 47 (4), 50, 75, 90.
Presidential Regulation Number 20 of 2018 (PRESIDENTIAL REG. 20/2018)	Regulation on Employment of Foreign Worker.	All articles contained in the regulation.
Regulation of the Minister of National Education Number 25 of 2007(MONE REG. 25/2007)	Regulation on the Requirements and Procedures of Foreign Student Enrollment in Indonesian Higher Education Institution.	All articles contained in the regulation.
Regulation of the Minister of National Education Number 14 of 2014 (MONE REG. 14/2014)	Regulation on Collaboration in Higher Education	All articles contained in the regulation.
Regulation of the Minister of Research, Technology, and Higher Education Number 2 of 2016 (MORTHE REG. 2/2016)	Amendment to Regulation of Minister of Research, Technology, and Higher Education Number 26 of 2015 on Registration of Teaching Staff in Higher Education Institution.	Article 7 (2), 7 (3).
Regulation of the Minister of Research, Technology, and Higher Education Number 100 of 2016 (MORTHE REG. 100/2016)	Regulation on the Establishment, Transformation, Dismissal of Public Higher Education Institution, and Establishment, Transformation, Revocation of Permit of Private Higher Education Institution.	Article 11.

Source: The authors

Referring to the basic rules of forming a good legislation,²⁰ the regulations are analyzed in terms of the appropriateness and effective implementation of legislations. Annex of the Law 12/2011 writes that appropriateness means the content material of the statutory regulations shall be in conformity with the type and the hierarchical order of the legislations. The types and the hierarchical order of the legislations in Indonesia are the 1945 Constitution, the Decision of the People's Consultative Assembly, Law/ Government Regulation In lieu of Law, Government Regulation, Presidential Regulation, Provincial Regulation, and Sub-Regional Regulation,²¹ respectively.

Effective implementation can be observed in the ability of the government to issue delegated legislative regulations and the enforceability of the regulation. Enforceability means the legal precepts written in the regulation are still effective. A law or regulation will be cancelled if, by a thorough review, found to be issued by a non-authorized person or institution (Nurmawati & Atmaja, 2017).

FINDINGS AND DISCUSSION

Legislative Support for Internationalization

Internationalization is a process of engaging international elements into the life of HEIs. Since 1999, the government publishes Laws and regulations that govern the process of internationalization of HEIs. The objective is to ensure that the process is carried out in accordance with the national principles of education and is beneficial to Indonesia and its citizens. A review of the prevailing regulations found that the legislations support the implementation of internationalization in five major activities, namely international student, foreign language utilization, foreign teacher, international collaboration, establishment of foreign institution in Indonesia, and international publication.

International Student

Possibility to enroll international students in Indonesian higher education institution is asserted in Article 12 (3) of Law 20/2003. It is mentioned that “*Warga negara asing dapat menjadi peserta didik pada satuan pendidikan yang diselenggarakan dalam wilayah Negara Kesatuan Republik Indonesia*” [Foreign nationals may become a student in an educational institution located in the territory of the Unitary State of Republic of Indonesia]. This provision is repeated in Article 37 of Law 12/2012. All foreign nationals who live in Indonesia or overseas and enroll in Indonesian higher education institution are counted as foreign students.²² Based on Law 12/2012, enrollment of foreign students shall consider the academic qualification, study program, number of foreign students, and location of institution.²³ Further requirements regarding foreign student enrollment is arranged in Ministerial Regulation.²⁴ There are three main procedures to enroll to Indonesian higher education institution for foreign student; they are sending a direct application to the intended institution and/or, following a university entrance test, and filing for study permit.²⁵ For visa, students may apply in their home country or in Indonesia. Nowadays, generally, hosting institutions will arrange the visa application. Regulation of the Minister of Law and Human Rights Number 52 of 2016 extensively elaborates the requirements and procedures for the issuance of student visa and student visa stamp. Tuition fee for international students enrolling in Indonesian higher education institution is different from one university to another. The amount of tuition fee for foreign student is decided by the institution with the permission from the Minister of Treasury. Foreign national may attend to degree and non-degree program in Indonesia. Degree program covers diploma, undergraduate, and post-graduate study and non-degree includes training program or short course in language, art, or culture. To attract more international students studying in Indonesia, the government launches *Darmasiswa* scholarship. *Darmasiswa* is “a scholarship program offered to all foreign nationals from countries which have diplomatic relationship with Indonesia to study *Bahasa* (Indonesian language), art, and culture” (*Darmasiswa*, n.d.). This scholarship only applies to a non-degree program.

Foreign Language

Article 33 (3) of Law 20/2003 allows the utilization of foreign language as a language of instruction in a learning process to improve students’ language skill. Article 37 of Law 12/2012 reinstates the provision in the usage of foreign language in higher education. Nonetheless, no other provisions written in Law

20/2003 and Law 12/2012 further explain the usage of foreign language in educational institution in Indonesia. The laws do not also delegate the government to formulate regulations regarding this matter.

