



A Normative Critique of the Legal Status of Lecturers in Private Higher Education Institutions in Indonesia

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Abstract

Background: The legal relationship between lecturers and private higher education institutions (PTS) in Indonesia remains normatively problematic because it is regulated under a labor-law framework, despite lecturers' status as professional educators who carry out the *Tridharma* of Higher Education.

Objective: This article aims to critically analyze the applicability of labor law in regulating lecturer-PTS legal relationships and to formulate an alternative legal framework that reflects lecturers' professional characteristics.

Methods: This study uses normative legal research with statutory, conceptual, and normative-critical approaches. Legal materials consisting of primary, secondary, and tertiary sources were analyzed through qualitative-prescriptive methods to examine the consistency between labor law and higher education regulations.

Results: The findings reveal that the application of labor law creates fundamental contradictions in lecturer-PTS relationships. The elements of work, wages, and authority (*gezagsverhouding*) under Law No. 13 of 2003 are inconsistent with lecturers' professional autonomy and academic freedom guaranteed by Law No. 14 of 2005 and Law No. 12 of 2012. This contradiction affects the protection of academic rights, dispute-resolution certainty, and professional independence. Therefore, this article proposes an alternative framework based on equality, professional autonomy, special protection, and a specific dispute-resolution mechanism.

Conclusion: The lecturer-PTS legal relationship should be constructed as a specific academic-professional relationship (*sui generis*) that emphasizes parity between lecturers and institutions, rather than a subordinate industrial employment relationship. This framework provides a more appropriate legal basis for protecting academic professionalism and institutional governance.

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INTRODUCTION

Private Higher Education Institutions (PTS) are higher education institutions established and operated by the community. They are governed by a legally incorporated body organized on a nonprofit basis, as regulated under Law No. 12 of 2012 on Higher Education (Cahyono et al., 2017). Such governing bodies may take the form of foundations, associations, or other nonprofit legal entities in accordance with statutory provisions (Elwan, 2022). In the context of PTS management, lecturers occupy a central position as members of the academic community who carry out the *Tridharma of Higher Education*, comprising education, research, and community service (Cahyono et al., 2017).

This tension between the employment status of university lecturers and the legal protection owed to their academic freedom is not unique to Indonesia. Comparable difficulties in reconciling the ordinary employment relationship with the heightened, professionally qualified protection that academic freedom requires arise in other jurisdictions, particularly where academic staff face disciplinary or dismissal action connected to the exercise of their academic functions (Waltham-Smith & Murray, 2024). This international experience confirms that the legal status, employment protection, and institutional relationship of university lecturers constitute a broader comparative problem, of which the Indonesian lecturer-PTS relationship is a specific instance, situating the present study within a wider global debate on the legal position of academic staff.

The status of lecturers is normatively regulated under Law No. 14 of 2005 on Teachers and Lecturers (Teachers and Lecturers Law), which affirms that lecturers are professional educators and scholars whose primary duties are to transform, develop, and disseminate knowledge, technology, and the arts through education, research, and community service. Article 3(1) of the Teachers and Lecturers Law explicitly states that “lecturers hold the status of professional staff at the higher education level appointed in accordance with statutory regulations” (Andry Dwiarnanto, 2020). This recognition implies that lecturers are not merely ordinary workers but professionals who possess academic autonomy and academic freedom.

However, in the practice of private higher education institutions (PTS), the legal relationship between lecturers and the PTS governing body (BPPTS) is often subject to the manpower law regime, specifically Law No. 13 of 2003 on Manpower. The general explanation of the Teachers and Lecturers Law itself states that the recognition of the status of teachers and lecturers as professionals takes into account various provisions of legislation in the fields of education, civil service, manpower, finance, and local government. By acknowledging the interconnection of manpower legislation within the Teachers and Lecturers Law, the Law indirectly recognizes the legal relationship between PTS lecturers and the BPPTS as an employment relationship (Miftakhul Huda, 2017).

Problems arise when an employment relationship under manpower law requires the presence of three cumulative elements, namely work, wages, and authority (*gezagsverhouding*) (Wibowo, 2023). This element of authority creates a subordinate relationship or *dienstverhouding* between the employer and the employee (Nabiyla Risfa Izzati, 2020). Huda (2017) emphasizes that the legal relationship between PTS lecturers and the BPPTS has its own distinct characteristics, differing from legal relationships under manpower law, which are characterized by a superior-subordinate relationship. This subordinate nature has the potential to diminish the status of lecturers as professional educators who should possess academic freedom and scholarly autonomy (Maisah, 2016).

