Legal Politics of Responsive National Education System in the Globalization Era and the Covid-19 Pandemic

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Abstract
The Government’s serious effort to build a National Education System in anticipating the development and progress of the globalization is manifested through making, stipulating and implementing policies related to the education sector, so that to prevent illegal policies, laws and regulations are needed as a juridical basis for these policies especially during the current Covid-19 Pandemic. The making of laws and regulations is called political law. What needs to be emphasized in legal politics is the guarantee of protection for public participation in the formation of laws and regulations. Community participation, if associated with responsive law, implies that the principle of public participation is the main thing in the formation of law for the realization of democratic legal products. Responsive legal politics still creates problems due to the lack of public participation in the making of laws and regulations. Therefore, the research problem is whether the legal politics of the National Education System in the era of globalization is responsive or not? The approach used is normative juridical. The results show that the responsive legal politics of the National Education System in the era of globalization consists of: Law Number 20 of 2003 on the National Education System, Law Number 14 of 2005 on Teachers and Lecturers, Law Number 12 of 2012 on Higher Education, and Circular of the Minister of Education and Culture Number 4 of 2020 on Implementation of Education Policies in the Emergency of Coronavirus Disease (Covid-19) Spreading.

Keywords: Globalization Era; Political Law; Legal Politics; Responsive; National Education System.

Introduction
The era of globalization creates a world without borders and poses a huge influence on the dynamics of human life, such as: politics, law, economy, social, culture, and education. Education itself is the main key for the advancement of a state’s civilization due to the important contribution of people’s intellectual
intelligence. Although the states possess rich natural resources, they would have not been able to manage them when they lack human resources. Therefore, the state plays an important role in building, developing and advancing education in order to create high-quality human resources who master science, technology and information for the advancement of the state’s civilization.

The era of globalization brings new challenges that must be answered through education because globalization demands a change in one’s mindset. The vision, mission, and strategy of education must be well planned in order to prepare quality human resources who can deal with all the challenges of globalization. Likewise, Indonesia as a nation is currently facing a number of very big challenges in developing the quality of human resources. Apart from globalization and the urge to develop the quality of human resources, there is also the challenge of economic crises, which have an impact on political and social crisis, even potentially lead to national disintegration. One of the substances of change in constitutional reform that is very strategic for the future of this nation is the national education. The awareness to fix the problem of national education has become increasingly urgent, considering that education is the best way for the nation to establish an order of Indonesian societies who are faithful and devoted to the God Almighty, civilized, skilled, knowledgeable and responsible in carrying out their duties and obligations as a community, citizens of nation, and citizens of state.¹

The development of the National Education System is a part of the National Development Program. The development of the National Education System must apply the principles of balanced rights and obligations between the Government and citizens. The government has the authority to regulate the education based on the laws and regulations, while its obligation is to provide legal protection for the constitutional rights of every citizen to get education as Article 31 paragraph (1) of the 1945 Constitution of the Republic of Indonesia states that every citizen has the right to receive education. Paragraph (3) further states that the Government

shall seek and implement a national education system, which increases faith and piety as well as noble morals for the sake of enriching the life of the nation, as regulated by law.

The Government’s serious efforts to build a National Education System in anticipating the development of the globalization are manifested through the making, stipulation and implementation of policies related to the education sector. In this case, to prevent some illegal policies, laws and regulations are needed as a juridical basis for these policies. The Covid-19 pandemic is global in nature because it has hit all countries including Indonesia. The Covid-19 pandemic has had a devastating effect on human health and safety. The Covid-19 pandemic has also caused enormous losses in the political, legal, economic, social and cultural fields, one of which is the implementation of the National Education System. The Covid-19 pandemic changed the implementation of the National Education System, especially the face-to-face learning system because it was feared that the transmission and exposure of the Covid-19 Virus could occur through face-to-face learning so that the learning system was changed through the online system. Changing the face-to-face learning system to an online system is not immediately carried out but begins with the existence of regulations in the form of laws and regulations which form the legal basis for its stipulation.

This statutory regulation goes through the law-making process regulated in Law Number 12 of 2011 on the Formation of Laws and Regulations junto Law Number 15 of 2019 on Amendments to Law Number 12 of 2011 on the Formation of Laws and Regulations. The formation of these statutory regulations is called legal politics which means an official state’s policy to form, implement, and enforce laws and regulations in various fields of life including the legislation in the education sector.

One of the things to be emphasized in legal politics is the guarantee of protection for public participation in the making of laws and regulations. Community participation, if associated with responsive law, implies that the principle of public participation is the main thing in the formation of law for the realization
of democratic legal products. Responsive legal politics still creates problems due to the lack of public participation in the formation of laws and regulations. Legal products that are born tend to be repressive because they benefit the interests of the political elites and the rulers, thus ignoring the role of society. Therefore, the problem lies in whether the legal politics of the National Education System in the era of globalization is responsive or not? The approach method used is a normative juridical approach where the focus of this study is to examine the laws and regulations in the education sector as a result (output) of legal politics.