International Collaboration

Article 50 of Law 12/2012 extensively discusses about international collaboration in higher education. According to Article 50 (1) of the Law, international collaboration means “... *proses interaksi dalam pengintegrasian dimensi internasional ke dalam kegiatan akademik untuk berperan dalam pergaulan internasional tanpa kehilangan nilai-nilai keindonesiaan*” [... process of interaction to integrate international dimension into academic activity to involve in international community without losing the Indonesian values]. Collaboration between Indonesian and foreign higher education shall be based on the principles of equality and mutual respect.²⁶ Collaboration in the implementation of education, research, and community service program²⁷ between foreign and Indonesian institution shall promote science, technology, and humanity. Three ways to implement collaboration between foreign and Indonesian institutions are cooperation in the implementation of quality education, establishment of center of study for Indonesian and local culture in Indonesia or overseas, and development of an independent scientific community.²⁸

MONE REG. 14/2014 oversees the procedures and requirements of collaboration between foreign and Indonesian higher education institution. According to the regulation, collaboration is agreement between Indonesian higher education institution and higher education institution, business entity, or other entity in Indonesia or in other country.²⁹ The main objective of collaboration is to improve effectivity, efficiency, productivity, creativity, innovation, and relevance of the implementation of *Tridharma* to enhance national competitiveness.³⁰ Legal and accreditation status of foreign higher education institution is significant in establishing collaboration between foreign and Indonesian higher education.³¹ Article 4 of the regulation describes that Indonesian higher education institution may collaborate with other party in academic and non-academic program. Academic program includes education, research, community service, internal quality assurance, twinning program, joint and double degree, credit transfer, visiting lecturer, student and lecturer exchange, resource sharing, joint publication, internship, joint seminar or workshop.³² The regulation allows higher education institution to perform other deemed necessary academic program than those mentioned in Article 7 of the regulation.³³ Implementing instruction on collaboration in academic activity is written in Decision of DGHE 64/DIKTI/Kep/2000.

Article 33 of MONE REG. 14/2014 describes non-academic collaboration as agreement to cooperate in asset utilization, fund raising program, service and royalty of intellectual property rights, and other non-academic activity deemed necessary.³⁴ MONE REG. 14/2014 also emphasizes the requirement to validate collaborative action between Indonesian and foreign higher education in agreement letter.³⁵ The agreement letter should be written in Indonesian and foreign language³⁶ and shall be signed by chairperson of each institution (foreign and Indonesian higher education institution).³⁷ A document of partnership agreement functions to clarify the rights and obligations, procedures and provisions for the implementation of activities, prevent fraud, bind all parties to carry out their respective duties and responsibilities, and provide protection over common goals.

Partnership agreement that produces intellectual property rights and national asset must clearly mentions about the prevailing regulations on intellectual property rights and national asset³⁸ and also the rights and responsibility of each contracting party to follow through the invention.³⁹ Article 3 of the decision mentions funding of activity in collaboration might be in form of grant, loan, or sharing of costs by the contracting party. What is important in the funding of activity is that the mechanisms should be

agreed upon by all parties involved in the agreement. The strategic plan and the operational provisions of collaboration between foreign and Indonesian higher education institution is determined by the higher education institution and written in its statute.⁴⁰

Establishment of Foreign Institution

Law 20/2003 and Law 12/2012 allow foreign institution to organize educational activity in Indonesia. Based on Article 65 of Law 20/2003 and Article 90 of Law 12/2012, the establishment of foreign HEIs in Indonesian territory should be based on collaboration between foreign institution and Indonesian HEIs and follow the rules and regulations prevailing in Indonesia. Article 65 (5) of Law 20/2003 explains that further arrangement for the establishment of foreign HEIs shall be explained in Government Regulation, meanwhile, Article 90 (6) of Law 12/2012 states the permission for foreign institution to administer educational service in Indonesia is arranged in Ministerial Regulation

MORTHE REG. 100/2016 accommodates the idea to establish foreign HEIs in Indonesia. Article 9 (a) of the regulation postulates the possibility to establish a private HEI under a collaboration with foreign HEIs. Moreover, Article 11 of the regulation describes the requirements for the establishment of such institutions as follow:

1. To have at least 60 per cent Indonesian worked as teachers or staff in the institutions;
2. To require Indonesian students to take the subject of religious study, *Pancasila*, civic education, and Indonesian language study;
3. To have Indonesian to lead the institution;
4. Not to name the institution after the name of the foreign partner institution;
5. To acquire a letter of support from:
 - a. Embassy of the Republic of Indonesia where the foreign partner institution is located;
 - b. Embassy of the home country of the foreign partner institution.

International Publication

MONE *Renstra* discusses one of the strategies to escalate the international presence of Indonesian higher education institution is getting more international publication and patent. In line with this, Article 46 (3) and 47 (4) of Law 12/2012 states the government provides incentives for lecturers who managed to publish their research or community service result in international journal or to attain international patents for their work.

International Teacher

Employment of foreign national is legal under Indonesian Law. Law 13/2003 interprets foreign worker as foreign nationals holding a visa with the intention of working in Indonesian territory.⁴¹ In the same rhyme, Article 65 of Law 14/2005 mentions that educational institution such as university may hire foreign nationals as teacher. Article 47 (3) of Law 13/2003 delegates the related ministry to further regulate the employment of foreign worker in educational sector. Article 3 (5) of the Regulation of the Minister of Education and Culture Number 84 of 2013 states the appointment of foreign teacher in Indonesian HEIs shall adhere to the existing rules and regulations.

