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Preface

Praise and gratitude always we pray to the Lord of Universe, GOD Almighty (ALLAH SWT), who always gives a mercy and blessing for mankind. Thus, we can attend the international conference in healthy and halcyon conditions without any obstacles.

First of all, on behalf of Rector of Muhammadiyah University of Metro warmly welcomes for the presence of keynote speakers and the participants of international conference in various colleges, either domestic or overseas. Especially for a chairman of Indonesian's People Consultative Assembly or MPR-RI, Mr.Zulkifli Hasan; and a chairman of Higher Education Assembly of the Central Board of Muhammadiyah, Prof.Lincolyn Arsyad.

Secondly, we do apologize if in providing services to the keynote speakers and the participants of the international conference are below of your expectations, all of those are caused by our capability limitation.

Thirdly, through this international conference, intended as a reflection of our commitment consistently improve the quality of education and accommodate more opportunities in academic collaboration.

Therefore, I believe that this international conference will be able to present an interesting discussion on the topics, by prominent speakers from Malaysia, Indonesia, Brunei and Thailand, which contribute to the development of knowledge and hopefully will encourage more research on this region.

In this beautiful occasion, I would like to congratulate to the organizers of international conference who have organized this event, hence, the event can be held most efficiently. Perhaps, it will support Muhammadiyah University of Metro to actualize its mission to become one of *international standard universities* in the near future.

Finally, once again I would like to say, welcome to all the distinguished guests and participants of the international conference.

Muhammadiyah University of Metro will give the best to help you recognize this Lampung land. Please enjoy our hospitality and have a pleasant experience in the international conference. Thank you.

Metro, November 7th, 2016

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Table of Contents

Preface	ii
International Advisory Board	iii
Organizing Committee	iv
Table of Content	v

KEYNOTE SPEAKERS

1. Law and Human Rights in ASEAN Countries: Challenges and Prospects ~ Nehaluddin Ahmad.....	1
2. Challenges and Solutions of Higher Education Institutions in Asia in the Face of the ASEAN Economic Community (AEC) ~ Ab. Halim bin Tamuri & Norfaizah binti Othman.....	8
توريث الوراثة النبوية أهم أعمال علماء الإسلام ~ Ismail Lutfi	14

PAPER PRESENTERS

1. Development Strategy of Petroleum Engineering Trisakti University in Globalization Era ~ Sugiatmo Kasmungin, Kartika Fajarwati & Pauhesti Rusdi.....	268
2. Curriculum Education for Chinese Muslim Indonesia in Masjid Lautze Jakarta ~ Ulil Amri Syafri & Asep Supandi Akhmadwijaya	272
3. Implementation of Quantum Learning Subjects on Speaking Mandarin ~ Tri Budianingsih	280
4. Islamic Based-Life Skill Education in State Vocational High Schools in Metro ~ Abdul Mujib & Ahmad Madkur	285
5. Overview Application Approach Student Centered Learning in Higher Education Based on the Principles Adragogy ~ Fatahillah.....	290
6. Philosophical Concept of Islamic Studies for Teens ~ M. Ihsan Dacholfany; Muhamad Dini Handoko ..	297
7. The Important of Entrepreneurship Education in Educational Institution Trough Apprentice Model ~ Badawi	303
8. Foster Entrepreneurship Intention through Entrepreneurship Education in Islam ~ Heri Cahyono, Arief Rifkiawan Hamzah & A. Noor Islahudin	309
9. Explicit and Implicit Strategy Training, Which One Is Better? ~ Gita Hilmi Prakoso	314
10. Exploring Beneficial of Teaching Varieties of Spoken English to English Education Students in Sofia University St. Kliment Ohridski, Bulgaria ~ Bobi Arisandi	320
11. Task-Based Language Teaching to Enhance Students' Writing Achievement at the Tertiary Level ~ Asep Hardiyanto.....	324
12. Using Think-Aloud Protocols to Improve Students' Narrative Writing at EFL Classroom ~ Amelia Agustiar	328
13. Developing Characteristics-Based Short Story Appreciation Learning Model with Contextual Approach Based on Kurtilas at SMA Negeri North Lampung ~ Sumarno & Sri Widayati.....	333
14. Brochure and Textbook Development as a Dissemination Media of Vegetable Cultivation Management Model for Consumer Protection against Heavy Metals Pollution ~ Hening Widowati, Kartika Sari & Widya Sartika Sulistiani.....	337