The Influence of Globalization on Science and Technology

The development and advancement of Science and Technology (IPTEK) and information further encourage renewal efforts in the utilization of technological products. The era of globalization affects the lifestyle and mindset of people worldwide as science led to the creation of sophisticated and modern technology for our daily lives. So it cannot be denied that humans as living beings whose consumer behavior is very high will never have satisfaction and always want to enjoy whatever is the latest. The question is what is meant by globalization?

The word globalization comes from the English word global which means universal. From the word global to globalization which can be interpreted as a process of universalization. So globalization can be interpreted as the process of spreading new elements in all aspects of human life, including aspects of information, technology, health, trade, education, perspective, lifestyle, and others globally. Another meaning of globalization is the process by which daily life experiences, ideas and information become standard around the world, because whatever is found or happens anywhere in the world will spread to other parts of the world easily and very quickly.²

Globalization is a globalized order of society and knows no boundaries. Globalization is essentially a process from which ideas are raised, then offered to be

followed by other nations which eventually arrive at a point of mutual agreement and become a common guideline for nations around the world. Information and communication technology are major supporting factors in globalization. Today, the development of technology is so fast that all information with various forms and interests can be widely spread throughout the world. Therefore, we cannot avoid globalization.  

Globalization, in principle, is a competition. Competition itself stresses to the value of excellence in which Darwin’s theory of the survival of the fittest applies. Natural selection will emerge that the superior will survive. Therefore, the direction of our education in this century is the formation of a superior generation that will be able to compete. In the social context, the characteristics of the society in this globalization era are as follows: First, this century is a century that puts science as a human’s means to solve the problems of life. Thus, this century will give birth to a learning society (knowledge society). The superiority of humans or a nation will be associated with the superiority of that nation in the field of science. Second, in this era, a borderless world will emerge. Geographical barriers have become vague as a result of advances in communication and information science. Any event that occurs in one part of the world at almost the same time will be known in other parts of the world, so there is an easy exchange of information. Third, this era will give rise to global competition, and there will be a competitive era. When the era of competition arises, superior humans are needed, because competition will require the emergence of superior humans. Fourth, this era will bring about distance learning technologies such as teleconferencing, internet, and the other modern learning media, in the form of global education. Fifth, this era will give rise to multicultural human interactions. Humans live across cultures, races, ethnicities, languages and religions.

According to the author, globalization is an era of development. Progresses and changes occur in human life, for example: the development and advancement

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of science and technology also encourages the development of various information. Globalization creates a world without restrictions so that globalization has positive and negative impacts on the dynamics of human life in the political, legal, economic, social and cultural fields. As an example that is clearly visible is the impact of globalization on people’s culture.

The positive impact of cultural globalization includes changes in the values and attitudes of society from being irrational to rational. The development of science and technology also makes it easier for people to do activities, and encourages more advanced thinking and a better living standard. The negative impacts of cultural globalization include the development of individualism as people feel facilitated by advanced technology making them feel they no longer need other people, enhancing the materialism because people see everything from a material perspective, increasing consumerism, or the excessive consumption or use of product and hedonism, a view of life assuming that people will be happy by seeking happiness as much as possible and avoiding painful feelings as much as possible.

The Relationship between Legal Politics and Responsive Law

According to Wignjosoebroto, in Dutch, the term political law is derived from the term ‘rechtpolitiek’ which became popular after the revival of liberals in their efforts to reform the liberal legal order in the early 20th century. This policy is known as ‘bewustzijnrechtpolitiek’ which means a policy to develop a colonial legal system to control the power and authority of the king and the executive apparatus over the colony, and on the other hand, strive for a more certain legal protection for people and all layers of the population who lived the colony. In the study of legal politics, the first general question that arises is whether the study of legal politics is a study of legal science? If so, what is the object of study and the scope of legal politics? According to Abdul Latif and Hasbi Ali (2010) such questions can be answered from a theoretical point of view and a philosophical point of view. Political law is

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a part of legal science that examines changes that must be made in strong law in order to fulfill the affairs of public life, thus legal politics discusses the direction of legal system development. The politics of law builds the *ius constitutendum* of the *ius constitutum*.  

According to Soedarto, politics of law is a policy of the state through state agencies authorized to determine the desired regulations, which are expected to be used to express what is contained in society and to achieve what they aspire to. According to Satjipto Rahardjo, legal politics is an activity of choosing and the means to be used to achieve certain social and legal goals in society. According to Padmo Wahjono, legal politics is the basic policy that determines the direction, form and content of the law to be formed. According to Teuku Mohammad Radhie, legal politics is a statement of the will of the state authorities regarding the laws that apply in their territory and regarding the direction of development of the law that is built.