The gap between manpower law and higher education law is clearly evident in several aspects (Roulina, 2024). First, manpower law places workers in a subordinate position vis-à-vis the employer, whereas higher education law recognizes lecturers as members of the academic community who possess academic freedom (Cahyono et al., 2017). Second, the mechanisms for termination of employment (*pemutusan hubungan kerja* or PHK) under manpower law do not fully accommodate the protection of lecturers’ academic rights. Third, the regulation of fixed-term employment contracts under manpower law may threaten the continuity of lecturers’ academic careers, which require long-term stability for scholarly development.

Adi points out that, prior to the enactment of the Teachers and Lecturers Law, the regulation of lecturers’ salaries in both the private and public sectors generally referred to statutory provisions. The relationship between private lecturers and higher education institutions was likewise based on legislation, demonstrating the extent of state intervention. This intervention through legislation created a relationship of a public nature. However, the Teachers and Lecturers Law has instead privatized this relationship through the mechanism of employment contracts or collective agreements.

Dhaniarti emphasizes that the legal relationship between the governing body of a private higher education institution (PTS) and private lecturers is a contractual legal relationship or an employment relationship preceded by an agreement (Dhaniarti, 2015). Meanwhile, the legal relationship between private higher education institutions and private lecturers is a continuation

of the legal relationship between the governing body of the private higher education institution and the private lecturer, which relates solely to legal matters pertaining to the *Tridharma*. This dual structure creates its own complexities in determining the rights and obligations of the parties.

There is a significant research gap in Indonesian legal scholarship regarding this topic. Although some studies have addressed the legal relationship between lecturers and private higher education institutions (PTS), the reviewed literature has not yet sufficiently addressed a normative critique of the applicability of manpower law in the context of the academic-professional relationship between lecturers and PTS while simultaneously offering an adequate alternative legal framework. Huda (2017) has indeed proposed a new concept of a legal relationship on an equal footing and Cahyono (2017) have discussed dispute resolution, but these studies have not yet critically examined in depth each element of the employment relationship within the specific context of the lecturer profession.

Table 1

State of the Art of Previous Studies

Author (Year)	Research Focus	Approach	Principal Findings	Limitations	Unresolved Issue Addressed by This Article
Huda (2017)	Distinctiveness of the PTS lecturer-BPPTS legal relationship	Normative-dochtrinal	Proposes an equal-footing relationship distinct from labour law and administrative law	Does not elaborate the specific elements (work, wages, authority) requiring critique	Provides the element-by-element normative critique absent from Huda's concept
Nita (2017)	Legal position of lecturers at foundation-incorporated PTS	Empirical-legal	Maps plurality of lecturer statuses and employment instruments	Descriptive; does not offer an alternative normative framework	Builds a prescriptive alternative framework Nita's descriptive study does not offer
Dhaniarti (2015)	Characteristics of the BPPTS-lecturer legal relationship	Normative-dochtrinal	Identifies a dual contractual relationship (BPPTS-lecturer; PTS-lecturer)	Does not address dispute-resolution jurisdiction implications	Extends the analysis to propose a dedicated dispute-resolution mechanism
Cahyono (2017)	Dispute resolution between BPPTS and lecturers	Normative-dochtrinal	Recommends Industrial Relations Dispute Resolution Body as forum	Assumes industrial-relations forums are competent for academic disputes	Proposes a specialised academic dispute-resolution mechanism instead

Table 1 situates the present study relative to the four most closely related previous works, showing that, while each addresses a discrete facet of the lecturer-PTS relationship, none combines an element-by-element normative critique of work, wages, and authority with a fully specified alternative legal framework and dispute-resolution mechanism, which constitutes the specific gap this article fills.

Based on the above, the research questions posed in this article are: (1) How is the legal relationship between lecturers and private higher education institutions (PTS) constructed under current legislation? (2) Why does the application of the Manpower Law to the lecturer–PTS relationship contain normative contradictions? (3) What is the more appropriate specific legal framework for regulating the academic-professional relationship between lecturers and private higher education institutions? Corresponding to these questions, this article aims to (1) analyze the construction of the lecturer–PTS legal relationship under existing legislation, (2) critically examine the normative contradictions arising from the application of the Manpower Law to that relationship, and (3) formulate an alternative academic-professional legal framework for regulating it.

