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BULETIN
PENDIDIKAN HUKUM

INDONESIAN LEGAL EDUCATION NETWORK
(LEAP-ORANGE KNOWLEDGE PROGRAM)



Buletin Pendidikan Hukum Indonesian Legal Education Network (Vol.2.No.2 April 2020). What is legal education about: How to balance knowledge and skills? | Apa itu pendidikan hukum: Bagaimana menyeimbangkan pengetahuan dan keterampilan hukum? By Prof. Aalt Willem Heringa.

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WHAT IS LEGAL EDUCATION ABOUT:

How to balance knowledge and skills?

APA ITU PENDIDIKAN HUKUM:

Bagaimana menyeimbangkan pengetahuan
dan keterampilan hukum?

by Prof. Aalt Willem Heringa

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PREVIOUS & UPCOMING
BULETIN :



The Best Lawyers?

The present Corona crisis might serve to make my point: do we want lawyers who have learned a lot and have an abundance of knowledge, but have never heard of, or have never been taught health law, emergency laws and situations, how and what to regulate in a time of a pandemic. Or do we want and need lawyers to have indeed a broad and basic knowledge of the legal system and also have the skills to access new areas of law, to creatively work out new solutions and know how and what to do? I do prefer the latter.



And There is Another Reason:

knowledge of positive black letter rules and regulations and decrees have an increasingly shorter half time. In modern every day society situations change quickly and rules are being modified quicker and quicker.

Increasing Abundance of Law

We may count the annual output of lawmakers and executives and add the case law of courts, and add international rules and treaties and agreements and decisions, and there will not be a lawyer, let alone a law student, who can acquire and fully oversee all of it. So let us be realistic and adjust the legal curriculum in a law school to this reality. The more so, since there is increasingly an abundance of legal information out there on the web. Legal questions? Literature? Case law? We have access to this overwhelming abundance. And also, times have changed: students have social media at the tip of their fingers, IT offers a plentiful of chances, and it will also change the way legal professionals operate.

Menghasilkan Para Ahli Hukum Terbaik?

Krisis Pandemi Covid-19 saat ini membawa saya ke beberapa pertanyaan mengenai apakah kita menginginkan ahli hukum (*lawyer*) yang telah belajar banyak dan memiliki banyak pengetahuan, tetapi belum pernah mendengar, atau belum pernah diajarkan tentang hukum kesehatan, hukum dalam situasi darurat, dan cara yang dilakukan dalam menangani suatu pandemi atau apakah kita membutuhkan *lawyer* yang memiliki pengetahuan yang luas dan mendasar tentang sistem hukum dan juga memiliki keterampilan yang baik dalam mengakses bidang hukum baru secara kreatif dengan mencari solusi baru dan mengetahui bagaimana dan apa yang harus dilakukan dalam situasi apapun.

Alasan Lain

Saya lebih suka yang terakhir. Namun dengan alasan lain, yakni pengetahuan tentang peraturan dan hukum cepat sekali mengalami perubahan. Dalam dunia modern saat ini, situasi masyarakat pun berubah dengan cepat dan aturan dapat diubah lebih cepat secara terus menerus.

Peningkatan Kemajuan Pendidikan Hukum

Kita mungkin bisa menghitung berapa produk hukum yang setiap tahun dihasilkan oleh parlemen dan eksekutif, jumlah perkara di pengadilan, dan juga perjanjian internasional dan keputusan. Tidak akan ada *lawyer*, apalagi seorang mahasiswa hukum, yang dapat memperoleh dan menjalankan semua hal tersebut sepenuhnya. Jadi mari kita bersikap realistis dengan menyesuaikan kurikulum pendidikan hukum dengan kenyataan tersebut. Terlebih lagi, hal ini disebabkan dengan semakin banyaknya informasi hukum yang tersedia secara terbuka dalam berbagai situs. Pertanyaan hukum? Literasi? Kasus hukum? Kita memiliki akses pengetahuan hukum yang berlimpah. Sekarang, siswa dapat mengakses media sosial dengan mudah, kemajuan teknologi juga telah menawarkan banyak kesempatan. Hal ini pun dapat mengubah bagaimana metode para profesional hukum bekerja.

So, What to do?