According to Mahfud MD, legal politics is an official policy line on law that will be enforced either by making new laws or by replacing old laws in order to achieve state goals. What is meant by responsive law? Nonet and Selznick qualify the law into 3 groups which are the stages of evolution in the relationship between law and social order and political order. The three categories of law are (1) repressive laws, (2) autonomous laws and (3) responsive laws. In principle, repressive law recognizes the law and the state as two inseparable things. The enforcement of repressive laws cannot be separated from the close integration between law and politics. The manifestation of this very close integration is the direct subordination of legal institutions to the ruling elites. Autonomous law is referred to as rule of law. Autonomous law focuses on regulation and this causes autonomous law to tend to narrow the scope of legally relevant facts, thus separating thinking from

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social reality. The result is legalism, which is a tendency to rely on legal authority at the expense of solving problems at the practical level. Responsive law is results-oriented, on goals to be achieved outside the law. In responsive law, the legal order is negotiated, not won through subordination. The hallmark of responsive law is looking for the implied values contained in regulations and policies. In this responsive legal model, they express their disapproval toward doctrines which they perceive as standardized interpretation and inflexible.9

Samekto gives a conclusion about repressive law, autonomous law, and responsive law that legal typologies in repressive law, autonomous law and responsive law are legal typologies that are in the discourse of the relationship between law and power. Part of the discourse on legal typology is das sein, but partly das sollen. Based on the understanding on Nonet and Selznick’s thoughts, the typology of law in repressive law, autonomous law and responsive law is closely related to the type of society. Therefore it is difficult to say that the authorities can use repressive law, autonomous law and responsive law at the same time. Repressive law is a legal typology that applies law in the interests of power. So law enforcement is manipulated for the sake of power. This typology can be implemented when society is weak from all sides: economically weak, weak in resource capacity, and people’s power cannot be formed. Autonomous law implies that the law must be released from political interests, the law must be impersonal, neutral and impartial. The teaching in autonomous law can be said to be an elaboration of the rule of law. Autonomous law is very much reflected in the modern legal system that was born in Western Europe in the XVIII-XIX centuries. In concept, autonomous law can only be applied in a democratic society which is filled with a spirit of freedom. The discourse on responsive law from Nonet and Selznick is actually very close to the progressive law ideas offered by Satjipto Rahardjo. The idea of progressive law can be used to further explain the nature of the responsive law of Nonet and Selznick, because they both aim to uphold substantive justice. Progressive law

9 Soenyono, ‘Fungsi Melayani Kepentingan Sosial Dalam Reformasi Hukum Menuju Hukum Responsif’ (2011) 2 Jurnal Hukum.[277].
departs from a deadlock because the law (which is said to be autonomous) is unable to provide benefits to bring about substantial justice. Therefore, a general legal text actually requires creative accuracy (sharpening) by the law enforcer when the law is applied to real events. This is where progressive thinking is needed. Substantive law enforcement requires a re-awareness that law, in essence, is for humans, and this affirmation is in the notion of progressive law. In its implementation, it is clear that a creative law enforcer is needed, knowing very well its position as a state organ that serves the interests of the people and does not rigidly interpret legal regulations at the field level.\textsuperscript{10}

According to the author in the perspective of legal politics, political configuration with the character of legal products is related to one another. Law is a political product so that the character of each legal product will be very much determined or colored by considerations of the power or political configuration that produce it. This is based on the fact that every legal product is a political decision so that law can be seen as a crystallization of political thoughts that interact among politicians. Although from the “das sollen” perspective there is a view that politics must be subject to legal provisions, but from the “das sein” perspective, the law is in fact determined by the political configuration that gave birth to it.\textsuperscript{11}

According to Nonet and Selznick, democratic and authoritarian concepts are identified based on three indicators, namely the party system and the role of representative bodies, the role of the executive, and the freedom of the press, while the responsive/autonomous legal concept is identified based on the process of making law, granting legal functions, and the authority to interpret the law. Based on these indicators, Mahfud MD describes them in a conceptual sense as follows: 1) The configuration of democratic politics is a configuration that opens up opportunities for the maximum potential of the people to play an active role in determining state policy. In such configuration, the government is more of a “committee” which must

\textsuperscript{10} Fx Adji Samekto, ‘Relasi Hukum Dengan Kekuasaan: Melihat Hukum Dalam Perpektif Realitas’.\textsuperscript{[89].}