Annex of the MORTHE REG. 2/2016 explains that Indonesian higher education institution can only employ foreign nationals with a status of associate professor. Foreign nationals can be a permanent or non-permanent teacher. Permanent teacher is a full time teacher working at a higher education institution and non-permanent teacher is a teacher who works part-time.⁴² Foreign national whose status is a permanent teacher may apply for a special registration number for employment to the government of Indonesia.⁴³ Teacher with the registration number has the right to receive honorarium and/or allowance from the institution, to apply for an academic position, to apply for or be appointed to hold a structural/administrative position or other additional position, to attend development and capacity building program, and to be counted as the ratio of lecturers to students.⁴⁴ Employment status of foreign teacher can be extended with the decision of the director or rector of the institution. PRESIDENTIAL REG. 20/2018 sets forth the provisions on employment of foreign worker in Indonesia.

According to Muhammad Nasir, the Minister of Research, Technology and Higher Education for the period of 2016-2019, inviting foreign teacher to Indonesia will develop the quality of education, promote Indonesian higher education to the world, and improve the competitiveness of the institutions (Redaksi, 2019; Sucahyo, 2019; Nathaniel, 2018). Nevertheless, he says that a review and adjustment of the rules and regulations concerning the recruitment of foreign teacher is required.

The Extent of Legislative Support for Internationalization

The extent to which the regulations support the internationalization of Indonesian higher education can be analyzed from the conformity of content material and types of the legislations. When the content is consistent with the types and the hierarchical order, the enforcement of the regulations is assured. Therefore, the legal support is strong. On the contrary, disharmony between the content and types may cause confusion in the application of the regulations in society; hence, exhibiting a weak support. Conformity means, the material contained in the regulations shall be within the scope of the type of the regulations.⁴⁵ In specific, it emphasizes the significant of synchronization of content between the lower and the higher-level regulation. Deviation is prohibited; nevertheless, the lower-tier regulation might provide further elaboration of the implementation of the higher-level regulation.

Article 8 of the Law 12/2011 mentions several other types of regulations are valid under the Indonesian legal system including the regulations and decisions made by the minister or other government agencies. These regulations hold a binding legal force throughout the instruction of the higher-level regulations and if formulated by a legitimate authority.⁴⁶ According to Law 12/2011, each type contains different scope of content. Having reviewed the prevailing regulations concerning national education, higher education, international collaboration in higher education, and foreign labor, the authors found that the process of internationalization of higher education in Indonesia is supported by the 1945 Constitution, Laws, Ministerial Regulations, and a Presidential Regulation.

The 1945 Constitution Support

The 1945 Constitution is the highest law in the hierarchy and serves as the legal political ground in Indonesia. The provisions contained in the body of the Constitution determine the administration of the nation and the Preamble lays the philosophical basis of the nation; that is Pancasila (Anggraeni, 2019). All state affairs needed to be regulated in a statutory regulation must first be stated in the Constitution including international education. The support for engaging international dimension into the educational

sector is firstly mentioned in Paragraph 4 of the Preamble of the Constitution. The paragraph states two of the purposes of the nation are educating the people and taking part in enforcing the world order. This means, Indonesia must be aware of the world development, must be a part of international community, and must teach international knowledge to the people. In doing so, the Constitution mandates the government to create a system of national education that will accommodate these purposes. Article 31 (3) of the Constitution postulates that:

Pemerintah mengusahakan dan menyelenggarakan satu sistem pendidikan nasional, yang meningkatkan keimanan dan ketakwaan serta akhlak mulia dalam rangka mencerdaskan kehidupan bangsa, yang diatur dengan undang-undang [The Government arranges and administers a system of national education, that will improve the faith, devotion to God, and virtuous morality with the purpose of educating the people and that shall be regulated in a law].

Other international dimension included in the Constitution is the opportunity for foreign nationals to participate in social life in Indonesia. The Constitution guarantees the rights of the people to develop their potential, to have access to proper education, to receive the benefits from science and technology to improve the quality of their life.⁴⁷ They also have the right to work, to receive emolument for their work, and to have equal and fair treatment at work.⁴⁸ The articles do not clearly define the meaning of the word ‘people’, however, looking at the two different terminologies used in the content of the Constitution to refer to people, which are citizen and people, the authors assumed that the word ‘people’ refers to the citizen of Indonesia or non-citizen who lives or is going to live in Indonesia. Citizen, according to Article 26, is Indonesian native or the person who, under a valid law, becomes a citizen of Indonesia. Based on these articles, it can be concluded that Indonesia is prepared to be a part of international community. The 1945 Constitution is the legal political ground that functions as the source of law, therefore, must contains the basic norms that will determine the legal direction of the government and its agencies (Anggraeni, 2019). The inclusion of international dimensions in the body of the Constitution indicates a strong support for internationalization.