This leads to a wide array of lessons:

- To teach our students how to cope with this abundance: that is a skill: how to look, where to look, and how to make something out of it. That aspect, that skill, will ultimately also distinguish a good lawyer from a lay person. And at the same time, it will decrease the need to know it all. Legal education prepares students to know what they do not know, which is by far more than they know. So let's prepare them for that reality and give them the skills to learn more and more during their professional life and not be scared when they are confronted with new challenges law schools never taught them.



- Of course the more one knows, or the more experience one has in a certain area, the easier and quicker it will be, but always with the danger of overlooking new aspects, because one may rely too much upon one's own memory.
- Evidently one may become a specialist in an area: but it is an illusion to make students in four years into specialists, if at all that would be desirable.

Lalu, apa yang harus kita lakukan?

- Untuk mengatasi derasnya arus informasi saat ini, mahasiswa harus diajarkan mengenai keterampilan hukum. Siswa seyogyanya diajarkan mengenai cara melihat, mencari, dan membuat suatu inovasi dari diri mereka. Pada akhirnya, aspek tersebutlah yang membedakan mana *lawyer* yang paling baik dari yang lain. Pada saat yang bersamaan, hal ini juga akan mengurangi kebutuhan masyarakat dalam keinginan untuk mengetahui hal yang serupa. Pendidikan hukum mempersiapkan mahasiswa untuk mengetahui apa yang tidak mereka ketahui, yang jauh lebih banyak daripada yang mereka tahu. Jadi mari kita persiapkan mereka untuk menghadapi realita tersebut dan memberikan mereka keterampilan hukum untuk belajar lebih banyak mengenai kehidupan profesional di bidang hukum agar tidak gagap dan takut ketika mereka dihadapkan dengan tantangan baru yang tidak pernah diajarkan di fakultas hukum kepada mereka sebelumnya.
- Semakin banyak informasi yang didapat tentu semakin banyak pula pengalaman yang dimiliki seseorang di bidang tertentu dengan mudah dan cepat. Akan tetapi, hal ini dapat menimbulkan kondisi yang berbahaya karena telah mengabaikan aspek-aspek baru dan terlalu bergantung pada ingatannya sendiri.
- Seseorang dapat menjadi seorang spesialis dalam suatu bidang. Akan tetapi, hal itu merupakan sebuah ilusi karena menjadikan mahasiswa seorang spesialis dalam empat tahun tidaklah mungkin jika tidak pernah dibangun dengan upaya untuk mewujudkannya.



- Rules change, applications change, case law changes, regulations are being adjusted, society changes, new developments do overcome us and lead to new areas of law and regulation. What remains though is the need to make the legal system fit: to have a coherent legal system with generally understood concepts. And that is indeed what must be taught and comprehended. The basic values and concepts and systematic build up of a legal system: the interaction of legal domains; the architecture of the building we call legal system and the basic layout and design of all different rooms.
- Indeed: but also skills how to grasp areas that are new; problem solving skills to address new areas and societal problems. Those are skills as to how to approach a new area, how to find relevant legislation and case law, how to link new information to the existing building or body of law. And how to process that new information into a new argument, rule, judgment or advice to a client.
- Skills also how not only to deal with the ever and constantly changing aspects of rules and case law, but also how to invent and craft new solutions to new problems. How to build a new argument or how to address a new issue. That requires creativity, which is a valued and important competence of all, but also of lawyers. But this creativity can and must also be trained in teaching and through comparative legal skills.
- Yang pasti adalah terjadi perubahan peraturan, perubahan penerapan hukum, dinamika perkembangan perkara, dan perubahan masyarakat, pembangunan hukum baru menghampiri kita dan mengarah pada perkembangan hukum pada bidang-bidang yang baru. Namun yang tetap adalah kebutuhan untuk menjadikan sistem hukum itu tepat: yakni mempunyai sistem hukum yang koheren dengan konsep-konsep mendasar dan secara umum dipahami. Dan memang hal inilah yang harus tetap diajarkan dan ditanamkan, yaitu Nilai-nilai, konsep dasar, dan pembangunan sistem hukum yang sistematis yang meliputi: interaksi antar bidang hukum, bangunan sistem hukum dan tata letak dasar dan desain ruang hukum yang berbeda.
- Memang benar: tetapi keterampilan hukum juga mengenai bagaimana memahami bidang yang baru; keterampilan hukum yang mampu memecahkan masalah untuk mengatasi bidang baru dan masalah sosial. Hal tersebut intinya berbicara mengenai keterampilan hukum tentang bagaimana cara mendekati area baru, bagaimana menemukan undang-undang yang relevan dengan kasus hukum, bagaimana menghubungkan informasi baru dengan isi hukum yang ada serta bagaimana mengolah informasi baru tersebut untuk menjadi argumen, aturan, penilaian atau saran baru untuk klien.
- Keterampilan hukum tidak hanya berbicara mengenai aspek peraturan dan hukum yang terus berubah, tetapi juga bagaimana menemukan dan membuat solusi untuk memecahkan masalah dan cara membangun argumen baru atau cara mengatasi masalah tersebut. Hal itu membutuhkan kreativitas, yang merupakan kompetensi yang penting dari semua orang termasuk *lawyer*. Tetapi kreativitas ini juga harus dilatih melalui pengajaran dan pelatihan keterampilan hukum secara komparatif.