\textsuperscript{11} Liky Faizal, ‘Produk Hukum Di Indonesia Perspektif Politik Hukum’ [2017] Jurnal ASAS.
carry out the will of its people, which is formulated democratically, the people's representative bodies and political parties function proportionally and are more decisive in the making of state policy, while the press can carry out its functions freely without the risk of being banned. 2) An authoritarian political configuration is a configuration that places the government in a very dominant position with an interventionist nature in determining and implementing state policies so that the potential and aspirations of the people are not proportionally aggregated and articulated. Even with the very dominant role of the government, the people's representative bodies and political parties do not function properly and are more of a justification tool (rubberstamp) against the will of the government, while the press does not have freedom and is always under government control and the risk of getting banned. 3) Responsive / autonomous legal products are legal products whose character reflects the fulfillment of the demands of both individuals and various social groups in society so that they are more able to reflect a sense of justice in society. The responsive law-making process openly invites the participation and aspirations of the community, and judicial institutions, the law is given a function as an implementing tool for the will of the community, while the formulation is usually sufficiently detailed so that it is not open to interpretation based on the will and vision of the government itself. 4) Conservative/orthodox legal products are legal products whose characters reflect the political vision of those in power, so that their creation does not invite the participation and aspirations of the people seriously. If such a procedure exists, it is usually more of a formality. In such a product, law is usually assigned a function with an instrumentalist positivist character or a tool for the implementation of ideology and government programs. The formulation of the legal material is usually only basic in nature so that it can be interpreted by the government according to its own vision with various implementing regulations. 12 Mochtar Kusumaatmadja and B. Arief Sidharta provide the following explanation:

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“What is Power? Is power equal to force? People who have (physical) strength are often also in power, so there is a tendency for some of the people to equate power with force. Sometimes, even often, this is not the case. Power often comes from formal authority which gives authority or power to a person or party in a particular field. In this case, we can say that the power comes from the law, namely the legal provisions that grant the said authority. Government officials belong to this group. Considering that law requires compulsion to obey its provisions, it can be said that law requires power for its enforcement. Without power, the law would be nothing but a social rule containing mere recommendations. On the other hand, law differs from other social rules, which also recognize forms of coercion, in that the power of coercion itself is governed by law both in terms of its scope and implementation. The relationship between law and power in society can thus be concluded as follows: law requires power for its implementation, on the other hand power itself is determined by law’s limits. In a more popular way, this conclusion can perhaps be expressed in the slogan that: law without power is wishful thinking, power without law is cruelty”.13

The close relationship between law and power can be seen in two ways: First, examining the concept of sanctions. The existence of behavior that does not comply with legal rules causes sanctions to enforce these legal rules, because sanctions are a form of violence, so their use requires juridical legitimacy (legal justification) in order to make them legal violence. Second, examining the concept of constitutional enforcement. The development of an orderly system of legal rules in a country is regulated by the law itself, which is usually stated in the constitution. The enforcement of the constitution, including the enforcement of correct procedures in law enforcement, assumes the use of force. This means that the law itself must get protection for the sake of enforcement, namely power. Another pattern of relationship between law and power is that law is not the same as power. Law and power are two separate things, but there is a close relationship between them. The relationship can be in the form of a dominative relationship and a reciprocal relationship. There are three forms of manifestation of the relationship between law and power in this context, namely: First, the law is subject to power. That is, law is not only a subordination of power, but also often a means of power, in other words,

power has the supremacy of law. Therefore, the legal definitions put forward by experts place the law under the control of power. Second, power is subject to law. In this case, power is under the laws and laws determine the existence of power. In legal thinking, the submission of power to the law is a basic concept of the state administration. This concept is formulated in terms of the supremacy of law (supreme of law). The rule of law means that law is the highest rule for regulating the life of society, nation and state. Law as the highest rule appears in the concept of basic state norms (staatsfundamentalnorm) or grundnorm according to Hans Kelsen’s thought. In addition, the rule of law also means that the use of power to carry out the state administration and the wheels of the government must be based on the rule of law. Without a legal basis, power has no legality. Third, there is a reciprocal (symbiotic) relationship between law and power. In this case, the relationship between law and power is not dominant in which one is dominant or determines the other, but the relationship is more functional, meaning that the relationship is seen from the point of view of certain functions and can be carried out between the two.14

Based on the description regarding to the relationship between legal politics and responsive law, the author argues that the relationship between the two is seen from the political configuration which is reflected in the political attitudes of the legislature (lawmakers) and the executive in the formation of laws. An authoritarian political configuration will produce authoritarian or populistic legal products because the character of the legal products prioritizes the interests of the authorities and overrides the interests of the people, on the other hand, the democratic political configuration will produce democratic legal products because the character of the legal products prioritizes the interests of the people and overrides personal interests or group.