The main argument of this article is that subjecting the legal relationship between lecturers and private higher education institutions to the manpower law regime constitutes a paradigmatic error that reduces the professional status of lecturers to that of industrial workers. A specific legal framework (*lex specialis*) is required to regulate the academic-professional relationship between lecturers and private higher education institutions on an equal footing, while ensuring the protection of lecturers' welfare and academic freedom as fundamental rights in the provision of higher education. Theoretically, this article contributes to the legal construction of the lecturer–PTS relationship as a distinct academic-professional category within Indonesian higher education law. Practically, its findings are intended to benefit legislators drafting amendments to the Teachers and Lecturers Law, BPPTS/PTS governing bodies structuring lecturer contracts and internal governance, lecturers seeking clarity on their legal protection, and dispute-resolution institutions handling lecturer–PTS conflicts.

METHOD

This research was a normative legal study that examined law as a norm or rule through an analysis of legislation, legal principles, legal concepts, and relevant doctrines (Serfiyani, 2020). Normative legal research aims to examine law as norms (*law in books*) (Hari Sutra Disemadi, 2022). This method was chosen based on the nature of the issue under examination, namely, the existence of contradictions and inconsistencies in the legal framework governing the relationship between lecturers and private higher education institutions. Unlike Nita (2017), who used empirical legal research to describe the status of lecturers at private higher education institutions established as foundations, this article placed greater emphasis on the normative-prescriptive dimension to critique the applicability of the Manpower Law and propose an alternative legal framework.

Several approaches were employed in this study, including the statutory approach (*statute approach*), which was used to examine regulations pertaining to the legal relationship of lecturers (Ibrahim, 2013). The regulations examined included Law No. 13 of 2003 on Manpower, Law No. 14 of 2005 on Teachers and Lecturers, Law No. 12 of 2012 on Higher Education, Law No. 11 of 2020 on Job Creation, Law No. 16 of 2001 in conjunction with Law No. 28 of 2004 on Foundations, Law No. 2 of 2004 on the Settlement of Industrial Relations Disputes, Government Regulation No. 37 of 2009 on Lecturers, Government Regulation No. 4 of 2014, Ministry of Education and Culture Regulation No. 84 of 2013 on the Appointment of Permanent Lecturers at Private Higher Education Institutions, as well as other implementing regulations (Idrus, et al., 2022). This approach was used to identify inconsistencies, overlaps, and legal gaps.

This study relied on secondary legal materials, comprising primary legal materials, secondary legal materials, and tertiary legal materials. Legal materials were identified through a systematic search of Google Scholar, the Indonesian Supreme Court decision directory (*Direktori Putusan*), and national statutory databases (JDIH/Peraturan.go.id) using the keywords “lecturer,” “private higher education,” “employment relationship,” and “academic freedom.” The search was limited to sources published within the last ten years, unless a provision remained in force, and the sources were selected based on their direct relevance to the manpower-law, higher-education-law, foundation-law, or lecturer-regulation dimensions of the research questions. Primary legal materials consisted of laws and regulations in the fields of manpower law, higher education law, foundation (legal entity) law, and lecturer regulation. Secondary legal materials consisted of scientific literature, academic journals, and the opinions of labor law and social law

experts (Tan, 2021).

The conceptual approach was used to analyze the concepts of the employment relationship (*arbeidsverhouding*), subordination (*gezagsverhouding*), profession, professionalism, academic freedom, university autonomy, the nonprofit principle of higher education, and Pancasila justice (Farikhah, 2018). Through this approach, the research constructed an argument regarding the inappropriateness of fully applying the concept of industrial employment relations to the lecturer–private higher education institution (PTS) relationship. A comparison with the Dutch system, which utilizes the mechanism of the Collective Labour Agreement, was also used to enrich the conceptual analysis Gaffar et al. (2021), invoked here as an illustrative conceptual reference rather than as a full comparative-law component. The Netherlands was selected because its Collective Labour Agreement (CAO) mechanism for academic remuneration offers a contrasting model of standardization, and the comparison was confined to the single dimension of wage-setting mechanisms, rather than the entire lecturer–employer legal relationship.

A normative critical approach was employed to evaluate the validity and coherence of the legal norms governing lecturer–private university relations, particularly whether the application of the Manpower Law aligned with the principles of justice, legal certainty, and public interest (Aditya Candra, et al., 2025). This approach was used in this article as a critical evaluative lens applied alongside the statutory and conceptual approaches, rather than as an independently established, canonical category of legal research method. The cited discussion of formal legal criticism was drawn upon to support its evaluative function, not to claim its formal recognition in legal research methodology. The critique focused on the alignment of the *ratio legis* of the Manpower Law with the nature of the academic-professional relationship between lecturers and private higher education institutions. Wartoyo (2023) emphasized that legal certainty requires laws that are clear, predictable, and accessible to the public. For this critical stage, the primary legal materials additionally included Industrial Relations Court (PHI) rulings on lecturer–private university disputes. The analysis was conducted using a qualitative-prescriptive approach through grammatical, systematic, teleological, and historical interpretation.