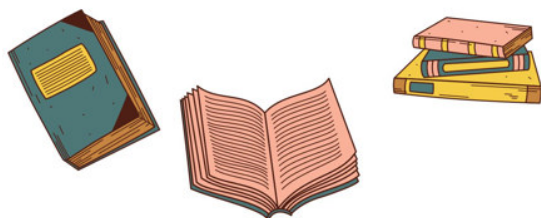


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- Teaching first: Teaching the basics of legal domains, yes. But also understanding the links and overlaps between legal areas. And also promote the capacity of students to evaluate legal concepts and rules and case law. Empirically and normatively. By asking questions such as: can the rule or judgement or legal solution be improved, and what does improvement mean? How do we measure improvements or good, better, best practices? And those issues also presume discussion, elucidation of hypothesis and argument, therefore simulation of legal practice in a mock parliament or negotiation, or moot court; writing and presenting a paper and responding to feedback and criticism and giving constructive but still critical criticism. And it does require collaboration among students in joint projects as well.
- Comparative law: Comparative law is, as I always underline, a lawyers' laboratory. New problems and issues are very likely also to have arisen or arising in other countries. So, why not benefit from that enormous lab of experiments? We may learn from each other. Sometimes we may copy a solution, sometimes we may adapt and adopt it, or we reject it and learn from someone else's mistakes. And comparative law can help us in our evaluation of our own legal system and legal rules. How to teach it? There are many ways, it could be done in separate courses, but at least it could and should be combined with evaluation and critical reflection. When discussing a legal concept or institution, and discussing the empirical and normative issues, it would make sense to also learn from other comparative solutions and findings. That makes comparative law, which is fun in itself, also a tool for reflection and evaluation, but also an enhancement of creativity. And it gives a scholarly and academic extra to legal education.
- Hal pertama ialah pengajaran: Mengajarkan dasar-dasar tentang domain hukum, memahami hubungan dan tumpang tindih antara bidang hukum, dan juga meningkatkan kapasitas mahasiswa untuk mengevaluasi konsep dan aturan serta kasus hukum secara empiris dan normatif. Dengan mengajukan pertanyaan seperti: dapatkah aturan atau penghakiman atau solusi hukum diperbaiki, dan apa artinya perbaikan? Bagaimana kita mengukur adanya perbaikan atau praktik yang baik, terbaik? Dan isu-isu itu juga membutuhkan proses diskusi, penjelasan hipotesis dan argumen, melalui simulasi praktik hukum di parlemen atau peradilan semu; menulis dan menyajikan makalah dan menanggapi umpan balik dan memberikan kritik yang konstruktif namun tetap kritis. Semua hal tersebut membutuhkan kolaborasi antara mahasiswa termasuk melalui metode tugas bersama.
- Perbandingan Hukum: Perbandingan Hukum, seperti yang selalu saya garis bawahi, adalah laboratorium *lawyer*. Sebuah masalah sangatlah mungkin untuk muncul. Jadi, mengapa laboratorium memberikan manfaat untuk menangani hal tersebut? Karena kita dapat belajar satu sama lain. Kadang-kadang kita dapat saling menemukan solusi, beradaptasi dan mengadopsinya, atau kita menolaknya dan belajar dari kesalahan orang lain. Perbandingan Hukum dapat membantu kita dalam mengevaluasi sistem hukum dan aturan hukum kita sendiri. Bagaimana cara mengajarkannya? Ada banyak cara, hal itu dapat dilakukan dalam perkuliahan yang terpisah, tetapi setidaknya itu dapat dikombinasikan dengan evaluasi dan refleksi yang kritis. Ketika mendiskusikan konsep atau institusi hukum, dan mendiskusikan masalah empiris dan normatif, masuk akal juga untuk belajar dari solusi dan temuan komparatif lainnya. Hal tersebut membentuk perbandingan hukum, yang merupakan alat untuk refleksi dan evaluasi, tetapi juga meningkatkan kreativitas. Hal itu juga memberi tambahan akademis untuk pendidikan hukum.

