

Legal Aspects of Student Loans in the Context of Increased Financial Inclusion

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ABSTRACT

Increasing financial inclusion is one of the main agendas in sustainable economic development. One of the instruments that plays an important role in this is student loans, which provide access to funding for students to continue their higher education. This paper analyzes the legal aspects that govern student loans in Indonesia, including government policies, banking regulations, and consumer protection in financial transactions. In addition, the challenges faced in the implementation of student loans were also discussed, such as the risk of default, transparency of terms and conditions, and dispute resolution mechanisms. Using normative legal research methods, and using a legal and regulatory approach, this study aims to identify existing regulatory weaknesses and provide policy recommendations to increase the effectiveness of student loans as an instrument of financial inclusion. The results of this study are expected to contribute to the formulation of a more inclusive and equitable financial policy for students in Indonesia.

Keyword: Student Loans; Financial Inclusion; Regulation; Consumer Protection; Financial Policy

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1. INTRODUCTION

Undergoing higher education requires a large cost all over the world, including in Indonesia. Uncertain economic conditions force the cost of education to continue to increase every year. Tuition fees include tuition fees, single tuition fees, educational coaching contributions, fees per semester credit system, practicum fees, final project research costs, housing costs, transportation and daily meal costs. On the other hand, the way to improve the quality of human resources in Indonesia is through higher education. As one of the goals of the state in the Preamble to the 1945 Constitution is to educate the nation's life. And in Article 31 it is stated that every citizen has the right to be taught.

The cost of education so that the education system runs as expected is not only borne by public schools or universities, private schools or universities also bear the amount of these costs. Although many government and private institutions provide scholarships for students and students, not all students get the opportunity to be financed. At the basic education level, for example, although the Government has provided School Operational Fund (BOS) funds for elementary and junior high schools throughout Indonesia, most people still have difficulty financing education, especially basic operational costs that must be borne by parents or guardians of students. (Ferdin, 2013).

Student loans or familiar, referred to as student loans, play an important role in U.S. higher education. Nearly 20 million Americans go to college each year, and nearly 12 million — or 60% — borrow each year to help cover costs. In 2021, about 45 million Americans had student debt, with an average balance of about \$30,000. (Annie Nova, 2021). In Europe, higher education receives more government funding, so student loans have become less common. In some regions of Asia and Latin America, government funding for lower post-secondary education is usually limited to top universities, such as UNAM in Mexico — and government programs that allow students to borrow money are rare. (Maoyuan, 2008)

In the United States, colleges are funded by government grants, scholarships, and loans. Student loans are available in several types, but they are essentially federal loans or private student loans. Federal loans can be subsidized (the government pays interest) or unsubsidized. Federal student loans are subsidized only for undergraduate-level students. Subsidized loans generally defer payments and interest until a certain period (usually six months) after the student graduates from college. (CFPB, 2024)

Some states have their own loan programs, as do some colleges. In almost all cases, these student loans are in better condition than private loans. Student loans can be used for tuition-related expenses, including tuition, room and board, books, computers, and transportation. (FinAid, 2024).

What about student loans in Indonesia? What are the legal aspects of student loans in order to increase financial inclusion? These questions will be solved in this article.

2. RESEARCH METHOD

The type of research used in this paper is normative legal research. The approach used is a legal approach. Laws and regulations regarding student loans in Indonesia will be reviewed and analyzed. Find the legislative and ontological ratios of the regulation. By studying the legislative ratio and the ontological basis of a regulation, the content of philosophy will be captured and sorted out for clashes with other regulations and associated with the existing *das sein*. (Santoso, et. al, 2022).

3. RESULTS AND DISCUSSION

A. *Student Loans in Indonesia*

The concept of human rights related to education is implied in the "Preamble to the 1945 Constitution which states that the three states are to educate the life of the nation. In addition, in the body related to education enshrined in Article 31 of the 1945 Constitution which states that citizens have the right to be taught, the Government organizes a national teaching system. In the fourth amendment, Article 31 of the 1945 Constitution contains: 1. Citizens have the right to education. 2. Citizens attend basic education financed by the government. 3. Organizing a national education system. 4. The country's priorities in terms of education. 5. Advancing Science and Technology." (Hasanah, 2022)

One of the biggest problems faced by students in Indonesia is the financial limitations to pay tuition fees. Many students have difficulty gaining access to funding services, especially from the formal sector such as banks or other financial institutions. The Indonesia Smart Card (KIP) Lecture was officially launched by the Indonesian government in 2020 as a replacement for the Bidikmisi program. KIP Lecture is one of the educational assistance programs intended for students from underprivileged families so that they can get access to education in higher education.

