

9-2021

Legal Education in Indonesia

Adriaan Bedner

Van Vollenhoven Institute - Leiden Law School

Jacqueline Vel

Van Vollenhoven Institute - Leiden Law School

Follow this and additional works at: <https://scholarhub.ui.ac.id/ijsls>



Part of the [Legal Education Commons](#), and the [Legal Studies Commons](#)

Recommended Citation

Bedner, Adriaan and Vel, Jacqueline (2021) "Legal Education in Indonesia," *The Indonesian Journal of Socio-Legal Studies*: Vol. 1 : No. 1 , Article 6.

Available at: <https://scholarhub.ui.ac.id/ijsls/vol1/iss1/6>

This Article is brought to you for free and open access by the Faculty of Law at UI Scholars Hub. It has been accepted for inclusion in The Indonesian Journal of Socio-Legal Studies by an authorized editor of UI Scholars Hub.



LEGAL EDUCATION IN INDONESIA¹

Adriaan Bedner & Jacqueline Vel

Van Vollenhoven Institute - Leiden Law School

Abstract

Many of the discussions about legal education in Indonesia are similar to the ones conducted in other countries. They reflect the tension between a liberal legal education on the one hand and a vocational training on the other, as well as the tension between a legal education preparing students for legal practice and one preparing them for a broad range of generalist positions. However, we argue that legal education in Indonesia is also marred by problems of the legal system itself and by a lack of communication between its constituent parts – the judiciary, the legislative, the bar, public prosecutors, and legal scholars. Caused by years of authoritarian rule, these problems have resulted in an unproductive and largely misguided debate in law faculties between proponents of legal formalism and others promoting a more contextualised approach to law. Nonetheless, it is undeniable that overall the quality of legal education has improved during the past 20 years and that this process will likely continue.

Abstrak

Banyak pembahasan terkait pendidikan hukum di Indonesia serupa dengan yang dilakukan di negara lain. Pertentangan antara pendidikan hukum liberal dan pendidikan kejuruan; atau bagaimana pendidikan hukum mempersiapkan mahasiswa untuk berpraktik dan pendidikan hukum sejatinya mempersiapkan mereka untuk fungsi yang lebih luas, senantiasa tercermin dalam diskusi-diskusi tersebut. Namun demikian, kami berpendapat bahwa pendidikan hukum di Indonesia juga dinodai oleh permasalahan sistem hukum sendiri, serta kurang-nya komunikasi antara pihak-pihak yang terlibat dalam penyusunannya – yudikatif, legislatif, kejaksaan, dan sarjana hukum. Sebagian besar permasalahan tersebut disebabkan oleh pemerintahan otoriter yang telah berlangsung bertahun-tahun, yang pada akhirnya menimbulkan perdebatan yang kontra-produktif dan (sebagian besar) ‘salah arah’ di berbagai fakultas hukum - antara mereka yang mendukung formalisme hukum dan mereka yang mempromosikan pendekatan hukum yang lebih kontekstual. Meskipun demikian, tidak dapat disangkal bahwa secara keseluruhan kualitas pendidikan hukum telah meningkat selama 20 tahun terakhir dan proses ini kemungkinan akan terus berlanjut.

¹ We wish to thank Bilal Dewansyah and two anonymous reviewers for their comments on an earlier draft of this article.



1. Introduction

Despite many reforms, legal education in Indonesia has remained a target of criticism. Students complain about large classes and formalistic professors, professors complain about their teaching load and insufficient salaries, and practicing lawyers complain that law graduates lack legal skills. Although we do not know how widely these complaints are shared, to most who have been involved in Indonesian legal education they will sound familiar.²

Nonetheless, law continues to be a popular study and Indonesia's 35 public and 175 private law faculties continue to attract huge numbers of students. Overall figures are not available, but they must number tens of thousands. In 2019 Jakarta's major university, *Universitas Indonesia*, admitted some 700 1st year law students out of a total of almost 10.000 candidates (6.302 for a place with and 3.442 candidates for a place without scholarship).³ This makes law one of the largest university studies, with many secondary school graduates preferring a legal education over economics, the social sciences, or the humanities.⁴ Apparently, neither the critique of Indonesian legal education nor general concerns about the functioning of Indonesia's legal system (e.g. Lindsey and Butt 2018, Bedner 2016, Crouch 2019) deter high school graduates from enrolling in a faculty of law.

The question is whether the complaints about Indonesian legal education are anything out of the ordinary. Similar complaints are heard in many other countries and have inspired debates about the reform of legal education around the globe (Stolker 2014, 137-139). In some cases such criticisms have led to far-reaching changes, for instance the turn to a US-based model of post-graduate legal training in Japan and South Korea (Sato 2004). However, in most countries change in legal education is only gradual. And if we look more in depth, much of the critique on legal education appears inherent in the nature of law as an academic discipline and in the role law plays in society.

² The last overview of the state of Indonesian legal education we know of can be found in Budiardjo, A. et al. (1997) *Law reform in Indonesia: Diagnostic Assessment of Legal Development in Indonesia*. Jakarta, Cyberconsult.

³ For similar figures about the law faculty of *Universitas Gadjah Mada* in Yogya see Sulistiawati & Hanif 2018: 320.

⁴ <https://law.ui.ac.id/v3/penerimaan-mahasiswa-baru-fhui-tahun-ini-terbanyak/> and <https://www.ui.ac.id/53-712-peserta-se-indonesia-ikuti-ujian-simak-ui-2019/> accessed 12 June 2021.



Seen from that perspective, there seems to be nothing special about Indonesian legal education. The complaints in Indonesia include the common questions such as whether law is a ‘science’ and therefore deserves to be taught at universities rather than polytechnics, how much attention should be paid to the vocational and academic part of the training, how to handle the large number of students, etc. (Reksodiputro 2013). Many of these complaints are also related to the way in which higher education is organised and how financial incentives structure the system, but again this is not a typically Indonesian problem.

However, upon closer scrutiny we can see that a number of problems of legal education in Indonesia are more specific, as they are closely connected to the idiosyncratic development of Indonesian law and legal thinking. They revolve around the way in which law is produced, the role of universities in this matter and the political context more generally. Indonesia’s legal system has developed for the most part under adverse political conditions – a violent decolonisation followed by extended periods of authoritarian rule – and it is characterised by legal plurality, incoherence and incompleteness (Bedner 2016). Making students familiar with such a system and teaching them how to operate in it is admittedly a daunting task.

Many participants to the current debate on legal education in Indonesia show little awareness of the linkages between legal education and other core institutions of the legal system and how together they produce legal knowledge. We will argue that such awareness is key to meaningful reform. In civil law countries, law faculties have traditionally played a central role in developing law as a system of rules produced in the communication with other legal institutions such as the legislator, the judiciary, public prosecutors and the bar. Where in the common law world the judiciary has played this law-making role largely on its own or together with legal practitioners, in civil law systems law professors constitute an indispensable actor in integrating and disseminating the knowledge created by these other institutions. This system is essential for the production of law and for the autonomy of the legal system (see e.g. Lasser 2004).

One should be aware that the majority of current Indonesian law professors were educated in a legal system that at the time they were studying had almost collapsed under political and institutional pressures. In the 1950s the ideal of the autonomy of the legal system and agreement on how such autonomy could be achieved were still widely shared among Indonesian jurists, but this common frame disappeared during the



authoritarianism of Guided Democracy and the New Order. The conditions are now changing, as an increasing number of Indonesians jurists have grown up under a democratic system. Many of them have also taken an LLM or a PhD abroad, which has widened their views on the legal system and legal education. This has created new opportunities for reform, but it has also led to resistance.

The debates we will analyse below are idiosyncratic for Indonesia in the way they have arisen and in how they have come to focus on the contradiction between ‘pure law’ and ‘sociological jurisprudence’. Also typical is that these debates tend to centre on the distinction between civil law and common law systems. Still, the underlying core problems of Indonesian legal education and their relation to the production of legal doctrine are not unique.⁵ The lessons one may draw from the Indonesian case are therefore of wider application.