Adjusting Legal Curricula

Finally: the increasing growth of law and legal domains also necessitates law schools to regularly evaluate whether new domains are sufficiently on offer; whether and how skills are being offered during the whole curriculum in all courses; and whether existing courses and topics still deserve the same scope and time. International law, international trade, international business law, anti-corruption law, health law, environmental law, empirical sciences (forensics, empirical research), migration, finance law, intellectual property, are obvious examples. But since I argued that we cannot teach all and ought also to invest time and energy in skills in the widest sense, we have to make choices and also make existing courses to make room. Apart from making courses more time efficient and effective.



Penyesuaian Kurikulum Hukum



Akhirnya: Perkembangan berbagai bidang hukum mengharuskan fakultas hukum untuk secara teratur mengevaluasi apakah perkembangan bidang hukum baru tersebut cukup memadai; apakah dan bagaimana keterampilan hukum ditawarkan dalam sistem kurikulum dalam semua perkuliahan; dan apakah perkuliahan dan topik yang ada masih layak memiliki cakupan dan alokasi waktu (sks) yang sama. Hukum internasional, perdagangan internasional, hukum bisnis internasional, hukum antikorupsi, hukum kesehatan, hukum lingkungan, ilmu empiris (forensik, penelitian empiris), hukum imigrasi, hukum keuangan, kekayaan intelektual, adalah beberapa contoh nyata. Tetapi karena saya berpendapat bahwa kita tidak dapat mengajar semua mata kuliah tersebut dan seharusnya menginvestasikan waktu dan energi dalam keterampilan hukum dalam arti luas, kita harus membuat pilihan dan juga membuat perkuliahan yang ada lebih efisien dan efektif.

Learning by Doing

We know that humans (and students are humans) learn by practice: that goes for sports, but also for studying law. We do not learn by only watching or reading, but by doing: writing papers, discuss in class, doing a moot court etc. And we do not learn so much by listening to a lecture. Research has shown that only a small percentage of what a speaker tells is truly remembered by the audience. Much better ways to remember are practice, doing, writing, speaking, making a summary. Or having available a variety of teaching modes: lectures, small interactive tutorial groups, watching a video, reading a book. For some one tool works best; for others another tool works best; and again, others appreciate the combination of tools. But one thing is certain: if Johan Crujff would not have exercised every and each day in the street when he was young, he would have never become a great football player. And lawyers may practice that lesson as well.



Belajar Dengan Praktik Nyata

Kita mengetahui bahwa manusia, termasuk mahasiswa belajar melalui praktik; sebut saja dalam hal olahraga, tetapi ini juga dalam hal belajar hukum. Kita belajar tidak hanya dengan melihat atau membaca, tetapi harus pula dengan praktik seperti menulis makalah, berdiskusi saat kuliah, ikut serta dalam praktik peradilan semu dll. Dan kita juga diharapkan tidak hanya belajar dengan mendengarkan ceramah pada saat kuliah bersama dosen. Penelitian telah menunjukkan bahwa hanya sebagian kecil dari apa yang disampaikan dosen saat perkuliahan benar-benar diingat oleh mahasiswa. Oleh karena itu, cara yang jauh lebih baik adalah dengan berlatih, praktik, menulis, berbicara, membuat ringkasan, atau menyediakan beragam mode pengajaran seperti membentuk grup interaktif kecil untuk menonton video dan membaca buku bersama-sama. Tapi satu hal yang pasti digambarkan melalui sosok pesepakbola Johan Crujff yaitu jika ia tidak berlatih setiap hari di jalan ketika dia masih muda, dia tidak akan pernah menjadi pemain sepakbola yang hebat. *Lawyer* pun juga begitu, ia tidak akan menjadi sukses jika tidak bisa mempraktikkan kemampuannya dengan baik.