15. The Importance of Character Development on Young Generation for the Nation's Progress through Education ~ Handoko Santoso	342
16. The Importance of Open Ended Problems in Teaching Material of Algebra ~ Nurul Farida & Nurain Suryadinata.....	345
17. Design Research and Development 4D Model for Developing Mathematics Teaching Materials ~ Swaditya Rizki & Nego Linuhung.....	349
18. Efforts to Increase Activity and Results of Learning Using Math Cooperative Learning Model Type Co-Op Assisted Media Figure Tools Class VIII SMP PGRI 4 Sekampung Lesson Year 2015/2016 ~ Satrio Wicaksono Sudarman.....	353
19. Role of Education in Dealing ASEAN Economic Community (AEC) ~ Meyta Pritandhari	359
20. Reconstruction of Pesantren's Education on Producing Ulama Cadres (A Conception as an Effort to Answer Societies' and Pesantren Alumnae's Discomforts) ~ Imam Subhi	362
21. Experiment Role in Building Metacognition Ability of Prospective Teachers ~ Nyoto Suseno & Purwiro Harjati	369
22. Think of Deaf Students SLB N Pringsewu Viewed from Theory of Van Hiele ~ Ari Suningsih	373
23. Improved Communication Competence for Physics Students Teacher ~ Sarwanto	378
24. Regional Language as the Basic Reinforcement of Indonesian Nation's Character to Facing ASEAN Economic Community ~ Saptiana Sulastri & Eka Kurniawan.....	381
25. Preparing Education Based on the Multiple Intelligences in Dealing with the ASEAN Economic Community (AEC) ~ Jamiluddin Yacub.....	385
26. Effectiveness of Learning in Elementary School in Remote Area Flores Island NTT ~ Rince Jalla Wabang & Ludgardis Sebo	389
27. The Influence of Education Health on Increased Knowledge Students, about Waste Management in SDN 017 Samarinda ~ Ratna Yuliawati & Deny Kurniawan	391
28. Spiritual and Emotional Quotient in Discussion Learning ~ Windo Dicky Irawan	394
29. Fertilizer Application of Pineapple Liquid Waste (PLW) Weight of Pineapple (Ananas Comosus, L. Merr) ~ Agus Sutanto, Suharno Zen, Rasuane Noor & Bagas Rasyid Siddiq.....	400
30. Moving Intellectual Collective: The Collaboration of Muhammadiyah and Citizen Journalism Portal Pojoksamber.Com in Advocating Child Sexual Violence in Metro City Lampung ~ Ida Umami, Dharma Setyawan & Ahmad Madkur.....	403
31. The Effect of Gender and Gender-Base Texts on Students' Reading Comprehension ~ Elis Susanti	411
32. An Analysis of Students' Error in Translating English ~ Rulik Setiani.....	417
33. Determinant Factors of Discipline Behavior among Student of Islamic Boarding School ~ Safiruddin Al Baqi, Abdul Latip A & Tyas Sarli Dwiyoga.....	420
34. Developing Reading and Writing Materials for Genre with Edialogue Journal Based Instruction For The Students of Economics of Utp ~ Rusman Roni.....	423
35. Question Types in Teacher Talk in English Language Teaching ~ Irmayani; Suharmanto	428
36. Quality Management "PPEPP" in the Quality Assurance Quality Based on the Quality Culture of STKIP Nurul Huda ~ Marlina & Dwi Andriani.....	433
37. School-Based Management Implementation at Muhammadiyah Elementary School of Metro ~ Juhri AM & Agus Riyanto.....	437
38. The Using of Hybrid and Blended Learning Model to Reinforce Language Learner Motivation and Learning Material Based on Learner Needs ~ Dewi Ratna Ningsih	442
39. Application of Contextual Learning with Hanoi tower Game to the Materials Relations and Functions ~ Rina Agustina.....	448
40. Education Model of Mohammad Natsir Preacher Cadre ~ Ujang Habibi.....	452