Worldwide debates about legal education

Before we turn to Indonesia, it makes sense to pay some more attention to the debates about legal education as they are commonly found in jurisdictions around the world. In most countries law is considered a scholarly discipline and is taught in universities at both the graduate and undergraduate levels (Stolker 2014, 16-39). In the continental law tradition law faculties are usually among the oldest constituent parts of universities and most of them have retained their status as independent organisational units. Nonetheless, as already mentioned, an academic legal education by its nature is contested.

Officially, the primary objective of law faculties is to produce ‘academics’, by offering an education that is not mainly concerned with technicalities but that provides students with a particular set of moral and analytical skills considered important for those who may come to hold leading positions in a liberal-democratic system (e.g. Kahn-Freund 1966; Van Klink & De Vries 2016, 5-6; Stolker 2014, 96). This ‘broad’ conception of legal education, often referred to as a ‘liberal legal education’ (Guth and Ashford 2014, 6), legitimises the position of law as an academic discipline. It aims to inculcate students of law with the basic values underlying a legal system based on the rule of law, to prevent them from adopting a mere instrumentalist conception of law. In such an education jurisprudence-oriented courses such as philosophy of law, sociology

⁵ For Asia see Harding and De Visser 2018, for South Africa for instance see Modiri 2014.



of law and legal history, have an important role, as ‘the study of black-letter law (legislation and case law) has to be firmly embedded in a social and theoretical context that opens up the possibility of developing a critical outlook on law’ (Van Klink & De Vries 2016, 6).

At the same time, legal education prepares students for potential jobs as a legal practitioners and has a typical vocational aspect. The best-known exception to this academic/vocational pattern is the US, where the study of law is a professional postgraduate training. Law schools teach students who have first absolved a general, academic education – the ‘liberal’ part – at an undergraduate college (Stolker 2014, 17). Such a system stands in contrast to the development of the system in most other Commonwealth countries. This includes the UK itself, which has maintained the option for non-law graduates to follow a postgraduate professional legal training in the Inns of Court, but since the 18th century has seen most of its lawyers being trained first in a university law programme at the undergraduate level (Kahn-Freund 1966; Stolker 2014, 17).

Part of the explanation of such differences lies in the history of the legal profession. In continental Europe only a relatively small percentage of law graduates become professional lawyers, i.e. judges, public prosecutors or legal attorneys. This has been the dominant pattern of jurists’ careers since law faculties were established. Most law graduates enter the civil service (e.g. Derlien 2003), business, or civil society organisations where they often perform tasks that are far removed from typically ‘law’-associated tasks (e.g. Groen 1985 for the Netherlands). Although they have to compete for such jobs with economists and other social science graduates, many prospective students still choose law as their preferred general training for professional careers that are not exclusive to jurists.

This situation creates two conflicts of interest, one regarding the substance and one regarding the outcome of legal education. The first is between law as an education for ‘generalists’ as opposed to law as an education for legal professionals – notably the core professions of judge, prosecutor and solicitor/barrister (or the equivalent). The training for generalists seeks to provide students with knowledge about (legal) theory and the general structures and principles of law. To those promoting a legal professional education ‘skills’ and detailed knowledge about legal procedure are more important – the ideal being that the graduate can hit the ground running when she or he enters a law firm (cf. Stolker 2014, 115-116).



The second conflict is between the liberal and the legal-technical side of legal education. Those promoting the importance of the former argue that students need a broader basis for reflection than legal doctrine only. They are in favour of including socio-legal studies, legal history, philosophy of law and similar subjects. Important is that students learn how to reflect on the nature of law, its ethical and political underpinnings and its actual functioning in society (Van Klink and De Vries 2016, 5) The proponents of the legal-technical approach in legal education rather see law students engaging fulltime with legal doctrine. They claim that doctrinal knowledge – in an indirect manner – makes students sufficiently familiar with the basic values and principles underlying the legal system. In this view there is no need for an explicitly external, detached view on the law.

These two conflicts are interrelated and often conflated. Those promoting a ‘generalist’ education usually subscribe to a liberal approach to legal education and favour the inclusion of non-doctrinal approaches to law. Those who see legal education as primarily a professional training with much attention for skills usually prefer the legal-technical approach to the liberal one.

Obviously, one can argue that this ought not be a conflict but that a balance should be achieved. The doctrinal approach to law is not just something for legal professionals, but also for generalists, as a necessary prerequisite for undertaking any other type of analysis of law (such as socio-legal, economic, or comparative) (Smits 2015; Reksodiputro 2013). However, the right balance is hard to define (cf. Stolker 2014, 131-133).

Origins of current problems in Indonesian legal education

Discussions about the current state of Indonesian legal education convey a sense of urgency. This is not surprising as Indonesian jurists *and* politicians already started to voice their worries about the quality of legal education by the end of the 1950s (Massier 2008, 209-214). This debate has never stopped, but the concerns and suggestions have changed over the years as the emphasis shifted from the choice between a liberal and a formal legal education to the tension between educating generalists versus educating legal professionals.

These debates have taken place in a political context that has profoundly changed over the years. The opposition between a liberal and a legal-technical approach to legal education, as we have outlined above, takes a liberal-democratic state as its



point of departure and therefore presumes a corresponding structure and function for law. However, as for most of its history Indonesia was not a liberal democracy, the ‘internal’ debates about legal education were embedded in broader political debates about how law should be instrumental in achieving political objectives, and how lawyers ought to be trained to be able to provide such contributions.

Before we consider the current debates about legal education in more detail we will first look at the genesis of Indonesian legal education and how it developed from the colonial period to the end of the New Order.

The development of Indonesian legal education

As in most former colonies the roots of Indonesia’s legal education lie in the European system that was transplanted by the coloniser to the colonised territory, in this case the Dutch legal system. Until 1909 all jurists working in the Netherlands Indies were Dutch and had been educated in the Netherlands. As from the 1910s, they included a small but slowly growing number of Indonesians, with the first law firm fully staffed by Indonesians starting practice in 1923 (Lev 1985, 68).

It has been suggested that the objective of the Netherlands Indies government to start educating Indonesian jurists was to produce ‘legalistic’ lawyers, who were to serve the interests of the colonial government (Wignjosoebroto 1992, 3-4). However, this view is too simplistic. Dutch politicians were divided about the future of the Netherlands Indies and about the role of Indonesians in its administration, and these divisions are visible in the controversies about the nature of legal education at the time (Fasseur 2001). Those who taught law to Indonesian students in the Netherlands (in Leiden) and those who finally established the *Rechtsschool* (1909) and later the *Rechtshogeschool* (1924) were legal liberals, whose ultimate goal was political autonomy for the Netherlands Indies. This required autonomously thinking jurists, who were to be thoroughly trained in critical analysis and in the process were inevitably inculcated with the values of the rule of law (Djalins 2013, 124-128).

The education at the *Rechtsschool* and even more so at the *Rechtshogeschool* was mostly concerned with ‘legal theory’, but in a context of jurisprudence. In this respect it was no different from legal education in the Netherlands. The text books used paid serious attention to insights from ‘supporting sciences’ such as philosophy, political science, sociology, etc. These supporting sciences moreover constituted an



important part of the curriculum,⁶ replacing the Roman law courses taught at Dutch universities. According to the main founder of the *Rechtshogeschool*, professor Paul Scholten, it made no sense to introduce Roman law in the Netherlands Indies context (Djalins 2013, 132-135). For the majority of Indonesians customary (*adat*) law was of far greater importance in their daily lives than the European civil law developed on the basis of Roman law. Knowledge of the social sciences would enable *alumni* to do research on *adat* law by themselves or at least to evaluate claims made about it.

That the system of legal education had the capacity for educating critical lawyers is difficult to deny if one looks at the number of law graduates who came to play a role in the movement for independence after the war. But even if most Indonesian lawyers before the war worked within the colonial legal system, they did not hesitate to criticise the government and played an important role in denouncing injustices it committed (see e.g. Djalins 2012, Chapters 3 and 4). So, ironically, the first generation of Indonesian lawyers was educated in a liberal legal tradition and did not receive a mere formal legal education.