INFORMATION BOX

LEAP-OKP 2020
Under The Nuffic program 2019-2021

INTRODUCTION

This is the second edition of our Bulletin reporting about the implementation of the OKP Project. The previous and first edition provided information about the project as a whole and the general scope and purpose. In this Bulletin we will go in more detail and inform you about what has been achieved so far and what is to be planned. We hope with this update to keep you informed and to also inspire you for your own initiatives with regard to reflecting upon and improving legal education. - Aalt Willem Heringa, Radian Salman, Rosa Ristawatti, and Sascha Hardt

ACTIVITIES IN 2019: TWO REVIEWS

Activities in 2019: two reviews In the end of 2019 two main activities were held: an extensive review of the management structures and processes as well as a major review of education, educational facilities and library, in Airlangga Law School. Both committees issued a report with a long list of recommendations and issues to be worked on. The idea of starting with these two extensive reviews was to have a sound foundation upon which the OKP project can be built; also these two reviews will be taken up by Airlangga Law School to implement in and with the five dissemination partners. The recommendations range from expanding library e-subscriptions and e-journals, to the improvement of course manuals and structures, the inclusion of skills and the establishment of due process exam procedures, as to the establishment of an Intern Office. In this first semester of 2020 work is aimed now at implementing the recommendations and realizing the improvements in work processes and strategies. Very quickly University of Airlangga already effected the construction of two interactive small-scale teaching rooms to enable interactive teaching (problem based learning).

THE CORONA VIRUS IMPACT

Evidently the Corona-virus has impacted our project. Most importantly we had to cancel a large and most crucial legal education (problem based learning) training session in Maastricht, which was planned in March 2020. The aim is to organize the same event in the second semester of 2020. Starting in May and June 2020 possible we will now start with a digital training session for a selected group about Problem Based Learning and its theoretical foundations and impact, and its practical aspects, as well as a digital training session as to what this implies for tutors and day to day teaching in a law school setting. In these contexts video's and theoretical and practical tools and information will be made available, also to share with colleagues and with all partner law schools in the project. As a management team we have also switched to the use of digital communication and regular, sometimes weekly meetings to discuss the progress and the various activities.

THE ACTIVITIES OF THE FIRST SEMESTER 2020

As indicated the first semester of 2020 is aimed at implementing all recommendations. That does require a lot of effort from the Faculty of Law of Universitas Airlangga: working on library procedures, faculty strategy, course development and structure of course manuals, introduction and integration of skills, establishment of an Internship office: these issues will be tackled and implemented in phases, but are planned to have been finalized when the project terminates, that is end of 2021.

The Internship office is planned to be fully operational with all proper procedures, staff, budget, website and housing before the start of the academic year 2020/2021, that is mid-2020. Furthermore, work has started on an interactive website on the topic of constitutionalism and good governance. The website is intended to go live in the very first beginning of 2021. We very much look forward to it since this tool will enable thorough and topical debates about constitutional issues, rule of law, democracy and good governance in Indonesia and abroad. It will create an academic and open and transparent community for important discussions and will facilitate the comments of laws, court judgments, political practices, as well as enable a collaboration of scholarly research in the relevant domains. Also, we have started work on a new master course on Good Governance, with an international, comparative and Indonesian focus, to be taught in master programs in Airlangga in September 2020 and February 2021, and for use as well in the Dissemination partners. Work has also started on a new course on Legal Ethics which is also intended to go live in the second semester of 2021.

Finally, all partners, Airlangga Law School and Dissemination Partners, have decided to structure 15 courses under the interactive problem based learning model and to do so by developing new course manuals, which allow for interactive teaching, skills and structural consistency. The course manual for the new course on Good Governance will provide guidance. All courses will follow and implement the recommendations as formulated and adopted by the review committees in their end 2019 reports.