RESULTS AND DISCUSSION

Result

The Construction of the Legal Relationship between Lecturers and Private Higher Education Institutions

The construction of the legal relationship between lecturers and private higher education institutions (PTS) within the Indonesian legal system involves at least three layers of regulation that interact with one another: labor law, higher education law, and foundation law. The interaction of these three regulatory layers creates a normative complexity that is not easily unraveled.

At the first layer, Law No. 13 of 2003 concerning Manpower constructs the relationship between lecturers and private higher education institutions as an employment relationship subject to the provisions of labor law. This employment relationship is based on an employment agreement containing the elements of work, wages, and orders or instructions (Nursalim, 2020). Within this framework, the BPPTS acts as the employer (*werkgever*) and the lecturer as the employee (*werknemer*) (Miftakhul Huda, 2017). Nita (2017) emphasizes that an employment relationship arises from the existence of an employment agreement between an employer and an employee and that the foundation, as the governing body of a private higher education institution, meets the criteria for classification as an employer. This confirms that lecturers at private higher education institutions can, as a matter of law, fall within the scope of applicable labor law, unlike civil servants, who are subject to civil service law (Yeltriana et al., 2023).

At the second level, Law No. 14 of 2005 concerning Teachers and Lecturers and Law No. 12 of 2012 concerning Higher Education define lecturers as professional educators and members of the academic community who exercise academic freedom and scholarly autonomy (Irianto, 2012). Article 69(2) of Law No. 12 of 2012 stipulates that lecturers are appointed and placed at higher education institutions by the government or the governing body. Article 70(2) of the same Law stipulates that the appointment and placement of lecturers by the governing body are carried out on the basis of an employment agreement or work agreement in accordance with the

applicable laws and regulations (Dhaniarti, 2015). It should also be noted that the status of lecturers is determined on the basis of employment agreements agreed upon by the parties, although the legal status of lecturers is distinct from that of other academic and educational personnel (Santina et al., 2023).

At the third level, the Foundations Law regulates the position of the foundation as a nonprofit governing body of a private higher education institution (PTS) (Nurpratama et al., 2024). A foundation has three organs: a Board of Trustees (*Pembina*), a Board of Management (*Pengurus*), and a Board of Supervisors (*Pengawas*), each with distinct powers and functions. The relationship between the foundation and the private higher education institution that it operates is organizational in nature rather than a business relationship. Elwan (2022) points out that the management autonomy possessed by private higher education institutions must be exercised in accordance with the principles of good university governance, which differ fundamentally from the principles of good corporate governance applicable in the business world.

Dhaniarti identifies a duality of legal relationships in the context of private university lecturers. First, the legal relationship between the BPPTS and private lecturers is contractual in nature and is based on an employment agreement. Second, the legal relationship between the private university and private lecturers is a continuation of the first relationship and relates primarily to the implementation of the Tridharma of Higher Education (Dhaniarti, 2015). Nita (2017) adds that the employment relationship of lecturers at private higher education institutions (PTS) may be established with the foundation or with the institutional management (rector/dean), and that lecturers may comprise foundation lecturers, DPK lecturers, university lecturers, and nonpermanent lecturers. This duality and multiplicity of relationships indicate that the lecturer-PTS relationship cannot be simplified into a standard employment relationship because it contains an academic dimension that is not found in ordinary industrial employment relationships.

Huda (2017) emphasizes that the legal relationship between PTS lecturers and the BPPTS has distinct characteristics that differentiate it from legal relationships in labor law, which are characterized by subordination, and from administrative law, which is characterized by the relationship between the government or public authorities and individuals. This distinct legal framework creates uncertainty regarding the jurisdiction of Indonesian courts to adjudicate disputes arising from the legal relationship between PTS lecturers and the BPPTS. On the one hand, Cahyono (2017) argue that such disputes must be resolved through industrial relations dispute resolution mechanisms and Yeltriana et al. (2023) likewise reach a similar conclusion based on Law No. 2 of 2004. On the other hand, the fact that the relationship is not entirely characterized by subordination raises questions concerning the appropriateness and scope of the jurisdiction of the Industrial Relations Court.

Adi points out that, prior to the enactment of the Teachers and Lecturers Law, the relationship between private lecturers and higher education institutions was based on legislation reflecting significant state intervention, resulting in a public-law relationship governed by administrative law. However, the Teachers and Lecturers Law shifted this relationship toward a private-law framework through the mechanism of employment agreements. This privatization arguably weakens the position of lecturers by placing them within a framework of subordinate employment. Sulaksono (2017) adds that regulations governing the management of private higher education institutions have undergone a long evolution, yet the resolution of internal conflicts continues to face various obstacles.