After Indonesia became independent in 1945, the new Republic retained most Netherlands Indies law and also continued the Netherlands Indies system of legal education. Yet adaptations were required to respond to the needs of the new state. For a start, the law faculties could not produce sufficient graduates to replace the Dutch jurists who left the country during the Revolution and the 1950s. The decision of the government to abolish the *adat* courts further stimulated the demand for professionally trained lawyers. At the same time, economic problems impaired the the state in upholding even the basics of the legal system. Judges, lawyers, law professors and law students faced a shortage of bare necessities as books, paper, ink and typewriters (Pompe 2005, 187). And while the number of law students increased, law professors were in short supply (Massier 2008, 203). Under such conditions the capacity of the legal system to produce the formal legality required for a state under the rule of law inevitably became compromised.

To further complicate matters, the legal profession and the law schools had to make the transition from Dutch to Indonesian as the official legal language. Jurists faced the daunting task of ‘translating’ the Netherlands Indies law and its concepts from Dutch to Indonesian. As the new state expected to soon replace the old Dutch laws with

⁶ See the curriculum of the *Rechtshogeschool* at https://id.wikipedia.org/wiki/Rechtshoogeschool_te_Batavia. (last accessed 5 July 2021).



new Indonesian ones, it never issued official translations. However, as enacting new laws turned out to be more time-consuming than anticipated and lawyers started to make and publish private translations of Netherlands Indies laws. As no one made an attempt at co-ordination, these texts led to conceptual confusion and endless debates about ‘correct legal language’ (Massier 2008, 196-201). The result was that many Indonesian jurists came to perceive a distinction between law and language, something which is logically impossible as law *is* language. Many of the debates couched in terms of ‘legal language’ were fundamentally controversies about law and legal interpretation (Massier 2008, 32-34; see also Bedner 2016).

Another effect of the transition to Indonesian as the new language of the law was that Indonesian lawyers became increasingly isolated. Unlike their colleagues in most former British and French colonies they did not retain a link with the legal system of their former colonisers and could no longer examine Dutch legal rulings and texts that might potentially have served as a source for comparison and inspiration. Probably worse was that in course of time the entire body of Dutch-language case law laid down in colonial law reports became inaccessible, even to those who could consult them in the few libraries that still kept them. As a result both legal certainty and the ‘argumentative reservoir’ declined.

During the same period political conditions deteriorated and the autonomy of the legal system came under attack.⁷ Guided Democracy (1959-1965) was particularly hostile towards jurists because they were suspected of trying to undermine the ‘Revolution’. President Soekarno preferred to get rid of law as an autonomous system altogether, with law merely serving ‘social utility’ and without any concern for legal certainty (Lev 1965, 291-292). Legal education should instil lawyers with the values and objectives of the Revolution and it should prepare them for promoting social and political change. The government derided the objective of legal certainty, which for the previous generation of lecturers had been one of the leading principles, as they wished to replace it by the objective of social change. This opened the way to a new approach to law, where ‘social considerations’ ought to determine the outcome of legal process. In theory this might have propelled the social sciences into the driver’s seat as an

⁷ The autonomy of law can be threatened from the inside, when law becomes fragmented and the legal system finds no way to guarantee legal certainty; and, second, from the outside, when outside actors – for instance politicians – exercise pressure on the judiciary’s decision-making. Of course the two may be related.



instrument for determining what the major social problems were and how in concrete cases these should determine the law

However, in fact not much happened. Law faculties vehemently resisted the changes the government wished to implement (Wignjosoebroto 1992, 4-7). Few lecturers taught their students how to use insights from the social sciences to resolve legal cases, and judges were even less inclined to do so (Wignjosoebroto 2014, 194, 199). Rather, they added ‘political conviction’ as a legal source. We have not found a single legal textbook published during the first half of the 1960s that takes ‘sociological jurisprudence’ seriously in applying its ideas to Indonesia. The same is true of court judgments. A well-known example is the Supreme Court judgment on *adat* inheritance among the Karo Batak of 1961 (Irianto 1994). The court neither considered whether equality between men and women in inheritance cases was a social problem, nor did it show any concern about the social consequences its judgment might have. It simply departed from the political premise – called ‘humanity, public justice, and the essence of equal rights for man and woman’ – that the new Indonesia required equal shares in inheritance.

This situation changed after 1965, when Guided Democracy was overturned and the army led by general Soeharto came to power. Soeharto, established a ‘New Order’ (1965-1998) that put economic development above all else. This New Order required an altogether different sort of lawyer. Legal education continued to be oriented towards creating a single national law and getting rid of the intricacies of *adat* and religious law. However, law faculties now started educating students to become commercial lawyers, to provide the services required in a capitalist economy (Wignjosoebroto 1992, 7-8).

Despite the massive killing of communists and others who promoted a more egalitarian society by the new regime, many jurists were initially hopeful that the New Order would restore the rule of law. This included stripping legal discourse from its revolutionary ideology. However, it soon became clear that the new government had no intention to allow any autonomy of the legal system (Lev 1978). Soeharto was interested in a legal system acceptable in the eyes of the international community and of investors, not in one that could control the government. In theory, legal certainty was important to this new system, but in practice the regime systematically undermined this objective by subjecting law and its application to the business interests of the President and his associates (McLeod 2000, 101-102). In practice Soeharto disempowered legal



institutions so drastically that more than 20 years after he was forced to step down they still have not recovered (Crouch 2019, 18-26; Assegaf 2019; Afandi 2021).

Soeharto's main objective for law faculties was to have them produce jurists who had the capacities needed for staffing the legal institutions of a modern state, but who lacked an independent mind set. This was clearly not what most law faculties wanted and neither was his vision shared by all New Order government officials. The resulting tensions would determine the course of legal education until 1998 and although neither side completely prevailed the results were far removed from the ideals of a liberal legal education.

An important attempt to improve legal education by the Minister of Education was the so-called Sub-Consortium of Law. Initiated in 1967 and established in 1969 this organisation had as its goals to overcome the 'flood' (*mengatasi membanjiri*) of students, to reorient the goal of legal education towards producing graduates who could be independent decision-makers and to try to improve legal educational standards (Kusumaatmadja 1994, 493). The Sub-Consortium was particularly keen on restoring the link between the legal professions and legal education. Teaching core legal subjects had lost much of its academic embedding during Guided Democracy, but neither did students learn how to 'apply' the law to cases or to use legal procedure – in other words, legal education was neither liberal nor vocational. Perhaps most important, legal reasoning was no longer an element of legal education (cf. Wignjosoebroto 2014, 210-214).⁸

The Sub-Consortium called for a legal education in which students learned how to apply the law in a non-formalist manner (Reksodiputro 2012, 6). In 1973, under its Chairperson Mochtar Kusumaatmadja, it published a 'minimum' national curriculum, which several law faculties started to implement. Novel features of the curriculum were that it introduced written instead of oral exams, training for legal practice, contract drafting, legislative drafting and interdisciplinary approaches to law. An important development was also the introduction of legal aid bureaus and legal clinics where students could practice their legal skills (Kusumaatmadja 1994, 494-495). In his

⁸ It should be noted that legal reasoning was never very prominent in legal education in the Netherlands or the Netherlands Indies. As from 1900 onwards the question whether it should receive more attention gained prominence, as reflected in many debates among jurists. One of the most important protagonists of reforming legal education in this way was civil law professor Henri Hijmans, who also argued in favour of a more sociological approach to law (Groen 1985: 42-47). However, precedent as a legal source was important in legal courses, and thus students were at least made familiar with the basics of legal reasoning. This was no different at the *Rechtshogeschool* and continued to be the case in Indonesia at least until the mid-1950s.



capacity as Minister of Justice Mochtar continued promoting such reforms, directing most of his efforts at the development of a national legal system and Indonesian as the legal language (Massier 2009, 3-6).