OUTLOOK TOWARDS THE SECOND SEMESTER 2020

The purpose is that the Internship Office will go live and will have implemented all necessary procedures at the beginning of the second semester of 2020. Also, we hope to being able to organize in 2020 the practical teaching training which had to be cancelled in March 2020 and which is a central feature of our project. And presently we are starting with our reflections on a broader Indonesia wide legal education network consisting of law faculties, who will join forces in reflecting on legal education and who are willing to share best practices. To that purpose work has started on a website to be later operated by this network and devoted to legal education. One of the topical issues could very well be how to organize legal education in present times not only of globalization, but also of digitization and Corona: what are best practices in E-legal education and how to offer literature and skills and content in the best manner, in order to give our students the best deal.

"DEAN'S MESSAGES ON LEGAL EDUCATION"

Point about ethics and integrity who need to implanted in legal studies, what is the urgency? and how to embodied it to the curriculum and method. According to Ronald Dworkin, law as integrity, that law and integrity can't be separated. Ethics and integrity are very important and its most valuable asset in legal studies. Because of that, the implementations are needed in legal studies among all academia, not only students but also lecturers. Ethics and integrity are enable student to practice take ethical and integrity decisions which is the main foundation that required by legal profession, not only by professional lawyer lifestyle, but also as law enforcer and other legal profession. If not, the existence of law studies will not ever give any contribution for the enforcement of the rule of law. For that reasons, we need to insures, first : education and learning process in legal studies institutions must be uphold ethics and integrity values. Leaders of legal studies institution must be a leader in ethic and integrity. All lecturers also required to be a role model of integrity and honesty. Second : the curriculum must be design in such a way to ensure that students been provided of knowledge and skill which is closely related to ethic and integrity, like legal professional ethics courses. Also, other courses must have closely related with the elements of ethic and integrity which is inside of it must be a part of the curriculum and learning process. Learning methods, and learning achievements are need to be measured so it can ensure that students not only be 'smart' and 'excellent' in the legal theories and practices, but also to be ensure that ethic and integrity are the component skill that need to be required by student and also to be measured in learning and assessment process.



- *Dean of Faculty of Law Universitas Airlangga, Nurul Barizah, S.H., LL.M., Ph.D.*



"The main vision of legal education is to direct students to have mastery qualifications in the basics of legal science by understanding the specific characteristics of legal disciplines, so that it will be easier to take responsibility for determining the orientation of the learning of higher education law while establishing the right scientific vision. In principle, legal education based on mastery of the basics of legal science must be directed at the ability to think critically and hone the analytical skills of students by means of class discussions and provide a set of skills that can later be used as provisions in undergoing their juridical profession."

- *Dean of Law Faculty Universitas Trunojoyo Madura, Prof. Dr. Nunuk Nuswardani, S.H. M.H.*

"Problem-based learning is one of the most important strategies applied in the study of law to prepare every graduate of law faculty to be able to act as professional legal actors who readily adapt academically-strategically and be able to provide solutions (problem-solving) for every case of law in the reality (law in society)."

- *Dean of Law Faculty Universitas Nusa Cendana, Yorhan Yohanis Nome, S.H., M.Hum.*



"Critical thinking needs to be trained, to train students to acquire critical thinking in each of the learning process, Educators must place students at the center of each process. The way in which students are centralized in the teaching and learning process is known as Student-Centered Learning (SCL). Some learning methods that can be used to train and encourage law students to think critically are small group discussions, role play and simulation, discovery learning, contextual learning and problem based learning.

- *Dean of Law Faculty Universitas Borneo Tarakan, Dr. Yahya Ahmad Zein, S.H., M.H.*

"Problem-based learning thrives when implemented in such courses which the objective of their substances is to examine legal pluralism. Having legal events that contain engagement from society, government and corporations facilitates lecturers and students to conduct discussions and comprehensive analysis based on that particular legal aspect. In this sense, The Program Based Learning is an effective method to put Lecturers and students into position to develop theories and problem-solving solution in the field of law. These achievements as results bring benefits to society and the development of legal education itself."

- *Dean of Law Faculty Universitas Mulawarman, Dr. Mahendra Putra Kurnia, S.H., M.H.*



"The three main legal issues that are exist in determining the student skills are legal education, legal science, and legal research. One of the main tasks of the a jurist is to do legal problem solving. in order to do that, the legal education which are implemented in the faculty must be able to teach and train and explore students' abilities.

- *Dean of Faculty of Law Universitas Halu Oleo, Dr. Herman, SH.,LL.M.*