The relationship between legal politics and responsive law can also be seen from the perspective of the principles in forming the legislation. Van der Vlies divides the principles in the formation of good state regulations (beginselen van

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behoorlijke regelgeving) into two principles, namely formal principles and material principles. Formal principles include: clear objective (beginsel van duidelijke doelstelling), principle of appropriate organs/institutions (beginsel van het juiste orgaan), principle of the need for regulation (het noodzakelijkheids beginsel), principle of enforceability (het beginsel van uitvoerbaarheid), and a consensus principle (het beginsel van consensus). Meanwhile, material principles include: principle regarding correct terminology and systematics (het beginsel van duidelijke terminology en duidelijke systematiek), principle of recognition (het beginsel van de kenbaarheid), principle of equal treatment in law (het rechtsgelijkheids beginsel), principle of legal certainty (het rechtszekerheids beginsel) the principle of law enforcement according to individual circumstances (het beginsel van de individuuele rechtsbedeling). 15

The principles for the formation of statutory regulations are stated in Article 5 of Law Number 12 of 2011 on the Formation of Prevailing Laws which states that the mechanism of forming statutory regulations must be based on the principles of the formation of good statutory regulations, which include: a) Clarity of purpose, b) Appropriate forming institutions or officials, c) Conformity between types, hierarchy, and content, d) Applicable, e) Useful and Efficient, f) Clarity of formulation, g) Openness. The seven principles referred to are then mentioned in the Explanation of Article 5 of Law Number 12 Year 2011 on the Formation of Legislative Regulations which states that: 1) Clarity of purpose is that any formation of laws and regulations must have clear objectives to be achieved. 2) The appropriate institutional or establishing official is that each type of statutory regulation must be made by the competent state institution or official establishing the statutory regulations. These laws and regulations can be canceled or become null and void if it is made by an unauthorized state institution or official. 3) The conformity between types, hierarchy, and content is that in the formation of laws and regulations, the appropriate content material is in accordance with the type and

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hierarchy of statutory regulations. 4) Applicable is that every formation of laws and regulations must take into account the effectiveness of these laws and regulations in society, both philosophically, sociologically, and juridically. 5) Usefulness and efficiency is that any statutory regulation is made because it is really needed and useful in regulating the life of society, nation and state. 6) Clarity of formulation means that each statutory regulation must meet the technical requirements for drafting statutory regulations, is systematics, and choice of words or terms as well as the legal language is clear and easy to understand so as not to cause various interpretations in its implementation. 7) Openness means that the formation of statutory regulations starting from planning, drafting, discussing, ratifying or stipulating, and promulgating is transparent and open in nature.

Of the seven principles for the formation of statutory regulations mentioned in Article 5 of Law Number 12 of 2011 on the Formation of Legislative Regulations, the right principle to see the relationship between legal politics and responsive law is the principle of openness. According to the author, it is very appropriate if the principle of openness (transparency) is linked to community participation in the formation of laws and regulations. Every draft of legislation made by lawmakers must be open (transparency) by conveying it to the public so that the public knows and provides constructive input and criticism and thereby, being able to create aspirational and participatory (democratic) laws and regulations. Public participation in the formation of statutory regulations is also mentioned in Article 96 paragraph (1) of Law Number 12 of 2011 on the Formation of Laws and Regulations which states that the public has the right to provide input verbally and / or in writing in the Formation of Legislation.

Legal Politics of a Responsive National Education System in the Globalization Era and the Covid-19 Pandemic

In Indonesia, the development of the National Education System is mandated in the Fourth Paragraph of the Preamble of the 1945 Constitution of the Republic of Indonesia which states that “to form an Indonesian State Government that protects
the entire Indonesian nation and all the blood of Indonesia and to promote public welfare, educating the nation’s life, and participating in implementing world order based on freedom, eternal peace and social justice”.

According to Malik Fadjar, from a sociological point of view, education, apart from having a role in preparing humans to enter the future, also has a relationship with social transformation, and vice versa. Various patterns of the education system describe the features, traditions, culture and social conditions of the existing society. So what is important to note is that an education system is built to carry out the “community mandate”, namely to channel its members to certain positions. However, the flow of globalization nowadays, which has penetrated all aspects of life is inevitable. Even with globalization, cosmopolitanism is embraced as a kind of “ideology” and multiculturalism has increasingly become a vision of civilized life. This fact requires that educational strategies through the institutions they are associated with to be able to accommodate changes in global civilization. The direction of this change refers to things that are imperative or empirical. In this context, like it or not, national educational institutions must involve themselves in social, cultural, political and economic struggles in general. This is important so that the world of education is not barren and giddy in anticipating the era of globalization that is plaguing all aspects of human life today.16

Education is the most effective means of dealing with globalization. Education may also provide motivation for achieving a significant improvement in the quality of education through taking advantage of the globalization effects.17 Seeing the impact of globalization on the current education process, it is necessary to reorient education in the future as the spearhead of progress in the intellectual life of the nation. Globalization is not something to be shunned, but it needs to be followed by mental readiness as well as critical, humanist and religious reasoning power, so that

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education is able to produce intelligent outputs intellectually, personally, socially and in vocational kinesthetically.\textsuperscript{18}

The national education system must be able to ensure equal opportunities, increase the quality and relevance and efficiency of education management to face challenges in accordance with the demands of changes in local, national and global life so that education renewal is necessary in a planned, directed and sustainable manner.\textsuperscript{19} According to the author, the legal politics of the National Education System are official state policies to form, implement, and enforce laws and regulations (legal products) in order to specifically regulate the implementation of the National Education System in order to realize the national ideals and goals as written in the Preamble of the Law. The fourth paragraph of the 1945 Constitution of the Republic of Indonesia, namely “Educating the life of the nation”. The objective of the responsive legal politics of the National Education System in the era of globalization is the creation of legal products in the field of education that are democratic by prioritizing public participation in the process of forming, implementing and enforcing them in the era of globalization which demands the development and advancement of science, technology and information.