How successful these changes were is open to debate. The intellectually stifling New Order with its authoritarian Pancasila discourse did not promote the production of critical jurists, starting and ending all debates with the proposition that Indonesian society is harmonious and that all problems can be resolved by *musyawarah dan mufakat* (Lev 1978; Bourchier 1999). Mochtar's efforts at reform were confined by the political context in which he had to operate (Reksodiputro 2012, 4). International initiatives to support developing legal education in Indonesia in the 1970s mostly fell on deaf ears, because the proposed innovations in teaching methods and societal relevance reflected the new liberal styles of education from the USA rather than the Indonesian academic climate at the time (Katz and Katz 1975). Neither did the attempted reforms lead to a better link with legal practice (Reksodiputro n.d., Budiardjo et al. 1997).

In 1994 Mochtar wrote himself that there had been positive results, but that these were undone in the 1980s. In an attempt to bring students back under their control the government took away the autonomy of universities, making them part of the Education Ministry's bureaucracy. This led to an enormous increase in the administrative burden. Almost all of the new features introduced by the new curriculum were removed, except for the written exams of which many were turned into multiple choice ones. Budgets were channelled to the hard sciences and technical faculties, and performance became increasingly subject to quantitative techniques of measurement (Kusumaatmadja 1994, 494-497).

At some point even the Ministry became aware of the negative consequences its policies caused and they asked Mochtar, as the former head of the Sub-Consortium, to draft a new curriculum. Although it could not undo all of the damage this new curriculum reintroduced many of the features suggested in the early 1970s. It tried to strike a balance between theoretical and vocational training, stimulated active teaching methods and promoted a multi-disciplinary approach to law. However, judging from later accounts the effects in practice were limited (Budiardjo et al. 1997, Reksodiputro n.d.).

By contrast, the New Order was quite effective in increasing the quantity of jurists. New law faculties were established and they produced a rapidly growing number



of law graduates, at least at the bachelor's level. These increases in the number of jurists corresponded with the growth of the legal system. The number of general courts expanded, new administrative courts were established, and private practice became a lucrative business once again. New law firms also mushroomed in Jakarta and other major cities.

However, this rapid expansion was not matched by an increase in the quality of the legal system. Legal institutions were made subservient to the executive and the courts and public prosecutor lost the little autonomy they still had. The degradation of legal autonomy was not only caused by direct political pressure, but also by creating the conditions in which corruption could flourish. Systematic corruption indeed spread throughout the legal system and further eroded professional standards (Pompe 2005, 411-417; Bedner 2001, 234-240).

The consequences of such corruption reached further than just tilting the system against the poor and powerless. Corruption as a process impairs individual justice in a legal system, but it also undermines legal certainty – not only because it makes judges address similar cases in a different manner, but also because it is in the interest of judges to promote legal uncertainty. This broadens the room for discretion in corrupt judges' and prosecutors' dealings with parties who are willing to pay for a favourable outcome. It is easier to be corrupt under conditions of legal uncertainty than when the outcomes of legal process are predictable.⁹ Ignorance of the law for a judge is comfortable, reducing the chances of being caught and also helping to soothe his/her conscience.

Another consequence of corruption is that when lawyers can settle a case through money, they have little incentive to develop their legal reasoning skills as other skills are more important (Kouwagam 2020, 43-44, 141). During the New Order (and continuing into the present) some law firms refused to become enmeshed in the system, but felt obliged to tell their clients that if they preferred to opt for bribery in a legal case, they would have to arrange this either by themselves, or use another law office. This imposed a serious burden on the 'clean' law firms, as they risked to obtain a reputation of losing cases (Kouwagam & Bedner 2019, 745).

In short, the Indonesian legal system had become caught up in a devil's circle, and legal education was part of it. The question is whether the reforms started in 1998

⁹ I am aware that the law can never be fully predictable, but there certainly are many cases in which the outcome is fairly straightforward. For a discussion see Oomen & Bedner 2018.



have moved Indonesia out of the circle and if the renewed emphasis in public discourse on rule of law, individual justice and social utility have remedied the flaws in legal education discussed.

Contemporary criticisms of Indonesian legal education

The following overview is based on a review of publications on the subject combined with insights we have gained from co-operation projects we have been involved in over the years,¹⁰ as well as from conversations with Indonesian law lecturers and students. We start with the major points of criticism before looking at their immediate causes in the next section.

Formalism

A major point in most critiques is the highly theoretical and doctrinal nature of legal education in Indonesia (e.g. Sulistiawati & Hanif 2018, 320), which produces graduates who ‘are still inclined to be legalistic’ (Hikmahanto 2006, 3) In terms of the dichotomies mentioned above, legal education lacks the liberal orientation, but on top of that it lacks the orientation on practice *and* on science. It produces graduates who are good at memorising and who are faithful to legal doctrine. They have not gained a broad understanding of the law, but are trapped in its details: ‘students have neither the freedom nor the opportunity to seek different perspectives’ (Hikmahanto 2006, 4). A culture has emerged in which students do not think critically about a subject, because the answers expected from them at their exams should be as close as possible to what they have been dictated (Hikmahanto 2006, 7; also Sulistiawati & Hanif 2018, 338).

Some observers also point at the lack of enthusiasm of many students for conducting legal research. They write their thesis with the sole purpose of getting a university degree. No wonder that these theses tend to be descriptive in nature, contain little analysis and often consist mainly of quotations of legal texts (Wiratraman 2019, 233).

However, we also see some improvements. The most ambitious front-runner in changing legal education in Indonesia, Jentera Law School, emphasises the need to train students in critical thinking. Having received its first batch of students in 2015, Jentera

¹⁰ The most important of them were the projects Building Blocks for the Rule of Law from 2009-2013 (sponsored by the Dutch Embassy), the Capacity Development for International Law at UI (2016-2020, sponsored by NUFFIC) and Strengthening Legal Education in Indonesia (2019-present, also sponsored by NUFFIC).



offers a programme that engages as much as possible with various legal sources – including case law – and different textbooks and articles. In addition, it organises trips for students to courts, prisons and other ‘sites’ of the legal system and engages actively with social justice.¹¹

While Jentera is something out of the ordinary, more established law faculties are also embarking on change, even if this goes more slowly and if the pace and willingness differ from one faculty and from one department to the other. The criminal law department at Universitas Indonesia offers a course in comparative criminal law which looks near perfect in the balance it strikes between attention to legal concepts, social and political context, and student skills (Santoso 2019). Both in the Capacity Development and in the Strengthening Legal Education in Eastern Indonesia projects we have seen that efforts are being made at diversifying the use of legal sources and that those involved – including some older staff members – are eager to promote a less formalistic approach.

Skills

An often heard complaint is that legal education does not provide students with the skills required for legal practice. The skills we are referring to are practical ones, such as drafting contracts, writing legal opinions, presenting an oral argument, etc. This complaint is quite old and in 1993 was one of the reasons for the Minister of Education and Culture to order an amendment to the law curriculum (see also Arifin et al. 2020, 53-54). According to Sulistiawati & Hanif students request more training of skills, which in some law faculties has led to classes on negotiation, interviewing, counselling and others (2018, 334). Most efforts in Indonesia to address this demand is through Clinical Legal Education, but the results are mixed, partly because law faculties have adopted highly diverse forms of CLE and hesitate to make available the necessary funding (Arifin et al. 2020, 57-58).

Teaching methods

Teaching is mostly done in the form of lecturing to large groups and it is seldom interactive (Hikmahanto 2006, 7), a situation exacerbated now due to Covid as students no longer come to campus. This form of teaching is closely linked to the formalistic,

¹¹ Personal communication Bivitri Susanti, February 2020. See also the website of Jentera Law School for an overview of their programme and teaching ideology (<https://www.jentera.ac.id/>).



theoretical approach to law. Here as well we have seen some improvements, but the funds required for fundamentally changing this situation are seldom available. The most important change has probably been the introduction of moot court as a subject, where students are actively involved in preparing and arguing a case, as well as clinical legal education. Both types of teaching are more expensive and time-intensive than the common way of education and therefore require quite some enthusiasm and effort from lecturers and faculty leadership. According to Sulistiawati & Hanif one of the problems plaguing moot courts is that the majority of students does not participate in them (2018, 341).

Teaching materials

There is quite a degree of conservatism regarding the use of teaching materials. Text books are seldom replaced. According to Hikmahanto even exam questions remain the same and are passed down from one generation of students to the next (2006, 4, 7).