The Law Support

The support for higher education internationalization can also be seen in Law 20/2003, Law 14 of 2005, Law 13/2003, and Law 12/2012. Law is the second highest in the hierarchy of regulation. According to Austin (as cited in Topic: Meaning, Nature and Functions of Law, n.d.), law is an aggregate of rules set to regulate and direct the conduct of a person or persons. He says, law is issued by the sovereign individual or body. Article 1 (3) of Law 12/2011 asserts that law is a statutory regulation issued by the House of Representatives together with the President. Based on Article 10 of Law 12/2011, law should contain the material to further arrange the provisions of the 1945 Constitution, the instruction to formulate a law in a law, the ratification of international agreement, the follow-up of the decision of Constitutional Court, and the fulfillment of legal necessity in society. In the analysis of the content of the law, the authors seek to understand if the laws provide further arrangement of the Constitution, if the laws strictly regulate the right and obligations of the people, and also whether the laws strongly regulate the regional setting for higher education internationalization.

Law 20/2003 administers the system of national education as mandated in Article 31 (3) of the Constitution. By system it means integrated components of all educational aspects that work together

to realize the objectives of the national education.⁴⁹ The Law elaborates in further the administration of national education. Article 1 (2) and Article 36 (3) (i) of the Law mention that national education shall be responsive to the changing demand of the era, thus, in the era of globalization, international dimension shall be integrated into the system to better prepare and equip the students with necessary skills⁵⁰ and improve the national competitiveness (Departemen Pendidikan Nasional Indonesia, 2004). Embodiment of the support for the integration of international dimensions in this Law can be observed in Article 12 (3); which allows the enrollment of international student; Article 33 (3) which gives an opportunity for using foreign language as a language of instruction; Article 50 (3) that mandates the central and regional government to establish, at least, one educational institution with international standard; and Article 65 (1), (3), and (4) that regulate the administration of education by foreign party in Indonesia.

One of the dimensions of higher education internationalization is the presence of foreign teacher in HEIs. Law 14/2005 and Law 13/2003 accommodate the recruitment of international lecturer. This is in line with the 1945 Constitution that allows foreign nationals to work in Indonesia. A lecturer as a professional educator and scientist whose main tasks are transforming, developing, and disseminating science, technology, and art throughout education, research, and community service.⁵¹ Article 65 of Law 14/2005 writes that “*Tenaga kerja asing yang diperkerjakan sebagai dosen pada satuan pendidikan tinggi di Indonesia wajib mematuhi peraturan perundang-undangan* [A foreign worker who is by appointment becoming a lecturer in a higher education institution in Indonesia shall comply with the rules and regulations]. This means the appointment of foreign lecturer should adhere to the rules on the standard qualification for becoming a lecturer;⁵² the recruitment, placement, transfer, and dismissal procedures;⁵³ the payment procedures, the rights and obligations of a lecturer;⁵⁴ the training and development mechanism;⁵⁵ the rules for leave procedures;⁵⁶ etc. Employment of foreign lecturer should also comply with the provisions of Law 13/2003. Chapter VIII of the Law extensively discusses the use of foreign labor. Law 13/2003 also protects the rights of the Indonesian citizens to participate in international community such as taking internship⁵⁷ and working overseas.⁵⁸

In 2012, the government passes Law 12/2012 on Higher Education to fulfill the demand to educate the people at the higher level, to provide quality higher education, to improve the national competitiveness in a globalized era, and to ascertain a proper administration of higher education as mandated in the 1945 Constitution. In line with the Law on the System of National Education of 2003, the legal precepts contained in the Law 12/2012 reinstate the regulation on the inclusion of international aspects in higher education in Indonesia. Article 40 (1) of the Law guarantees the right of the people (citizen or non-citizen) with foreign degree to continue their higher education in Indonesia, Article 75 (1) allows foreign national to study in Indonesia, Article 90 mentions about the involvement of foreign party in the administration of higher education in Indonesia. Significantly, Article 90 (3) of the Law strictly mentions that regional setting for international HEIs shall be set by the government. The decision to limit the regional setting is in line with the mandate of the 1945 Constitution to protect the rights of the citizen for greater and fair access for higher education (Nur, 2005).

Law is the second highest regulation; hence, it receives direct order to elaborate the legal precepts contained in the 1945 Constitution to determine the administration of the state. Having reviewed the content of the Laws that are related to internationalization of higher education, the authors conclude that the Laws support the process strongly. The Laws explain the notion of taking part in keeping the world order and administer the possible way to realize this purpose like collaboration with foreign party. Moreover, they regulate the involvement of foreign party in the administration of higher education in

Indonesia, while at the same time guarantee the rights of the people of Indonesia to have better access for international education.

The Presidential Regulation Support

Government supports the internationalization of Indonesian higher education with the issuance of presidential regulation. It is a set of rules issued by the President to administer the state. The legal basis for presidential regulation is Article 4 (1) of the 1945, which says that the President holds the governmental power, thus, has the right to create a regulation (Husen, 2019). Referring to Article 13 of Law 12/2011, presidential regulation should contain the material which are mandated by the Law, the instruction to enact the Government Regulation, and the material to exercise the government's authority. In relation to internationalization of higher education, the support is shown in Presidential Regulation Number 20 of 2018, which is published in response to Chapter VIII of Law 13/2003 on the employment of foreign worker in Indonesia.