Criticism of the Elements of Work, Wages, and Orders

The application of the three elements of an employment relationship, namely work, wages, and orders or instructions (*gezagsverhouding*), to the relationship between lecturers and private higher education institutions raises serious normative issues. These three elements are commonly used to identify and interpret employment relationships in labor law. However, when applied directly to the profession of lecturers, tensions arise because the nature of a lecturer's work is not entirely analogous to that of workers in ordinary industrial relations.

First, criticism may be directed at the element of work. In labor law, work is generally understood as an activity performed by a worker within the framework of an employment

relationship and subject to the employer's instructions. This type of work tends to be specific, measurable, and relatively amenable to monitoring in its execution. However, the duties of a lecturer as a professional educator are more complex. Lecturers do not merely teach but also carry out the Tridharma of Higher Education, which encompasses education, research, and community service (Cahyono et al., 2017). In research activities, for example, lecturers require intellectual freedom and methodological autonomy. Consequently, lecturers cannot be positioned as though they were merely carrying out managerial instructions. A lecturer cannot legitimately be required to produce predetermined research findings or to teach particular views that contradict their scientific convictions. Maya et al. (2023) also emphasize that lecturers are entitled to protection of their intellectual property rights. This indicates that the results of a lecturer's work are more appropriately understood as creative and intellectual work rather than merely mechanical or industrial work.

Yudhi (2020) explain that a lecturer's quality develops through a lengthy process requiring seriousness, focus, consistency, and continuous development. This process of developing professional quality cannot be equated with the training of industrial workers, which is generally technical and standardized. Lecturers' competencies are developed through continuous, independent, and autonomous academic processes. Therefore, the legal concept of "work" under labor law may be too narrow when applied to explain the entirety of a lecturer's academic activities.

Second, criticism may also be directed at the wage element. The compensation received by lecturers cannot be entirely equated with wages in the labor-law sense. In practice, lecturers may receive various forms of compensation from different sources, such as a basic salary from the private higher education institution (PTS), functional allowances from the government, professional or certification allowances from the government, research honoraria, and other forms of compensation. Professional allowances for lecturers provided by the government, for example, are more accurately understood as recognition of lecturers' professional status rather than as a direct component of the employment relationship between lecturers and private higher education institutions. Lecturers at private higher education institutions are entitled to social security benefits in accordance with statutory regulations. However, this right does not automatically mean that all forms of lecturer compensation must be interpreted as wages within the framework of a standard employment relationship.

Idrus et al. (2022) indicate that the compensation for permanent lecturers at private higher education institutions in the lowest academic functional rank, namely Assistant Professor, consists of a gross monthly salary ranging from IDR 3,000,000 to IDR 12,000,000. This compensation is considered to encourage lecturers to be more productive in carrying out the Tridharma. Meanwhile, Abas, through his comparative study, shows that in the Netherlands, lecturer remuneration is regulated through a *Collective Labour Agreement* (CAO), which creates standardization, whereas in Indonesia its implementation still varies considerably among private higher education institutions (Muhammad Abas, 2025). This difference demonstrates that lecturer compensation is not solely determined by labor-market mechanisms, as in conventional industrial relations. The amount and form of lecturer compensation are also influenced by government policy, the capacity of the foundation or governing body, the institutional status of the private higher education institution (PTS), and other non-economic factors inherent in higher education.

Third, criticism may be directed at the element of orders or instructions. The element of orders or instructions (*gezagsverhouding*) is the most fundamental point of contradiction. Huda (2017) explicitly states that the legal relationship between private university lecturers and the BPPTS differs from an employment relationship characterized by subordination. The academic freedoms guaranteed by higher education legislation are inherently in tension with the element of subordination in an employment relationship. Lecturers cannot legitimately be directed as to what conclusions they must reach in their research or which scientific views they must adopt. The administration of higher education institutions is subject to institutional autonomy and a system of academic freedom (Thoha, 2018).

Nita points out that, in practice, the employment relationship of lecturers at private higher education institutions (PTS) utilizes various legal instruments, including employment agreements

under labor law, general agreements, foundation decrees, rector's decrees, and dean's decrees (Nita, 2017). This diversity of instruments indicates that the lecturer-PTS relationship cannot be reduced to a simple employment relationship based solely on an element of command. Although lecturers are administratively subject to the rules of the PTS organization, such as teaching schedules, minimum workloads, and reporting obligations, this differs qualitatively from "orders" or "instructions" in conventional industrial employment relationships. Such administrative rules are coordinative in nature and do not necessarily establish the comprehensive subordination characteristic of an ordinary industrial employment relationship.