On the other hand we see some positive developments here as well. First, faculties are required to make extended syllabuses (so-called *buku ajar* or teaching guides), which need to be revised regularly. Even if staff is not inclined to change at least this forces them to take a look at the materials they are using – if they do not this may backfire in accreditation procedures.

Some faculty libraries have become much more active in collecting materials and making them available, for instance in major universities as Universitas Gadjah Mada and Universitas Indonesia. Moreover many materials have become accessible in digital form. Important initiatives as the digital journal / reports from *Hukumonline* and the availability of court cases on the internet are major steps forward. This also includes master and PhD-theses written at Indonesian law faculties. Unfortunately the actual theses are often not included in open repositories, but at least a summary can be retrieved through programmes as Google Scholar.

The problem remains of course that the quality of many legal materials is limited, as law journal articles are usually descriptive instead of critical. This is not something law lecturers are solely to blame for, as the basic materials for discussion, such as case law, were not accessible for so long and those available at the website of the Supreme Court are not well-organised in terms of the topics and statutory articles they discuss, nor in terms of their legal doctrinal importance.



Immediate Causes

While we already discussed the origins of the present situation of legal education in Indonesia in the first part of this article, we will now look at the more immediate causes of its problems. These originate in the development of the Indonesian legal system as discussed before, or in other words, they have been shaped by the broader political and social context of legal education. We start with a brief discussion of structural issues influencing how law faculties have organised their teaching. We will then look beyond such rather practical matters and argue that one problem haunting Indonesian legal education is a debate about the nature of law. The way this debate has developed is specific to Indonesia. Because it is linked with some of the structural factors, it has impeded initiatives at reform, as these are regularly framed as an attack on the nature of law itself. Curiously enough, this debate itself is a repetition of debates conducted in Europe and the US in the early 20th century. But first we will address a number of more mundane problems hindering reform of legal education.

Conservatism

Conservatism is often mentioned as a defining feature of Indonesia's legal education system (e.g. Arifin et al. 2021, 52). One issue often mentioned in conversations we have had with younger staff of law faculties – and some older staff as well – is the conservatism and vested interests of senior professors and lecturers. These often hold strong views about what law is, what law should be, and how it should be taught. Many such ideas originate in the legacy of the New Order we discussed above, or even in the late 1950s (Massier 2008, 209-210). It is not difficult to understand why these lecturers are not so enthusiastic about change, as the suggestions thereto are quite critical of the way they have learned law themselves and how they have promoted studying law during most of their professional lives.

The position of such seniors is reinforced by a particular feature of the Indonesian system of recruitment for universities, which enables them to select new candidates from their own students. In combination with the common Indonesian leadership style of '*Bapakism*'¹² this creates personal commitments and obligations, and involves the replication of teaching methods (Hikmahanto 2006, 4). Even if the

¹² '*Bapakism*' is a typically Indonesian – mostly Javanese – form of paternalistic leadership, which is not authoritarian in nature but emphasises a harmonious, pleasant work environment. It is less focused on the achievement of organisational targets than on maintaining social harmony (Suryani 2014: 95-96).



system is seldom openly authoritarian, social pressure to conform to the unwritten rules and hierarchy is hard to resist.¹³ In public universities this practice is further reinforced by the fact that if lecturers wish to take up employment in another faculty without the consent of their former employer they lose the credits they have earned over the years as civil servants.¹⁴

Funding

Law faculties generally do not have enough money to spend on teaching and research. While in many countries the student-staff ratio is a useful indicator of the teaching capacity within a faculty, in Indonesia this does not mean much. Because salaries are low, lecturers have to supplement them by teaching on other campuses, giving advice, or by other means. This has led to a situation where many lecturers have little incentive to invest time and effort in improving the quality of their lectures (Hikmahanto 2006, 7). A more ‘academic’ way to get such supplements is by obtaining research funding, which can be applied for both in national schemes and at the level of the university or faculty. However, such funding does not directly benefit teaching.

This issue interlinks with the incentives for lecturers to publish. Since about a decade Indonesian lecturers have to publish in international, Scopus-registered journals in order to get the credits they need for career advancement. While this may work well in sciences that are ‘universal’, this is different for law where most of the debate is national in nature. In fact, this obligation may lead to a reduction in the quality of legal debate in Indonesian law journals, which makes it also more difficult to find good Indonesian language legal articles for teaching purposes.

While the funding situation at public universities is already problematic, private universities are fully dependent on the fees students pay. This dependence has created a perverse incentive in that faculties tend to accept as many students as possible. This may not only lead to lowering the standards for admission but also has a negative effect on student-staff ratio.¹⁵

Yet, when we compare the situation with 20 years ago we should acknowledge that the financial situation of universities has improved and that at least most law faculties now are properly equipped with IT and other teaching facilities. Investments

¹³ We have seen several junior lecturers who left their faculties for this reason, sometimes even giving up their academic career altogether.

¹⁴ Personal communication from Herlambang Wiratraman, April 2021.

¹⁵ We are grateful to an anonymous reviewer for alerting us to this issue.



have been made into building moot court rooms and lecture halls, in the larger universities often sponsored by alumni. In this respect law faculties are now much more accommodating than they were in the past.

Organisational problems

One issue that strikes a foreign observer of Indonesian law faculties is that the administrative burdens of academic life are so challenging. Both the accreditation of law faculties made by the Ministry of Education and the benchmarks universities set may have good intentions, but in practice they lead to a heavy workload whereas these exercises seldom lead to direct positive effects on teaching – or at least this is not evident.

Another issue is the form of the curriculum. Law faculties use a system of credit points per semester (the Credit Semester System), but the number of credits one can get per course is quite limited. This means that courses are short and not suited for teaching subjects in depth. If there would be clear sequences of subjects building one on the other this might not have to be a problem, but students are relatively free in choosing their courses and these are seldom conditional upon having completed other ones (Hikmahanto 2006: 6).

Beyond the hardware: The influence of debates about the nature of law

The current state of Indonesian law as a discipline – as discussed in the first part of this article – bears some resemblance to law in Europe and the US around the turn of the 19th and 20th century. This was a time of excessive formalism, in Germany dominated by the so-called *Begriffsjurisprudenz* of Puchta; in France, the Netherlands and other countries with law codes dominated by *legisme* (the Dutch term); and in the US and the UK dominated by formalism. The key assumption underlying these three approaches was that the application of law to facts was a purely deductive activity, where legal texts could offer an immediate answer to any legal problem, if not straightaway then in any case by creating legal constructions which took little account of the actual world.

The response at the time in the countries concerned differed according to the legal system in place, but its core was the same. The *Freie Rechtslehre* in Germany, Legal Realism in the US, the *Méthode* of Gény in France, all of these argued for opening up law to insights from outside legal texts and for recognising the need of more



interpretational freedom for judges. Although they may not have obtained all their goals, overall these movements were successful in breaking the stifling straightjacket of formalism. Indirectly their success has extended even to Indonesia, as the rejection of formalism in the Netherlands also influenced legal interpretation and legal education in the Netherlands Indies.

If we look at debates in Indonesian law faculties today, we see something fairly similar. In their most pronounced form they are conducted in terms of ‘progressive law’ and ‘pure law’. Those promoting ‘progressive law’ derive much of their inspiration from the legal realist movement and the German *Freie Rechtslehre*. Developed first by professor of legal sociology Satjipto Rahardjo, progressive law is not so much interested in legal certainty, but emphasises the importance of social justice and utility. Its proponents argue that in order to be able to achieve this law students need more training in the social sciences, because the law must be ‘found in society’ (thus they link it to the well-known Article 5(1) in Law 48/2009 on the Judiciary). Some of the ‘progressive law’ scholars go quite far in arguing that laws and regulations are unfair and should be overturned if they do not accord with justice. Some of them even seem to argue to do away with statutory law altogether. The problem with their position is that it is not so easy to define what social justice and utility are, something that has been acknowledged by others who in principle agree that individual justice should receive more emphasis.