The Smart Indonesia Card (KIP) Lecture is one of the educational assistance programs from the government aimed at supporting students from financially disadvantaged families in continuing their education in higher education. This program is very important in creating equal access to education for all levels of society, especially for those who have high academic potential but are constrained in terms of cost. (FISUNJ, 2024)

On the other hand, not all underprivileged students are accommodated by this KIP Lecture. In fact, in addition to KIP Lecture and other scholarships, there is an Information Technology-Based Joint Funding Service or online loans that offer fast access to funding to students, to answer the needs of tuition payments. Coordinating Minister for Human Development and Culture (PMK) Muhadjir Effendy supports the proposal related to the provision of tuition assistance to students He said that all initiatives that aim to help students are well done, including using online loans.(Rahmawati, 2024)

Funding for the implementation of Higher Education is a shared responsibility between the Central Government, Regional Governments, and/or Universities. The Central Government and Regional Governments provide funding for the implementation of Higher Education in State Universities in accordance with the provisions of laws and regulations. The Central Government and Regional Governments can provide funding to Private Universities in accordance with the provisions of laws and regulations. Higher Education funding can be sourced from the community in accordance with the provisions of laws and regulations.

The concept of student loans was first applied at the University of Bologna, Italy in the 11th century which was then followed by several countries, such as Colombia and Australia in the 20th century. Then, there are several types of student loan concepts, namely Time-based Repayment Loans (TRBL) and Income Contingent Loans (ICL). The concept of student loans has a positive impact such as being able to improve and improve the quality and access to higher education, but on the other hand, student loans can also have an impact on the occurrence of bad loans, the length of repayment time, the threat of not having

retirement savings, and so on. Some countries that have successfully implemented the student loan concept are Australia and the United Kingdom. In Indonesia itself, it has implemented student loans in 1982 under the name Kredit Siswa Indonesia (KMI), but failed for various reasons. Currently, the concept of student loans has been re-initiated under the name KMI 2.0 which is based on Article 76 paragraphs (1) and (2) of the Higher Education Law and is expected to be formulated in a mature and comprehensive manner. (Zachrie et. al, 2024)

The laws and regulations that strictly regulate the issue of student loans are Law No. 12 of 2012 concerning Higher Education. It is stated in Article 76 Paragraph (2) letter c, namely: interest-free loans that must be repaid after graduation and/or obtaining a job. Explanation of that article, letter c: What is meant by "interest-free fund loan" is a loan received by interest-free students to attend and/or complete Higher Education with the obligation to repay after graduation and earn sufficient income.

At the implementation level, unfortunately, interest-free loans or student loans can be said to have no implementation. In fact, the potential of government and private institutions is very large to help students who are economically unable to continue to complete their studies in higher education.

The higher education institutions that facilitate their students to get tuition fees include the Bandung Institute of Technology (ITB). Other campuses sporadically disseminate scholarship and KIP lecture information through their Student Affairs Division.

ITB is developing a policy for the Special Financial Aid System for ITB students that is in line with the educational goals, which is to educate students who excel academically and have strong character, adaptive, integrity, humility, and fighting spirit. (Naufal, 2024). However, this system is only running and is not in the form of student loans as affirmed in the Higher Education Law.

B. Legal Aspects of Student Loans in the Context of Increasing Financial Inclusion

According to Financial Services Authority Regulation (POJK) No. 3 of 2023 concerning Increasing Financial Literacy and Inclusion in the Financial Services Sector for Consumers and the Community, financial inclusion is the availability of access to and utilization of affordable, quality, and sustainable PUJK (Financial Services Business Actor) products and/or services in accordance with the needs and capabilities of the community to improve people's financial welfare.

The legal aspects of student loans that aim to improve financial inclusion include various regulatory and policy elements that ensure fair, transparent, and sustainable access to education financing. Here are some of the legal aspects, namely government regulations and policies. (ADBI, 2017)

Laws and regulations related to education financing, such as Law No. 12 of 2012 concerning Higher Education. The Financial Services Authority (OJK) policy related to financial technology-based loan services (fintech lending) for students. The role of the Education Fund Management Institution (LPDP) and the government's assistance scheme in education loans. Consumer Protection in Student Loans The rights and obligations of students as borrowers, including transparency of interest, administrative fees, and credit risk. (Dwi, 2021). OJK supervision of student loan practices to prevent exploitation and predatory lending practices. Compliance of loan providers with Consumer Protection Law No. 8 of 1999. Aspects of Agreements and Civil Law Clauses in the loan agreement, including interest rates, tenors, and repayment schemes.

The legality of the collateral in student loans, if any, as well as the legal implications of default or default. Legal Aspects of Finance and Banking The role of banks and fintech P2P lending in providing education loans. Compliance with Bank Indonesia and OJK regulations regarding education financing. Systemic risks in student loans and mitigation strategies from regulators. Dispute Resolution Mechanism Dispute resolution through banking or fintech mediation. The role of the Consumer Dispute Settlement Agency (BPSK) and the court in handling cases related to student loans. By understanding this legal aspect, student loan policies can be better designed to support financial inclusion and wider access to education. (Trisadini et. al, 2019)

4. CONCLUSION

The legal aspects of student loans play a crucial role in improving financial inclusion by ensuring equitable and sustainable access to education financing. Clear regulations, consumer protection, and supervision of loan providers are the main factors in creating a safe and transparent lending system. However, challenges such as the risk of default, lack of financial literacy of students, and unethical lending practices are still obstacles. Therefore, it is necessary to improve regulations, risk mitigation mechanisms, and strengthen financial education so that student loans can be an inclusive solution in supporting wider and more equitable access to education.

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