This normative contradiction indicates that the three elements of an employment relationship cannot be fully applied to the lecturer-PTS relationship without qualification. The forced application of these three elements may result in an artificial legal construct that does not adequately reflect the reality of the academic and professional relationship.

The Problem of Reducing Lecturers to Industrial Workers

Subjecting the lecturer-private university relationship to the labor-law regime carries significant consequences. Lecturers, who ought to be positioned as professional educators, risk being reduced to industrial workers. This reduction is not merely a matter of terminology but concerns how the law understands the status, role, and freedom of lecturers in the provision of higher education.

First, there is the problem of the erosion of professional autonomy. When lecturers are categorized as workers within the framework of labor law, they are logically placed within the managerial authority of the employer, in this case the BPPTS or the private higher education institution (PTS). This position has the potential to undermine lecturers' autonomy in carrying out the Tridharma of Higher Education. The BPPTS could use its managerial authority to direct, restrict, or even sanction lecturers who exercise their academic freedom. Yet academic freedom and higher education autonomy are integral to the framework of higher education law. Nita also found that the principles of autonomy, accountability, justice, and transparency in the Higher Education Law are difficult to implement optimally because the foundation, as a legal entity, holds significant authority to influence the activities of private higher education institutions (PTS) (Nita, 2017). The concept of university autonomy itself is understood in various studies as a critical issue when educational institutions face external influences and institutional interests (Idha Christiana, 2024).

Second, there is the problem of the commodification of education. When the relationship between lecturers and private higher education institutions is treated like that of an employer and an employee, the logic of economic efficiency risks becoming the primary basis for the management of private higher education institutions. Lecturers may be viewed as replaceable factors of production, hired on flexible contracts, and evaluated primarily through quantitative indicators. This perspective is at odds with the nonprofit principle underlying the operation of private higher education institutions, which should prioritize the quality of education rather than mere economic efficiency. Rahmawati (2022) demonstrate that the MBKM policy, which aims to improve the quality and competitiveness of higher education institutions, has instead become a burden for some private higher education institutions because it has not fully taken into account actual institutional conditions. This demonstrates that standardizing the governance of private higher education institutions according to industrial logic can prove counterproductive.

Third, the issue of unequal bargaining power is also a serious concern. In industrial relations, the imbalance of power between workers and employers is usually counterbalanced through trade unions and collective agreements. However, in the context of lecturers at private higher education institutions, these mechanisms have not yet functioned effectively. Santina et al. (2023) recommend the formation of trade unions so that lecturers may enjoy a more equal position in sociological terms. However, in practice, few lecturers have developed a collective identity as industrial workers. The professional identity of lecturers is more closely associated with the academic community than with the labor community. Abas demonstrates that in the Netherlands, the collective bargaining mechanism through the CAO operates more effectively, thereby reducing wage disparities between institutions (Muhammad Abas, 2025). In Indonesia, a comparable mechanism has not yet been firmly or uniformly established.

Fourth, the application of labor law to lecturers at private higher education institutions (PTS) also leads to regulatory fragmentation. PTS lecturers must navigate multiple legal regimes simultaneously: labor law, higher education law, and foundation law. These three regimes do not always move in the same direction, which can create legal uncertainty for both lecturers and private higher education institutions. Hartanto (2020) demonstrate that the issue of higher education governance in Indonesia is not merely attributable to a lack of regulations but occurs more frequently at the implementation level. Huda (2017) also emphasizes that these differing legal frameworks mean that the courts do not always have a sufficiently clear basis for determining jurisdiction over disputes between lecturers and private higher education institutions. In industrial relations practice, the issue of termination of employment through the Industrial Relations Court is indeed a key aspect of labor protection; however, its application to lecturers requires careful consideration because the nature of their relationship is not identical to that of a standard industrial employment relationship.

Fifth, this issue is also linked to the debate concerning the *welfare state*. Changes to several provisions of labor law through the Job Creation Law have frequently been criticized as reflecting a conception of the state that reduces its role in social protection (Rohanawati, 2021). In the context of private university lecturers, a reduced role for the state may weaken the protection of lecturers' rights and strengthen the dominance of the BPPTS in determining working conditions. Wartoyo (2023) emphasize that the state, as a policymaker, retains a responsibility to oversee the education and private sectors, including facilitating and supporting the performance of lecturers' duties. Therefore, the relationship between lecturers and private higher education institutions should not be reduced solely to the logic of employment but should be formulated as an academic-professional relationship that continues to guarantee legal protection, welfare, and academic freedom for lecturers.