On the other side we find those who fear that opening up law to knowledge outside legal texts will undermine legal certainty (which is the typical formalist argument). They are opposed to any role for the social sciences in law. This group is still dominant in Indonesian law faculties. The most extreme form calls for ‘*hukum murni*’ or pure law, inspired by Hans Kelsen’s *Reine Rechtslehre*. Well-known protagonists of this group are Airlangga professors Peter Machmud Marzuki and Philippus Hadjon. Although some of their writings are nuanced,¹⁶ their basic position is not: there is no place for social sciences in law.

The vehemence with which this debate is conducted is remarkable and has led to polarisation within law faculties. According to Wiratraman ‘most instructors in Indonesian law schools treat research method preferences like ideologies or even religions’ (Wiratraman 2020, 234). In this manner a debate that should be about the use of legal sources and legal interpretation has become one about what law actually is. The

¹⁶ E.g. Marzuki 2011.



question is how it is possible that such a situation has evolved, with one side claiming that we should get rid of legal positivism altogether and the other side claiming that any influence of the social sciences in law is illicit.¹⁷

We think the answer lies in the evolution of Indonesian law as described above. The problem with using ‘pure law’ is that legal reasoning in Indonesia has become seriously underdeveloped (cf. Wiratraman 2020, 234-235). This has partly to do with the methods taught in law school, but even more with the falling into disuse of different forms of legal interpretation during the New Order as we discussed in the first part of the article. Of all the legal sources officially recognised in Indonesia – international treaty law, constitution, legislation, case law, habit/custom, and doctrinal writings – only the first three are effectively employed. Major forms of interpretation that used to be common in the 1950s – systematic interpretation, teleological interpretation, historical interpretation and interpretation based on legislative history – have become rare or non-existent.¹⁸ They are recognised in theory, but rarely applied.¹⁹

Another issue is that there is not much juridical debate in law journals. This has partly to do with the lack of a tradition in which important Supreme Court decisions are taken as a point of departure for legal commentary. If the only source used for legal interpretation is legislation, there cannot be much of a legal debate from which students can learn about legal reasoning.²⁰ On top of that, legislative history is usually hard to access and thus another source for interpreting statutory law is unavailable.

In short, the basic conditions for improving legal education, which lie in the nature of the legal system itself and how legal communication is conducted (Bedner 2016, 29-31) are problematic. Achieving a degree of consensus about how open the legal system should be to ‘outside knowledge’ and which methods of interpretation should be used is therefore of great importance. The next step then is to actually use these methods– not only in legal research but also in teaching law.

¹⁷ For an in-depth analysis of this debate see Putro & Wiratraman 2015 and Wiratraman & Putro 2019.

¹⁸ See for instance Kouwagam 2020: 43-48 and Butt 2019.

¹⁹ We will now gloss over the debate whether judicial rulings are a source of law, something which is still not uncontested but becoming more accepted. See Bedner 2013 and 2016.

²⁰ For a discussion of some of the problems regarding a discussion of Supreme Court judgments see Bedner & Wiratraman 2019.



Moving forward

After having outlined some of the problems marring legal education in Indonesia the obvious question is how to move forward: what are the possibilities for improving legal education in Indonesia given the constraints outlined above?

We would like to start addressing this question by pointing at a few favourable developments concerning the problems we discussed, in addition to the ones we already mentioned above. The first is that there are some exceptions. One of them concerns the difficulty in accessing case law: from its establishment in 2003 the Constitutional Court has made its judgments widely available and also attracted much public attention generally; it has thus created better conditions for a fruitful exchange of legal arguments than the Supreme Court. The Constitutional Court's argumentation is moreover elaborate and leaves less room for speculation than most Supreme Court judgments (e.g. Butt 2015; Hendrianto 2018). The same applies to the Islamic courts, which have their own platform for legal debate where the communication between different legal actors has taken shape (Bowen 2003; Nurlaelawati 2010; Van Huis 2015).

The second development is the increased exposure of Indonesian law lecturers and students to legal systems outside Indonesia. While it is sometimes hard to reconcile what Indonesian students learn abroad about law with the conditions they find at home, the globalisation of legal education has widened the horizon of thousands of Indonesian lecturers and students. Such globalisation has stimulated the need for contextualising law and since international programmes abroad increasingly offer such contextualisation, the insights they offer become more relevant to the Indonesian legal system. This new generation of legal scholars speaks English and is often embedded in international networks. In short, they are less inward looking than the generation before them.²¹

Linked to this is the requirement for lecturers to publish in international journals, While we mentioned earlier that this may have negative consequences for the contributions to Indonesian law journals, the flipside is that lecturers are forced to look beyond doctrinal approaches to law and have to contextualise their analysis in order for their articles to become publishable and relevant to a non-Indonesian audience as well. And finally, the *merdeka belajar / kampus merdeka* policy of the present government

²¹ This of course not only applies to Indonesia, but to most countries around the globe.



opens up opportunities for law students to follow courses outside the law faculty, which will make them acquainted with approaches other than doctrinal law (Van Huis 2021).

Then a few suggestions. First, as we have argued above, we think the debate between pure law and progressive law is misguided and draws away the attention from what really matters – how to educate lawyers who are both academically competent and also have the ability to become accomplished professional lawyers, in short, combining a liberal legal education with a good preparation for vocational training. Judging from the writings of the protagonists of both sides there actually is a platform of agreement to develop the legal curriculum in such a way.

Second, legal education should become more practical, more concerned with *doing* law rather than with *studying* law. This means that next to being exposed to legal theories, students should learn to apply law to cases, using the full spectrum of legal sources and interpretational methods available (cf. Sulistiawati & Hanif 2018, 338). From day one in law school they should be discussing real or fictive cases and how these should be resolved legally. Indonesian law faculties should return to being ‘faculties of law’ rather than ‘faculties of legislation’. This means that law teachers should offer their students the rich materials needed for proper legal reasoning instead of a mere textual analysis. This is no plea for an extra course in legal method, but a plea for teaching students how to find these materials and use these methods. In that way the current juxtaposition between socio-legal approaches and ‘pure law’ can be overcome and law may regain the autonomy it has lost over the past decades.

This demands from lecturers that they look for relevant case law, that they go out themselves to find parliamentary records, that they make available good doctrinal writings and that they write these themselves if none are available. These are skills any jurist will need, whatever the profession s/he ends up in.

Teaching students how to ‘do’ law also requires Indonesian law lecturers to start making an inventory of the Supreme Court precedents available and provide them with comments.²² This will help to achieve legal certainty and it will be excellent for the Supreme Court to be subjected to such scrutiny. No one can possibly have objections against this, we think. Indonesia does not follow the principle of ‘stare decisis’, but that does not reduce the role of precedent to a mere illustration. It is the only way, in any

²² For an example of such an effort concerning freedom of the press see Wiratraman 2014. Other examples are Kouwagam 2020, Saptaningrum 2021 and Assegaf 2021. Hukumonline makes important efforts to make Supreme Court judgments better accessible. Another effort worth mentioning is the project sponsored by an international legal co-operation programme to write casebooks.



legal system, to bring about a national legal discourse and to find that if case law points to the wrong solutions the law should be changed or the Supreme Court should be convinced that they have to change their interpretation.

Doing law requires that students are aware of the goals of the legal system and that in resolving individual cases they take into account the objectives of the legal system of legal certainty, justice and social purpose. This involves knowledge of meta-juridical fields as socio-legal studies and the social sciences. Such knowledge is also indispensable for interpreting legal terms as ‘the best interest of the child’ or the ‘carefulness required in societal intercourse regarding another’s person or property’ when it concerns a tortuous act. Knowledge of legal pluralism is also required if one wants students to understand that statutory norms interact with the norms found in different communities within the unitary state of Indonesia. Moreover, if one wishes to use a teleological interpretation of a legal provision the focus is on what the law wants to achieve, something we cannot determine if we do not make a proper assessment of the effects of the law in practice. It makes more sense to employ the social sciences for such evaluations than to rely on the personal ideas of the jurist concerned. Precisely because *adat* law was so important in the Netherlands Indies the social sciences made up a large part of the curriculum in the early days of the *Rechtshogeschool*.