Basically, education policy is part of public policy. This understanding is based on the characteristics of public policy in general, namely as follows: First, public policy is a policy made by the State, namely regarding the executive, legislative and judicial institutions. Second, public policy is a policy that regulates public life, and does not regulate the life of an individual or certain group. Public policy governs everything that a public administrator institution has a domain for. Third, it is said to be a public policy if the benefits obtained by people who are not direct users of the products are greater than the direct users, or are referred to as externalities. In this connection, the education system that is produced as a legal

\textsuperscript{18} Eva Dewi, ‘Potret Pendidikan Di Era Globalisasi Teknosentrisme Dan Proses Dehumanisasi’ (2019) 3 Sukma: Jurnal Pendidikan.[93].
\textsuperscript{19} Irfan Iryadi, ‘Pendidikan Untuk Semua Dalam Undang-Undang Pemerintahan Aceh’ (2016) 18 Kanun: Jurnal Ilmu Hukum.[289].
product, in the process of its formation as a policy, cannot be separated from the aspirations and realities that exist in the community. Seeing the reality like that in the process of law formation, in fact it is not much different when compared to the process of making public policies. When it is related to the national education system, actually the process before making a public policy, such as that of in the field of education, must pay attention to certain stages, for example the policy makers related to educational issues must look at social, cultural and so on. To view and respond this education problem, policy makers must deeply consider various things before making the policy.\(^{20}\)

As for the responsive legal politics of the National Education System in the era of globalization and the Covid-19 pandemic, namely:

1. Law Number 20 of 2003 on the National Education System

Law Number 20 of 2003 on the National Education System states that the National Education System must be able to ensure equitable distribution of educational opportunities, increase the quality and relevance and efficiency of education management to face challenges in accordance with the demands of changes in local, national and global life so it is necessary to make educational reforms in a planned, directed, and sustainable manner.

Article 4 of Law Number 20 of 2003 on the National Education System states that the principles of education are as follows: 1) Education is carried out in a democratic and fair manner and is not discriminatory by upholding human rights, religious values, cultural values, and national diversity. 2) Education is held as a systemic unit with an open and multi-meaning system. 3) Education is held as a lifelong process of cultivating and empowering students. 4) Education is held by modeling, building eagerness, and developing the creativity of students in the learning process. 5) Education is held by developing a culture of reading, writing and arithmetic for all members of society. 6) Education is held by empowering all components of society through participation in the implementation and control of the education services.

Article 5 of Law Number 20 of 2003 on the National Education System states as follows: 1) Every citizen has the same right to obtain quality education. 2) Citizens with physical, emotional, mental, intellectual and/or social disabilities are entitled to special education. 3) Citizens in remote or underdeveloped areas as well as remote indigenous peoples have the right to receive special education service. 4) Citizens who have the potential for intelligence and special talents are entitled to special education. 5) Every citizen has the right to the opportunity to improve lifelong education.

The question is whether Law Number 20 of 2003 on the National Education System is responsive? Based on Article 4 junto Article 5 of Law Number 20 of 2003 on the National Education System, according to the author, sociologically, Law Number 20 of 2003 on the National Education System is responsive and able to anticipate the flow of globalization because the National Education System is built based on democratic principles. namely protecting public participation in the development of the National Education System. This is based on the development and improvement of the quality of education services since globalization causes changes that occur in people’s lives, one of which is the right to education that is not discriminatory. The principle of democracy in the development and implementation of the National Education System is viewed from the perspective of Human Rights (HAM), that people have the same right to get education which is constitutionally protected under Article 31 paragraph (1) of the 1945 Constitution of the Republic of Indonesia which states that Every citizen has the right to education.

2. Law No. 14 of 2005 on Teachers and Lecturers

Law Number 14 of 2005 on Teachers and Lecturers states that to ensure the expansion and distribution of access, improvement of quality and relevance, as well as good governance and educational accountability that is able to face challenges in accordance with the demands of changes in local, national and global life, it is necessary to empower and improve the quality of teachers and lecturers in a planned, directed and sustainable manner. So that teachers and lecturers will have strategic function, role and position in national development of education.
What is the position of teachers and lecturers in Law Number 14 of 2005 on Teachers and Lecturers? The position of teachers is stated in Article 2 paragraph (1) of Law Number 14 of 2005 on Teachers and Lecturers, which states that teachers have a position as professional staff at the levels of basic education, secondary education and early childhood education in the formal education pathway who are appointed in accordance with statutory regulations. On the other hand, the position of lecturers is stated in Article 3 paragraph (1) of Law Number 14 of 2005 on Teachers and Lecturers, which states that Lecturers have a position as professional staff at the higher education level who are appointed in accordance with statutory regulations.