Implications for Termination, Contracts, and Academic Rights

Subjecting the lecturer-private university relationship to the labor-law regime not only raises conceptual issues but also has a direct impact on three key aspects: termination of employment, employment contracts, and academic rights. These three aspects demonstrate that the relationship between lecturers and private universities cannot be fully interpreted as a standard industrial relationship. Research on the termination of PTS lecturers has indeed placed this issue within a labor-law framework Mahardian (2019), but the nature of the lecturing profession still requires a more specific analysis.

Table 2

Implications of Issues Facing PTS Lecturers

Aspect Implication s	Main Issue	Impact on Private University Lecturers	Legal Basis
Termination of Employment (PHK)	The termination mechanism follows the logic of industrial relations.	Aspects of academic freedom and conflicts concerning university governance are difficult for the Industrial Relations Court to assess.	Arts. 151–154 and Art. 154A of Law No. 13/2003, as amended, concerning termination of employment; Arts. 69(2) and 70(2) of Law No. 12/2012 concerning the appointment and placement of lecturers by the governing body.
Employment contracts	The use of fixed-term and indefinite-term employment agreements places	Academic careers may become unstable and dependent on the BPPTS.	Arts. 56–59 of Law No. 13/2003, as amended, concerning fixed-term and indefinite-term

	lecturers within a potentially subordinate employment relationship.		employment agreements; Ministry of Education and Culture Regulation No. 84/2013 concerning the appointment of permanent lecturers at private higher education institutions.
Academic rights	Academic careers may become unstable and dependent on the BPPTS.	Academic freedom, academic freedom of the academic pulpit, and scholarly autonomy are vulnerable to suppression.	Arts. 8–9 of Law No. 12/2012 concerning academic freedom, academic freedom of the academic pulpit, and scholarly autonomy; Law No. 14/2005 concerning professional protection for lecturers.

Table 1 outlines several aspects. Regarding termination, the mechanisms available under labor law are fundamentally designed for industrial labor relations. Grounds for termination such as efficiency, company losses, or breaches of employment agreements may prove inadequate when applied to lecturers because conflicts between lecturers and private higher education institutions (PTS) often intersect with differences in scientific views, the exercise of academic freedom, or university governance (Cahyono et al., 2017). Although disputes between the BPPTS and lecturers may be referred to industrial relations dispute resolution mechanisms, these mechanisms are not always capable of assessing the academic dimensions underlying the dispute. Consequently, the lack of clarity regarding jurisdiction, as criticized by Huda (2017), becomes a significant problem in protecting private university lecturers.

Regarding employment contracts, the use of fixed-term employment agreements (PKWT) for lecturers at private higher education institutions creates uncertainty regarding their academic careers. Lecturers require stability to develop their research, academic reputations, and institutional contributions. The employment agreement system at private higher education institutions may indeed take the form of either fixed-term employment agreements (PKWT) or indefinite-term employment agreements (PKWTT) Turnip (2016), but the repeated use of fixed-term agreements can weaken lecturers' bargaining position. Meanwhile, indefinite-term employment agreements have not fully resolved the issue either, as lecturers may remain subject to a subordinate employment relationship and may still be subject to termination on grounds specified in labor law.

The most serious implications are evident in academic rights. Academic freedom, academic freedom of the academic pulpit, scholarly autonomy, continuous professional development, and participation in shared governance do not receive sufficient recognition within a conventional employment regime. When academic rights conflict with managerial directives from the BPPTS, labor law may tend to interpret lecturers' refusal as a breach of the employment agreement. It is at this point that special provisions are required so that the protection of lecturers does not stop at protection as workers but also encompasses their status as professional educators.

Discussion

Proposal for a Special Legal Framework for Academic-Professional Relations

Based on the critique of the application of labor law to the relationship between lecturers and private higher education institutions (PTS), this article proposes the need for a special legal framework that characterizes this relationship as an academic-professional one. The lecturer-

private higher education institution (PTS) relationship is not appropriately understood solely as an industrial employment relationship because lecturers do not merely perform work based on instructions but also fulfill academic, scholarly, and service functions. Several studies also indicate that the relationship between the governing body of a PTS and lecturers has often been understood as a contractual relationship (Cahyono et al., 2017).

This framework is based on the principles of parity, professional autonomy, and agreements grounded in specific principles. The principle of parity positions lecturers and the PTS governing body as partners in the provision of higher education rather than as superiors and subordinates. Lecturers contribute through their academic expertise, while the PTS governing body provides institutional support, funding, and administration. Meanwhile, the principle of professional autonomy guarantees lecturers' freedom in carrying out the *Tridharma*, including determining teaching methods, research topics, and scientific perspectives. Therefore, lecturers' accountability should be measured against academic and professional standards rather than merely against compliance with managerial directives.