The Ministerial Regulation Support

Technical implementing instruction of the Law, Government Regulation, and Presidential Regulation is arranged in ministerial regulation. Ministerial Regulation is not mentioned in the hierarchy of regulation; nevertheless, it is counted as a valid statutory regulation by the Law 12/2011. Article 8 (2) describes that this regulation is valid if instructed by the higher-level regulation and passed by a legitimate party.⁵⁹ There are four ministerial regulations mainly support the internationalization of higher education in Indonesia. The regulations are MONE REG. 25/2007, MONE REG. 14/2014, MORTHE REG. 2/2016, MORTHE REG. 100/2016.

The issuance of MONE REG. 25/2007 is based on Law 20/2003; nevertheless, the specific legal percepts that underlie such issuance are not mentioned. The reason for issuing the regulation is providing sufficient certainties in the enrollment of international student. In line with this, the provisions specify the regulation for the enrollment requirements in Article 3, the obligations of foreign student to have visa and stay permit in Indonesia in Article 4 to Article 6, and the responsibility of the Immigration office and the Indonesian Embassy in the enrollment process in Article 7.

Joining the international community has been the purpose of the nation since the beginning, which is mentioned in the Preamble of the 1945 Constitution. One of the ways is having collaboration with international partner. Law 20/2003 and Law 12/2003 allow educational institution to collaborate with foreign party in the field of teaching, research, community service, and capacity building. MONE REG. 14/2014 regulates the collaboration in higher education. In specific, the regulation is published to enforce the provisions of Article 50 (5), Article 48, Article 79 (1), and Article 85 (1) of Law 12/2012. The political basis for this regulation is providing further disposition in higher education collaboration. The regulation does not differentiate the international collaboration from the national one. In fact, it treats them both as collaboration in general. This implies that attempt to perform an international collaboration in higher educational sector should adhere to the provisions of this regulation. One of the products of collaboration between Indonesian and foreign HEIs is establishment of an institution of higher learning in Indonesia as stated in Article 90 of Law 12/2012. MORTHE REG. 100/2016 discusses the procedures for the establishment of HEIs based on collaboration with international party in specific in Article 11. The regulation also mentions that establishment of an institution based on international collaboration

should comply with the provision of Article 10 (2) to (5) of the regulation.⁶⁰ The other way to join international community is inviting international people to be a part of Indonesia. The 1945 Constitution guarantees the right of the people, both the citizen and non-citizen, to have access for work in Indonesia including becoming a lecturer in HEIs in Indonesia. MORTHE REG. 2/2016 specifies the regulation on the registration of lecturer and foreign lecturer is not exempted.

Ministerial regulation lies at the technical area, which means it should give further direction to implement the Law in a proper manner. Having reviewed the ministerial regulations that are related to the process of internationalization of higher education in Indonesia, the authors conclude that the support is strong. The content is in line with the type of the regulation and meets the legal politics which base the issuance of the regulations.

Effective Implementation of the Regulations

By effective implementation, it means the extent to which the legislative regulations guarantee proper implementation of the provisions contained in the regulations. Pusat Analisis dan Evaluasi Hukum Nasional (2017) describes the issuance of delegated legislation and enforceability of the regulation as the variables to see the effective implementation of statutory regulation. Delegated legislation refers to types of regulation whose formulation is delegated in the Law (Berita, 2015). Based on Law 12/2011, only the higher-level regulation can order the formulation of delegated regulation. The validity of delegated regulation derives from the instruction of a valid regulation at the higher level (Page as cited in Effendi, 2019). Accordingly, delegated regulations can only be formulated when the Law instructs the government to create them. In the analysis of the legislations supporting the internationalization of Indonesian higher education, the authors found four Laws directly regulate the process. The Laws are Law 20/2003 on the system of national education, Law 12/2012 on higher education, Law 14/2005 on teacher and lecturer, and Law 12/2003 on labor. Based on a review of the Laws, the authors found thirteen delegated regulations strongly mentioned in the body of the Laws. Figure 2 highlights the delegated legislations and their legal basis.

A review of the legislations found that the government of Indonesia produces nine delegated legislations and misses to publish four delegated legislations. The government misses out to provide technical regulation on the rights and obligations of student as mandated by Article 12 (4) of Law 20/2003, on the administration of education by foreign institution as mentioned in Article 65 (5) of Law 20/2003, ministerial decision on the procedures for validation of foreign worker employment plan document as mandated in Article 43 (4) of Law 13/2003, and Presidential decision on the regulation of the employment of foreign worker and the implementation of education and training for Indonesian counterpart as delegated in Article 49 of Law 13/2003, and ministerial regulation on the enrollment of foreign student as mandated in Article 75 (3) of Law 12/2012. Interestingly, the government formulates three regulations which are not delegated in the Laws.