Third, in order to improve jurists’ capacity in critical thinking it is important to make them aware of the relation between law and politics. Given the history of Indonesian law and how law has been abused for the purposes of a variety of authoritarian regimes it is understandable that some law professors plead for a legal education whose objectives are ‘neutral and independent of outside interests’ (e.g. Hikmahanto 2006, 11). However, it is precisely by showing students how law is *never* neutral that they are educated to become critical of such abuse. Law is always an outcome of political choices and moreover incorporates certain values that make it inevitably political. Such awareness is also key in how judges or officials strike the balance between the different purposes of the legal system.

And finally, students who do not have the opportunity of studying law abroad should also be exposed to law in other jurisdictions and how certain legal choices have been made in these systems. This will not only enhance their critical capacity, but it will also enable them to compete with lawyers who graduated abroad.



Many more recommendations can be made and many almost logically follow from the problems we outlined earlier. However, we think these four are the most important ones.

Concluding remarks

Indonesian law and legal education are in better shape than 20 years ago. Access to legal materials has improved, an increasing number of Indonesian law lecturers and students follow programmes abroad which enables them to see the problems of law in Indonesia in perspective, and law faculties are experimenting with new forms of legal teaching. That much remains to be done is no wonder given Indonesia's history, with political regimes trying for almost 40 years to undermine the autonomy of law. As we have argued in this paper, many of the present problems in law and legal education are consequences of this history.

The main problem of Indonesia's legal system as we see it is the lack of communication between its constituent institutions. Law can only develop when the interpretations of rules in the light of new facts or ideas are shared and lead to new rules, thus promoting legal certainty in balance with the other objectives of the legal system. For law lecturers it means that their research must critically evaluate court judgments and new legislation, both from a legal systematic perspective and from a view on what their effects in practice are. It also means that they should make their students familiar with such an approach. Students should be taught to resolve legal cases by applying a variety of methods of legal interpretation combining different sources of law, as well as to learn to see the law from an external perspective. Only such an external perspective, whether inspired by philosophical, social, political, psychological or economic considerations, can lead to a genuinely critical evaluation of legal rules and their application.

We also maintain that the debate between a doctrinal and a socio-legal perspective is misguided and leads to unnecessary confusion. A doctrinal approach is needed to examine the internal coherence of the legal system, which serves to promote legal certainty. Yet, law is an open system, and it can only develop if it relates to a well-informed understanding of facts in the real world. This has been recognised in all advanced legal systems and it is of particular importance in a country like Indonesia where legal pluralism is still widespread and must be taken into account to prevent major injustices and a corresponding loss of legitimacy.



Finally, we maintain that the discussion whether legal education should cater for generalists or professionals and whether its orientation should be primarily academic or vocational gets too much attention, or at least is premature. There is sufficient common ground for agreement about legal education, as no one will deny that law graduates should be able to resolve legal problems, while taking into account the objectives of the legal system, and that they should have the ability to critically reflect on the law and how it functions in practice.

The implications of this for the reform of legal education are fairly self-evident.



BIBLIOGRAFI

- Afandi, F. 2021. *Maintaining order: Public prosecutors in post-authoritarian countries, the case of Indonesia* (Doctoral dissertation, Leiden University).
- Arifin, S., Wedhatami, B., & Alkadri, R. 2020. "Adoption and Implementation of Clinical Legal Education Programmes in the Indonesian Legal Education System." *Asian Journal of Legal Education*, <https://journals.sagepub.com/doi/full/10.1177/2322005820961208>.
- Assegaf, R. 2019. "The Supreme Court: *Reformasi*, independence and the failure to ensure legal certainty." In: Crouch M. (ed.) *The Politics of Court Reform: Judicial Change and Legal Culture in Indonesia*: 31-58. Cambridge: Cambridge University Press.
- Assegaf, R. 2021. "Criminal Sentencing in Indonesia: Disparity, Disproportionality and Biases." A Socio-legal Study of Sentencing Theft, Embezzlement and Corruption. Doctoral Dissertation, Melbourne University.
- Bedner, A. 2013. "Indonesian Legal Scholarship and Jurisprudence as an Obstacle for Transplanting Legal Institutions." *Hague Journal on the Rule of Law*, 5(02): 253-273.
- Bedner, A. 2016. "Autonomy of law in Indonesia." *Recht der Werkelijkheid*, 37(3): 10-36.
- Bedner, A. & Wiratraman, H. 2019. "The Administrative Courts: The Quest for Consistency." In: Crouch M. (ed.) *The Politics of Court Reform: Judicial Change and Legal Culture in Indonesia*: 133-148. Cambridge: Cambridge University Press.
- Bowen, J. 2003. *Islam, law, and equality in Indonesia: An anthropology of public reasoning*. Cambridge University Press.
- Bourchier, D. 1999. "Positivism and romanticism in Indonesian legal thought." In Lindsey, T. (ed.) *Indonesia: Law and society*: 186-96. The Free Press.
- Budiardjo, Nugroho, Reksodiputro (in cooperation with Mochtar, Karuwin & Komar). 1997. *Law Reform in Indonesia. Results of a Research Study Undertaken for the World Bank*. Jakarta: CYBERconsult.
- Butt, S. 2015. *The Constitutional Court and democracy in Indonesia*. Leiden; Boston: Brill Nijhoff.
- Butt, S. 2019. "Judicial reasoning and review in the Indonesian Supreme Court." *Asian Journal of Law and Society*, 6(1): 67-97.
- Crouch, M. 2019. "The judicial reform landscape in Indonesia." In: Crouch, M. (Ed.). (2019). *The Politics of Court Reform: Judicial Change and Legal Culture in Indonesia*. Cambridge University Press, 1-28.
- Derlien, H. U. 2003. "German public administration: Weberian despite" Modernization". In: Tummala, K. *Comparative Bureaucratic Systems*, 97-122. Lanham: Lexington Books.



- Djalins, U. 2012. "Subjects, lawmaking and land rights: Agrarian regime and state formation in late-colonial Netherlands East Indies." Doctoral dissertation, Cornell University.
- Djalins, U. 2013. "Re-examining subject making in the Netherlands East Indies legal education: Pedagogy, curriculum, and colonial state formation." *Itinerario* 37(2): 121-146.
- Fasseur, C. 2001. *Rechtsschool en raciale vooroordelen*. Amsterdam: Balans.
- Gardner, J. 1980. *Legal imperialism: American lawyers and foreign aid in Latin America*. Madison: University of Wisconsin Press.
- Groen, M. 1985. *Het wetenschappelijk onderwijs in Nederland van 1815-1980: Een onderwijskundig overzicht, Deel 4: Rechtsgeleerdheid*. Eindhoven: Eindhoven University of Technology.
- Guth, J. & Ashford, C. 2014. "The Legal Education and Training Review: regulating socio-legal and liberal legal education?" *The Law Teacher*, 48(1): 5-19.
- Hendrianto, S. 2018. *Law and politics of constitutional courts : Indonesia and the search for judicial heroes*. Abingdon, Oxon [UK]; New York, NY: Routledge.
- Irianto, S. 2004. Competition and interaction between state law and customary law in the court room: A study of inheritance cases in Indonesia. *Journal of Legal Pluralism & Unofficial Law*, 36(49): 91-112.
- Juwana, H. (2006). "Legal education reform in Indonesia." *Asian Journal of Comparative Law*, 1(1), <https://doi.org/10.2202/1932-0205.1016>.
- Katz, J. and R. Katz. 1975. "Teaching methodology and Indonesian legal education." *Journal of Legal Education* 27(2): 219-234. <https://www.jstor.org/stable/428923117/S1876404512001145>.
- Kouwagam, S. U. 2020. "How lawyers win land conflicts for corporations: Legal strategy and its influence on the rule of law in Indonesia." Doctoral dissertation, Leiden University.
- Kouwagam, S. & A. Bedner. 2020. "Indonesia: Professionals, brokers and fixers. In: Abel, R., Hammerslev, O. and H. Sommerlad." *Lawyers in 21st Century Societies I, National Reports*, 735-752. Oxford: Hart Publishing.
- Kusumaatmadja, M. 1994. "Pendidikan Hukum Di Indonesia: Penjelasan Tentang Kurikulum Tahun 1993." *Hukum dan Pembangunan*, 24(6), 91-501.
- Lasser, M. 2004. *Judicial Deliberations: A comparative analysis of judicial transparency and legitimacy*. Oxford: Oxford University Press.
- Lee, J. (ed.) 2011. *From House of Lords to Supreme Court: Judges, jurists and the process of judging*. Oxford and Portland, OR: Hart Publishing.
- Lev, D. 1965. The lady and the banyan tree: Civil-law change in Indonesia. *American Journal of Comparative Law* 14(2), 282-307.
- Lev, D. 1973. Judicial unification in post-colonial Indonesia. *Indonesia*, (16), 1-37.
- Lev, D. 1978. "Judicial authority and the struggle for an Indonesian Rechtsstaat." *Law & Society Review*, 13(1), 37-71.
- Lev, D. 1985. "Colonial law and the genesis of the Indonesian state." *Indonesia* (40), 57-74.