What are the obligations of teacher and lecturer according to Law Number 14 of 2005 on Teachers and Lecturers? Teacher obligations are regulated in Article 20 of Law Number 14 of 2005 on Teachers and Lecturers, which states that in carrying out professional duties, teachers are obliged to: a) plan learning process, carry out a quality learning process, and assess and evaluate learning outcomes. b) continuously improve and develop academic qualifications and competencies in line with the development of science, technology and arts. c) act objectively and non-discriminatively on the basis of considerations of gender, religion, ethnicity, race, and certain physical conditions, or family background, and the socioeconomic status of students. d) upholding laws and regulations, the teacher’s code of ethics, as well as religious and ethical values. e) maintain and cultivate the unity and integrity of the nation. The obligations of lecturers are regulated in Article 60 of Law Number 14 of 2005 concerning Teachers and Lecturers, which states that in carrying out professional duties, lecturers are obliged to: a) carry out education, research, and community service. b) plan the learning process, carry out the learning process, and assess and evaluate learning outcomes. c) improve and develop academic qualifications and competencies on an ongoing basis in line with the development of science, technology and arts. d) act objectively and non-discriminatively on the basis of considerations of gender, religion, ethnicity, race, certain physical conditions, or the socio-economic background of students in
learning. e) upholding laws and regulations, code of ethics, as well as religious and ethical values. f) maintain and cultivate the unity and integrity of the nation.

The question is whether Law Number 14 of 2005 on Teachers and Lecturers is responsive? According to the author, Law No. 14 of 2005 on Teachers and Lecturers is responsive and able to anticipate the flow of globalization. First, what is done to build education in the era of globalization is to need human resources in the form of educators such as qualified lecturers and teachers so that teaching staff is the main tool of education. Educators who are needed are those who are able to work professionally, have competence (soft skills), and sufficient skills to transfer knowledge to students through the teaching and learning process in every education unit including: primary schools, secondary schools, and colleges, therefore educators are required to improve and develop their academic qualifications and competences on a regular basis as stated in Law Number 14 of 2005 on Teachers and Lecturers. Second, in terms of position and obligations, teachers and lecturers have position as professional educators, meaning that their scientific competence is not in doubt because they have also gone through a very long educational process according to their respective competencies. So that after obtaining a degree and becoming an educator, all the knowledge they have are implemented in the learning process at the each level of educations, where the teacher teaches in primary and secondary schools, while the lecturer teaches, conducts research and community service (Tridharma of Higher Education) in higher education.

3. Law Number 12 of 2012 on Higher Education

If the characteristics of higher education policies in Indonesia are based on the values of Pancasila and the 1945 Constitution of the Republic of Indonesia, it will be easy to build quality and globally competitive human resources. The most important thing is the benefit of higher education for the community. It is so unfortunate that when the higher education is able to produce professional and high-quality workers, but in society, their existence is not recognized and their contribution cannot be felt by community. This is where the government and all
Indonesian people are tasked to work together in improving national education, so that Indonesia’s human resources are recognized internationally.\(^{21}\)

Law Number 12 of 2012 on Higher Education states that higher education as part of the national education system has a strategic role in educating the nation’s life and advancing science and technology by paying attention to and applying humanities values as well as the sustainable culture and empowerment of the Indonesian Nation. To increase the national competitiveness in the face of globalization in all fields, higher education is needed to develop science and technology and produce intellectuals, scientists and/or professionals who are cultured and creative, tolerant, democratic, strong, and dare to stand up for the truth for the sake of national interest. Is there a difference between higher education and higher institutions? Article 1 point 2 of Law Number 12 of 2012 on Higher Education states that higher education is the level of education after secondary education which includes diploma programs, undergraduate programs, master programs, doctoral programs, and professional programs, as well as specialist programs, organized by universities based on the Indonesian cultures.

Based on Article 1 number 2 of Law Number 12 of 2012 on Higher Education, the difference between higher education and higher institutions is that higher education means the level of education, while higher institutions means an institution or university that has the task of carrying out higher education levels so that higher education institutions are the main actor or the actor that determines the success or failure of an implementation of higher education. Is the function of higher education institutions related to higher education? Article 58 paragraph (1) of Law Number 12 of 2012 on Higher Education states that Higher Education Institutions carry out functions and roles as: a) a learning forum for Students and Society. b) an educational forum for future leaders of the nation. c) Science and Technology development center. d) the center of the study of virtue and moral strength to seek and aim for the truth. e) the center for the development of the nation’s civilization.