Delegated legislation functions to provide specific or technical direction for the administration of certain matter as mandated in the law (Sukardi & Widiawati, 2012). Therefore, the issuance of such legislation is important in the implementation process. The authors believe the mandate to formulate a Government Regulation on the rights and obligations of student should be fulfilled. Students are members of community who are trying to develop their potential through the learning process at a certain educational channel, level, and type (Article 1 (4) of Law 20/2003). The Law confirms that student in Indonesian educational institution can be the citizen and non-citizen of Indonesia. It also ascertains the

A Normative Juridical Study of Internationalization of Indonesian Higher Education Institution

Figure 2. Delegated legislations concerning higher education internationalization

Source: The authors

Law	Legal Basis	Description of Item	Delegated Legislation	Availability of Delegated Legislation		Existing Legislation
				Available	N/A	
Law 20/2003	Article 12 (4)	The rights and obligations of student.	Government regulation.		✓	
	Article 36 (4)	Development of curriculum.	Government regulation.	✓		
	Article 50 (7)	Administration of education.	Government regulation.	✓		
	Article 65 (5)	Administration of education by foreign institution.	Government regulation.		✓	
Law 13/2003	Article 34	Placement of Indonesian worker abroad	Law.	✓		
	Article 42 (5)	Arrangement of function and working time for foreign worker.	Decision of Minister.	✓		
	Article 43 (4)	The procedures for validation of foreign worker employment plan document.	Decision of Minister.		✓	Regulation of the Minister of Labor and Transmigration Number 10 of 2018 on the Procedures of Employment of Foreign Worker.
	Article 44 (2)	Arrangement of function for foreign worker.	Decision of Minister.	✓		
	Article 49	Regulation on the employment of foreign worker and the implementation of education and training for Indonesian counterpart.	Decision of President.		✓	Presidential Regulation Number 20 of 2018 on Employment of Foreign Worker.
Law 12/2012	Article 40 (2)	Equivalence of graduation certificate as issued by foreign institution.	Ministerial regulation.	✓		
	Article 50 (2)	International collaboration in higher education.	Ministerial regulation.	✓		
	Article 75 (3)	Enrollment of foreign student.	Ministerial regulation.		✓	Regulation of the Minister of National Education Number 25 of 2007 on Requirements and Procedures of Foreign Student Enrollment in Indonesian Higher Education Institution
	Article 90 (6)	Administration of higher education by foreign institution.	Ministerial regulation.	✓		
Total				9	4	

rights and obligations of student. Article 12 of Law 20/2003 writes the rights of the student to receive religious lesson based on their faith; to receive educational service based on their talent, passion, and capacity; to receive scholarship; to receive subsidy for underprivileged students; to switch program; to finish their study at their own pace. The article continues to highlight the obligations of students who attend education in Indonesia such as the obligation to comply with the existing educational norms and to shoulder the cost of their education. These certainties apply to any student, citizen or foreigner. However, the authors found the arrangement of the rights and obligations of the student are confusing to be applied to foreign student. For example, religious lesson is rarely given in an educational institution in foreign countries, especially the countries that hold secularism which separate the religion from the state administration. Do the students coming from these countries still need to take religious lesson when they study in Indonesia? Do they have to exercise this right? Or do they have the right to not using the right for religious lesson? Indonesia is a country that place a religious belief in God as the ideology of the nation, thus, religious lesson is important for the student. Nevertheless, the same thing may not

be applied to foreign student. Specific directions on the application of the right for religious study are needed for foreign student.

The obligation for student to shoulder the cost of education may raise a question if applied to international student. In Article 88 (4) of Law 12/2012 it is written that educational cost borne by the students shall be adjusted based on the economic capacity of the student, the parent, or other party financing the student's education. Family with lower economic capacity may apply for lower tuition fee and those with sufficient and even high family income will pay higher tuition fee. The standard for economic capacity is ambiguous when it comes to international student. Each country has its own living standard and its definition of privileged and underprivileged, hence the standard of economic capacity cannot be counted precisely. There should be a specific regulation addressing this matter. A regulation on the rights and obligations of student in higher education shall be published to provide a clear implementation guideline.

Article 65 (5) of Law 20/2003 requires the formulation of Government Regulation on the administration of education by foreign institution. This mandate is given to respond the ratification of WTO and GATTS. WTO asks each member nation to adjust their national regulatory framework to allow the implementation of the WTO provisions; this includes trade in educational services. The end result of WTO is a free market of educational sector. This means that member nations shall reduce and eventually remove the barriers in trade of services to allow fair and open competition at a global level. Indonesia has submitted its schedule to open the educational sector to global market in 2015. Consequently, education institution should be ready for global competition, both at home and at international level. Administration of education by foreign institution falls into the third category of commercial presence of GATS's modes of trade and supply. In this sense, foreign institution may enter into Indonesian territory, establish an education institution, and provide service for Indonesian or foreign students. Even though, the Law mentions that the administration of such activity can only be realized with collaboration between Indonesian and foreign institution, the provisions contained in the Law are not sufficient to guide the administration of education by foreign institution. Based on the authors' point of view, the delegated regulation should be met. Without a carefully crafted regulation on trade in educational services, the right of the citizen of Indonesia for better and equal access for quality education might be compromised. Law 20/2003 is a general legal basis in educational system in Indonesia; hence, it does not specifically talk about higher education.