Furthermore, agreements between lecturers and private higher education institutions (PTS) should be founded not only on the principles of freedom of contract, consensualism, *pacta sunt servanda*, good faith, personality, and equality, but also on the principles of academic freedom, scholarly autonomy, *shared governance*, and the protection of academic careers. In this way, the lecturer-private university agreement does not become merely a commercial instrument but continues to reflect the distinctive character of higher education. This is important because the legal issues surrounding private university lecturers relate not only to employment agreements but also to professional protection, academic freedom, and lecturers' welfare (Cahyono et al., 2017).

Specific legal provisions should also include protection against termination on academic grounds, guarantees of career stability, the right to participate in university governance, and the right to continuous professional development. Nor is it sufficient to leave dispute resolution mechanisms solely to the ordinary industrial relations dispute resolution framework, as disputes between lecturers and private higher education institutions often involve academic aspects that cannot always be assessed using industrial-relations logic. Therefore, special mechanisms are required, such as internal mediation through the academic senate, arbitration by a panel of education-law experts and senior academics where legally permissible, or a specialized chamber with expertise in higher education disputes.

Legislatively, this framework could be realized through three options: the addition of a specific chapter to the Teachers and Lecturers Law, the issuance of a specific Government Regulation on the legal relationship of private university lecturers, or the enactment of a separate law concerning legal relationships in the provision of higher education. Whatever form it takes, the substance must affirm that the lecturer-private higher education institution relationship is not an ordinary employment relationship within the meaning of the Manpower Law but rather an academic-professional relationship of a *sui generis* nature.

Table 3
Legal Construction

Principles of Legal Construction	Core Regulation	Normative Objective
Parity	Lecturers and BPPTS/PTS are positioned as partners	Avoiding a subordinate relationship
Professional autonomy	Lecturers are free to carry out the <i>Tridharma</i> in accordance with academic standards	Protecting academic freedom
Agreements based on specific principles	Contracts include academic principles and career protection	Preventing the commercialization of the relationship between lecturers and private higher education institutions
Special protection	Protection against dismissal	Guaranteeing the security of the

Principles of Legal Construction	Core Regulation	Normative Objective
	academic grounds and non-teaching profession academic interference	
Special dispute resolution	Academic mediation, arbitration, or a specialized chamber	Assessing disputes from a higher education perspective
An active role for the state	Minimum standards for compensation, supervision, complaints and sanctions	Strengthening the protection of lecturers at private higher education institutions

CONCLUSION

Based on the normative analysis conducted, this article answers its research objectives as follows. First, the construction of the legal relationship between lecturers and private higher education institutions within the Indonesian legal system contains a fundamental normative contradiction: the Manpower Law constructs this relationship as a subordinate employment relationship, whereas the Teachers and Lecturers Law and the Higher Education Law recognize lecturers as professional educators and members of the academic community possessing academic freedom and scholarly autonomy. This contradiction cannot be fully resolved through ordinary legal interpretation alone and instead requires fundamental normative reconstruction. Second, the application of the three elements of an employment relationship, namely work, wages, and orders or instructions (*gezagsverhouding*), to lecturers at private higher education institutions is paradigmatically problematic because the element of subordination is inherently in tension with lecturers' academic freedom. Reducing lecturers to industrial workers may undermine professional autonomy, facilitate the commodification of education, and create legal uncertainty in the resolution of disputes. Third, a special (*sui generis*) legal framework, built on the principles of parity, professional autonomy, special protection, and an active role for the state, is required to regulate this relationship and explicitly distinguish it from the industrial-based labor-law regime.

This article makes a theoretical contribution by developing a framework for normative-critical analysis of the applicability of law to relationships of a distinctive character, systematically identifying points of normative contradiction between labor law and higher education law, and formulating the basic principles of a specific legal framework for academic-professional relations that may inform the development of higher education law theory in Indonesia.

Recommendations: the legislature should amend the Teachers and Lecturers Law to state explicitly that the PTS lecturer-BPPTS relationship is an academic-professional relationship governed by special legislation (*lex specialis*) rather than an ordinary employment relationship; a Government Regulation should comprehensively govern lecturers' employment agreements, dispute-resolution mechanisms, protection against termination on academic grounds, and guarantees of academic rights; a specialized dispute-resolution body or mechanism with expertise in higher education should be established to handle lecturer-BPPTS/PTS disputes; and the government should strengthen oversight of the implementation of PTS lecturers' rights, including minimum standards for compensation and academic career protection, consistent with the state's responsibility for education under the welfare state concept.

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