The question is whether Law Number 12 of 2012 on Higher Education is responsive? Article 91 of Law Number 12 of 2012 concerning Higher Education states the following: 1) The community participates in the development of Higher Education. 2) Community’s participation as referred to in paragraph (1) shall be carried out by: a) determining the competence of graduates through professional organizations, business and industrial world. b) provide scholarships and / or educational assistance to students. c) supervising and maintaining the quality of higher education through professional organizations or non-governmental organizations. d) organizing quality private universities. e) develop the character, interests and talents of students. f) provide internships and practice for students. g) provide various assistance through corporate social responsibility. h) support Research and Community Service activities. i) share resources for the implementation of Tridharma. j) other participation in accordance with the provisions of laws and regulations. Based on Article 91 of Law Number 12 of 2012 on Higher Education, according to the author, sociologically, Law Number 12 of 2012 on Higher Education is responsive and able to anticipate the flow of globalization due to the existence of protection against community participation in building, developing and improving the quality of higher education in higher education institutions. Community participation includes: 1) supervising the performance of higher education stakeholders in providing higher education services in the context of realizing good quality academic services. 2) opening up the widest possible job opportunities for college graduates to prevent unemployment. 3) supporting the Government in providing scholarship assistance for high-achieving and underprivileged (poor) students. Thus, the existence and role of higher institutions along with community support in the management of higher education is very necessary in order to create a highly competitive nation and state, especially in facing the challenges of globalization.  


In a Circular of the Minister of Education and Culture Number 4 of 2020 on
Implementation of Education Policies in the Emergency of Coronavirus Disease (Covid-19) Spreading several things related to the implementation of education policies during the Covid-19 Pandemic includes: 1) Implementation of the School Examination and National Examination of 2020 is canceled to prevent transmission of the Covid-19 Virus. 2) The teaching and learning process is carried out from home with an online or remote system to prevent transmission of the Covid-19 Virus. 3) The Education Office and schools were asked to prepare a new student admission mechanism by following the health protocol to prevent transmission of the Covid-19 Virus. 4) School Operational Assistance Funds or Educational Operational Assistance can be used for procurement of goods according to school needs, including to finance prevention needs the Covid-19 Pandemic, such as the provision of cleaning tools, hand sanitizers, disinfectants, and masks for people school residents and to pay for online/distance learning.

According to the author The main thing in this circular is about the learning process policies with an online or distance system. The sudden COVID-19 pandemic requires an educational element to sustain online learning. The current condition is urgent to make innovations and adaptations related to the use of available technology to support the learning process.22

During the COVID-19 pandemic learning at home or online is a solution continue the rest of the semester. Online learning defined as the transfer experience knowledge of using video, audio, images, text communication, software.23 The question is whether Circular of the Minister of Education and Culture Number 4 of 2020 on Implementation of Education Policies in the Emergency of Coronavirus Disease (Covid-19) Spreading is responsive? Based on education policies during the Covid-19 Pandemic listed on Circular of the Minister of Education and Culture Number 4 of 2020 on Implementation of Education Policies in the Emergency

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of Coronavirus Disease (Covid-19) Spreading then this a Circular is responsive because the education policies issued is in accordance with the expectations of the community to prevent the spread and transmission of the Covid-19 Virus which has caused the death of many peoples.

**Conclusion**

Based on the all the explanations above, there are several things that can be concluded. the responsive legal politics of the National Education System in the era of globalization, namely: *First*, Law Number 20 of 2003 on the National Education System which is responsive and able to anticipate the flow of globalization due to the fact that National education system is built on the basis of democratic principles, namely protecting community participation in the development of a National Education System based on the development and improvement of the quality of education services. This is because globalization causes changes that occur in people’s lives, one of which is the right to education that is not discriminatory. *Second*, Law Number 14 of 2005 on Teachers and Lecturers is responsive and able to anticipate the flow of globalization in which what is done to build education in the era of globalization requires human resources in the form of educators such as qualified lecturers and teachers so that educators are the main tool of education. Educators who are needed are those who are able to work professionally, have competence (soft skills), and sufficient skills to transfer knowledge to students through the teaching and learning process in each education unit including: primary schools, secondary schools, and colleges. *Third*, Law Number 12 of 2012 on Higher Education is responsive and able to anticipate the flow of globalization because there is a protection for public participation in building, developing and improving the quality of higher education in higher education institution. *Fourth*, Circular of the Minister of Education and Culture Number 4 of 2020 on Implementation of Education Policies in the Emergency of Coronavirus Disease (Covid-19) Spreading where the education policies issued is in accordance with the expectations of the community to prevent the spread and transmission of the Covid-19 Virus which has caused the death of many peoples.
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