The administration of education by foreign institution in higher education is mentioned in MORTHE REG. 100/2016. MORTHE REG. 100/2016 guides the establishment and dismissal of private higher education institution. The regulation is based on Article 90 (6) of Law 12/2012. Based on the ministerial regulation, administration of education by foreign institution can only be done by private higher education. Article 9 (b) of the regulation states that educational collaboration between Indonesian and foreign higher education institution could be resulted in the establishment of a private higher education. Article 11 (4) of the regulation delegates further provisions on this matter shall be set and determined by a Minister. It does not explicitly mention the type of the legal statute to be issued by the Minister. Currently, four years after the establishment of MORTHE REG. 100/2016, there is still no ministerial regulation or decision released. What is interesting for the authors is that Law 20/2003 and Law 12/2012 set different delegated rules to regulate the administration of education by foreign institution. The first asks the issuance of Government Regulation, whilst, the latter requires the establishment of Ministerial Regulation. Referring to the hierarchical order of the statutory regulation in Indonesia, Government Regulation is higher than the ministerial one. The Ministerial Regulation is not even considered at the hierarchy but counted as a valid legislation if mandated in Law. The content of the Ministerial Regulation

shall follow, not be in conflict with, and complement the provisions of the higher legislations, which are Law and Government Regulation. Based on this knowledge, the authors agree that Government Regulation for the administration of education by foreign institution should be made available to solidify the enforcement of MORTHE REG. 100/2016.

The authors perceive that the existing of the Regulation of the Minister of National Education Number 25 of 2007 on the Requirements and Procedures of Foreign Student Enrollment in Indonesian Higher Education (MONE REG. 25/2007) is confusing. The regulation is issued in 2007, four years after the effective enactment of Law 20/2003. Whereas the issuance of the regulation is not mentioned in Law 20/2003, the Preamble of the regulation mentions that the Law 20/2003 along with Government Regulation Number 60 of 2010 on Higher Education (hereinafter referred to as Government REG. 60/2010) are the legal basis. While Law 20/2003 is an effective regulation, the Government REG. 60/2010 is not. To make it more incoherent, Government REG. 60/2010 was revoked and replaced by Government REG. 17/2010, which is then superseded by Government REG. 66/2010 on the Amendment of the Government Regulation Number 17 of 2010 on the Management and Administration of Education. This regulation is now replaced by Government REG. 4/2014 on the Administration of Higher Education and the Management of Higher Education Institution (hereinafter referred to as Government REG. 4/2014). In general, this regulation sets the guideline to administer Indonesian higher education institution. Government REG. 4/2014 is the latest rule to regulate the administration of higher education, nonetheless, based on a review of the content of the regulation; the authors do not find a word indicating the administration of international education such as the word global, foreign, or international collaboration. Considering the government's intention to internationalize the higher education, and in relation to the commercial presence of foreign higher education provider in Indonesian territory, the establishment of valid guideline and implementing instruction for administering international education at the tertiary level is needed.

Additionally, Article 34 (a) of Government REG. 4/2014 states the all kinds of Government Regulation and its delegated legislations remain to be valid as long as not in contradict with the provisions of the regulation. This indicates that MONE REG. 25/2007, as the lower-level regulation, is valid and effective. Nonetheless, Article 34 (b) of the regulation postulates that all the existing implementing regulations derive from the Government Regulation on the administration of higher education and the management of higher education institution is required to be adjusted with the Government REG. 4/2014 within two years since the enactment of the regulation. This statement implies that MONE REG. 25/2007 needs to be reviewed and adjusted to be effective. It has been six years since the enforcement of Government REG. 4/2014, nevertheless, MONE REG. 25/2007 has yet to be adapted. Due to the absence of legal ground, the authors believe that the administration of education by foreign institution in Indonesian territory will not be implemented effectively.

CONCLUSION

This study analyzes the process of higher education internationalization in Indonesia from the legal perspective. Using a normative juridical approach, the authors seek to understand if the process is supported by the existing regulation. According to Trondal, Gornitzka, and Gulbrandsen (2003), an analysis at the political-executive level of the internationalization of higher education is needed to provide a good plan and a comprehensive execution direction. The authors analyze eleven prevailing statutory regulations that served as the legal ground for internationalization to know if internationalization is supported by

law and regulation. The authors also use a conformity of content and type of regulation to understand the extent of support from the legislations and use the availability of delegated legislations to see if the Laws concerning the higher education internationalization can be effectively implemented.

Internationalization of Indonesian higher education is supported by statutory regulations. A review of the regulations found that the support comes first from the 1945 Constitution. Insertion of international dimensions such as keeping the world order in the Preamble of the Constitution and providing access for everyone to education in Indonesia in Article 28 of the Constitution pave the way for internationalization. The existing laws and regulations support internationalization in five major areas of international student, international teacher, international collaboration, international publication, and establishment foreign institution in Indonesian territory.

The second support comes from the Law. Law is the second highest legislation in the hierarchy. It receives direct order from the 1945 Constitution. There are four Laws directly related to internationalization; they are Law 20/2003, Law 13/2003, Law 14/2005, and Law 12/2012. The Laws explain the notion of taking part in keeping the world order and administer the possible way to realize this purpose like collaboration with foreign party or inviting foreign nationals to be a part of Indonesia. Moreover, they regulate the involvement of foreign party in the administration of higher education in Indonesia, while at the same time guarantee the rights of the people of Indonesia to have better access for international education.