- Lindsey, T. and S. Butt. 2018. *Indonesian law*. Oxford: Oxford University Press.
- Marzuki, P. 2011. *An Introduction to Indonesian Law*. Jakarta: Setara Press.
- Massier, A. 2008. *The voice of the law in transition: Indonesian jurists and their languages, 1915-2000*. Leiden: Brill.
- McLeod, R. 2000. "Soeharto's Indonesia: a better class of corruption." *Agenda: a journal of policy analysis and reform*, 99-112.
- Modiri, J. 2014. "The crises in legal education." *Acta Academica*, 46(3), 1-24
- Moeliono, T. and H. Wiratraman (n.d.) Peran Pendidikan Tinggi Hukum dalam Pengembangan "Ilmu" Hukum: Rekonstruksi Pemikiran B. Arief Sidharta, <https://d1wqtxts1xzle7.cloudfront.net/59241153/herlambang-tristam20190513-45890-1sv1epe-with-cover-page-v2.pdf?Expires=1633259020&Signature=UfwK4PetLZof5AGn8S9RbRzHkIdMnlodcQL9X5VID9nDJDBPTnKvk5Q5e1ls87JzN-7sN35Ogm0gIaOz2Sr7t2ilJEP211Os7hXS-AoKKMEeAKCn~hyfDKXJ89wHx7uyKIT2G4XJPYuBvjNj4bOU~1lMEx3mHg3TrhVZqtoVN4t2S6dtGYsY0I5NsrRzYE-d3A4wAJv4zKG9Cm4VG85Re1Vv2XvhmLUfYrs8jeTUiJKL7wyFisHkQToWaxEJwjFSvQ~i-fIK1fkQncMo~YKcH8pJ2r4ZfwewH5KwmOUqrU tE1kItCfLK6KSXrZF-rd-oLTJPwLLYEBrcQpf2B2w &Key-Pair-Id=APKAJLOHF5GGSLRBV4ZA>.
- Nurlaelawati, E. 2010. *Modernization, tradition and identity: The Kompilasi Hukum Islam and legal practice in the Indonesian religious courts*. Amsterdam: Amsterdam University Press.
- Oomen, B. & A. Bedner 2018. "Real legal certainty and its relevance: An introduction." In: Bedner, A., & Oomen, B. *Real legal certainty and its relevance: essays in honour of Jan Michiel Otto*, 9-22. Leiden University Press (LUP).
- Pompe, S. 2005. *The Indonesian Supreme Court: a study of institutional collapse* (No. 39). Ithaca: Cornell University Press, SEAP Publications.
- Puchalska, B. 2004. "Legal education: Professional, academic or vocational?" *European Journal of Legal Education*, 1(2), 15-34
- Putro, W. and H. Wiratraman. 2015. "Penelitian hukum antara yang normatif dan empiris." *Digest Epistema* (5), 3-16.
- Reksodiputro, B. (n.d.). *The Challenges to Legal Education in Indonesia*. (http://www.aseanlawassociation.org/docs/w3_indo.pdf)
- Reksodiputro, B. 2012. "Beberapa Catatan Tentang Pemikiran Prof Mochtar Kusumaatmadja Tentang Pembangunan Hukum Dan Pendidikan Tinggi Hukum." In: Shidarta (ed.) *Mochtar Kusuma-Atmadja Dan Teori Hukum Pembangunan: Eksistensi dan Implikasi*. Jakarta: Epistema Institute.
- Reksodiputro, B. 2013. "Menyelaraskan Pendidikan Tinggi Hukum Indonesia Dengan Arah Pembangunan." Makalah ini telah disampaikan pada ulang tahun ke 15 Fakultas Hukum Universitas Pelita Harapan. 1 november 2013, <http://mardjonoreksodiputro.blogspot.com/2013/11/menyelaraskan-pendidikan-tinggi-hukum.html> last accessed 30 June 2021. Santoso, T. (2019). Comparative Law in the Faculty of Law, University of Indonesia: Course Content and Teaching Methods. *Asian Journal of Comparative Law*, 14(S1), S213-S227.



- Saptaningrum, I. 2021. "Internet regulation in Indonesia 1990–2018: An inquiry into a contested regulatory field." Doctoral dissertation, University of New South Wales.
- Sato, N. 2016. "The state of legal education in Japan: Problems and "re"-renovations in JD law schools." *Asian Journal of Law & Society*, (3), 213-226.
- Smits, J. 2017. "What is legal doctrine? On the aims and methods of legal-dogmatic research." In: Van Gestel, R., Micklitz, H. and E. Rubin (eds), *Rethinking legal scholarship: A transatlantic dialogue*, 207-228. New York: Cambridge University Press.
- Stolker, C. 2014. *Rethinking the Law School*, Oxford: Oxford University Press.
- Sulistiawati, L. and I. Hanif. 2018. Second fiddle: Why Indonesia's top graduates shy away from being judges and prosecutors, and what we can do about it. In: Harding, A., Hu, J. and M. de Visser (eds) *Legal education in Asia: From imitation to innovation*, 318-349. Leiden: Brill Nijhoff.
- Suryani, A. 2014. "Leadership styles in Indonesia." Doctoral Dissertation, Tilburg University.
- Tamanaha, B. 2012. *Failing law schools*. Chicago: University of Chicago Press.
- Van Huis, S. 2015. "Islamic courts and women's divorce rights in Indonesia: The cases of Cianjur and Bulukumba." Doctoral dissertation: Leiden University.
- Van Huis, S. 2021. "Law and interdisciplinarity in a time of transformation: the 'new normal' at law institutions of higher education." Public lecture at the 10th Dies Natalis of Business Law Department BINUS, 5 June 2021.
- Van Klink, B. and U. de Vries. 2016. "Introduction." In: Van Klink, B. and U. de Vries (eds) *Academic learning in law: theoretical positions, teaching experiments and learning experiences*. Edward Elgar Publishing. Introduction chapter: <https://www.elgaronline.com/view/edcoll/9781784714888/9781784714888.00008.xml>
- Wignjosoebroto, S. 1992. *Legal Development and Legal Education in Post-War Indonesia (1942-1992)*. Leiden: Van Vollenhoven Institute for Law and Administration in Non-Western Countries, working paper.
- Wignjosoebroto, S. 2014. *Dari hukum kolonial ke hukum nasional: dinamika sosial-politik dalam perkembangan hukum di Indonesia*. Jakarta: HUMA.
- Wiratraman, H. 2014. "Press freedom, law and politics in Indonesia: A socio-legal study. Doctoral dissertation: Leiden University.
- Wiratraman, H. 2019. "The challenges of teaching comparative law and socio-legal studies at Indonesia's law schools." *Asian Journal of Comparative Law* 14(1): 229-244.
<https://pdfs.semanticscholar.org/8cd9/24d2cd23f11614407a42b30470b04c404f0f.pdf>
- Wiratraman, H. P., & Putro, W. D. 2019. "Tantangan Metode Penelitian Interdisipliner Dalam Pendidikan Hukum Indonesia." *Mimbar Hukum*, 31(3): 402-418.