Thirdly, the support for internationalization also derives from Presidential REG. 20/2018 that regulates the employment of foreign worker in Indonesia. Together with Law 14/2005, it guarantees the right of foreign nation to work in Indonesian higher education institution and to have fair and equal treatment at work and also the right of Indonesian citizen to work abroad. The content of Laws and the Presidential Regulation is consistent with the scope of their types; therefore, based on the assessment dimension of conformity of content and type, it can be concluded that their support for internationalization is strong. Inclusion of international dimensions in the content of the laws and the presidential regulation provide a strong legal basis for the process. Next, the implementing instruction and direction for internationalization is written in ministerial regulation such as MONE REG. 25/2007 that regulates about the enrollment of international student, MONE REG. 14/2014 that provides legal certainties for international collaboration, MORTHE REG. 2/2016 that regulates the registration of lecturer, and MORTHE REG. 100/2016 that mentions about the establishment of foreign institution. Ministerial regulation lies at the technical area, which means it should give further direction to implement the Law in a proper manner. Based on Article 8 of Law 12/2011, the issuance of ministerial regulation should be based on the delegation of the higher-level regulation. This means that Ministerial Regulation is a delegated legislation.

A close review of the availability and enforceability of delegated legislation reveals that effective implementation of the Laws is yet to be achieved. The absence of Government Regulation on the rights and obligations of students as mandated in Article 12 (4) of Law 20/2003 might confuses the administration of religious lesson for foreign student in Indonesian higher education institution, it will also confuse the arrangement of tuition fee for international student as Indonesia uses student's economic capacity as a basis to calculate the tuition fee. Moreover, the unavailability of Government Regulation and technical implementing instruction on the administration of education by foreign institution may hinder the process of internationalization at home. The authors believe the government should pay attention to this matter to effectively to attract foreign student to study in Indonesia.

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ENDNOTES

¹ Hereinafter referred to as Law 20/2003

² Hereinafter referred to as National Standard of Education Reg. 19/2005

³ Hereinafter referred to as Law 12/2012

⁴ A juridical analysis of the national policies in internationalization of higher education in this study is based on Law Number 12 of 2011 on Establishment of Laws and Regulations (hereinafter referred to Law 12/2011)

⁵ Hereinafter referred to as Law 22/1961

⁶ Article 19 of Law 20/2003

⁷ Article 6 Law 12/2012

⁸ Article 2 Law 12/2012

⁹ Article 1 of Law 12/2012

¹⁰ Article 64 of Law 12/2012

¹¹ Article 9 of Law 12/2012

¹² Article 63 of Law 12/2012

¹³ Article 41 of Law 12/2012

¹⁴ Article 69 of Law 12/2012

¹⁵ Article 89 of Law 12/2012

¹⁶ Article 73 of Law 12/2012

¹⁷ Hereinafter referred to as MOEC REG. 88/2014

¹⁸ Article 1 (2) of Law 12/2011

A Normative Juridical Study of Internationalization of Indonesian Higher Education Institution

19 Preamble of the Law 12/2011,
20 Article 5 of the Law 12/2011
21 Based on Article 7 of Law 12/2011,
22 Article 2 of MONE REG. 25/2007
23 Article 75 (2) of Law 12/2012
24 Article 75 (3) of Law 12/2012
25 Article 4 (1) of MONE REG. 25/2007
26 Article 50 (2) of Law 12/2012
27 Article 50 (3) of Law 12/2012
28 Article 50 (4) of Law 12/2012
29 Article 1 (1) of MONE REG. 14/2014
30 Article 2 of MONE REG. 14/2014
31 Article 48 (3) of MONE REG. 14/2014
32 Article 7 of MONE REG. 14/2014
33 Extensive explanation of the implementation of academic collaboration is in Article 8-32 of the
MONE REG 13/2014.
34 Further description of non-academic activity is in Article 34-46 of the MONE REG. 14/2014.
35 Article 47 of MONE REG. 14/2014
36 Article 47 (4) of MONE REG. 14/2014
37 Article 48 (1) of MONE REG. 14/2014
38 Article 47 (3) MONE REG. 14/2014
39 Article 6 (2) (c) of the Decision of DGHE 61/DIKTI/Kep/2000
40 Article 6 of the Decision of DGHE 61/DIKTI/Kep/2000
41 Article 1 (130) of Law 13/2003
42 Article 1 of MORTHE REG. 2/2016
43 Article 7 (2) of MORTHE REG. 2/2016
44 Article 12A (3) (a) of MORTHE REG. 2/2016
45 Explanation of Article 5 (c) of Law 12/2011
46 Article 8 (2) of Law 12/2011
47 Article 28C (1) of the 1945 Constitution
48 Article 28D (2) of the 1945 Constitution
49 Article 1 (3) of Law 12/2011
50 Article 1 (2) of Law 20/2003
51 Article 1 (2) of Law 14/2005
52 Part One of Chapter V of Law 14/2005
53 Part Four of Chapter V of Law 14/2005
54 Part Two of Chapter V of Law 14/2005
55 Part Five of Chapter V of Law 14/2005
56 Part Eight of Chapter V of Law 14/2005
57 Article 26 (1) of Law 13/2003
58 Article 31 of Law 13/2003
59 Article 8 (2) of Law 12/2011
60 Article 11 (1) of MORTHE REG. 100/2016