41. Professional Educator as Learning Architect in Systemic Education System to Build Human Character ~ Ratini.....	460
42. Analysis of Open-Ended Problems in Learning Mathematics in Primary ~ Ira Vahlia	464
43. Developing Interactive Multimedia, Material Text Recount Oral and Write about Simple Experiences, Activities, Events at EFL ~ Purwo Trapsilo.....	469
44. Development of Characters Themselves through Learning Indonesian Language and Literature ~ Sudirman AM.	473
45. The Development of Instructional Model of Reciprocal Teaching Real Analysis Subject I ~ Sutrisni Andayani	478
46. The Description of Micro Teaching Lecturing Program Implementation in History Education Major FKIP UM Metro ~ Bobi Hidayat & Kian Amboro	483
47. The Role of Islamic Organizations in the Development of Islamic Higher Education in Indonesia and the Relationship History of Islam in ASEAN ~ Zainal Abidin.....	487
48. The Application of Speed Reading to Increase Reading Comprehension for the First Grade Students of SMK Ganesa Lampung Timur ~ Budi Hartono	491
49. The Implementation of Constructivism-Based Mathematics Module to Increase the Students' Mathematics Understanding ~ Rahmad Bustanul Anwar, Jazim Ahmad & Dwi Rahmawati.....	494
50. Assessment Instruments of Microteaching Development to Diagnose Misconception ~ Dasrieny Pratiwi & Agil Lepiyanto	498
51. Analysis the Mathematical Communication Ability for the Student with the Special Needs (ABK) Autism (The Study Was Conducted in SD Citra Bangsa Pringsewu) ~ Ana Istiani	503
52. The Urgency of Integrating Environmental Concepts into Subject Matter of Logica as an Effort to Produce Early Childhood Education (ECD) Graduates with Environmental Knowledge ~ R. Sihadi Darmo Wihardjo	506
53. The Leadership and Teacher Performance and Significant Positive Effect on the Quality of Learning in SMK Negeri Tulang Bawang Regency ~ M. Ihsan Dacholfany & Asroh	511
54. Podcast to Finding English Politeness ~ Dedy Subandowo	517
55. Effect of the Learning Cycle 5E with Problem Posing on Polyhedron Viewed from the Learning Motivation of the Students in Grade VIII of State Junior Secondary Schools of Mesuji Regency ~ Agus Setiawan.....	525
56. The Problems in Teaching and Learning Speaking at Fourth Semester of Islamic Institute Ma'arif NU Metro Lampung in Academic Year 2015-2016 ~ Dian Anggraini & Mai Zuniati.....	528
57. Language Interference in EFL Students' Composition of IAIM Nu Metro ~ Suhono & Umar Alfaruq ...	532
58. Building of the Students Capability on the Problem Solving and Mathematical Communication through Realistic Mathematics Indonesia Approach (PMRI) ~ Wawan	537
59. The Religiously Humanistic Learning Approach to Develop Students' Character in Cross-Cultural Counseling Course ~ Karwono & Nurul Atika	542
60. An Analysis the Contribution of Scanning and Skimming Technique towards Students' Reading Comprehension ~ Syaifudin Latif D	546
61. The Effectes of School Environment and Self Dicipline toward Student's English Speaking Skill ~ Pudjiono Sukoco	551
62. Implementation Learning Model of Group Investigation toward Learning Achievement in the Entrepreneurship Course ~ Siti Suprihatin.....	557
63. Education and Job Market: Should We Adjust Our Education to the Labor Market? (Paulo Freire and Redefining Education for Critical Consciousness) ~ Cahaya Khaeroni & Kuliayatun.....	561

64. Learning Resource Based Approach toward Reasoning Ability and Student Mathematical Disposition ~ Yunni Arnidha..... 567
65. The Effort of Kindergarten Teacher in Solving Student Problem (A Qualitative Study in Rasyidul Jannah Kindergarten Sukarame Bandar Lampung Province Lampung in 2015/2016) ~ Dharlinda Suri..... 571
66. Vocabulary Mastery through Word Chain Game and Guessing Word Game at Different Motivation in Learning English ~ Fitri Palupi Kusumawati..... 576
67. The Influence of Using Mind Mapping Technique toward Writing Recount Text Ability of the Students at Muhammadiyah University of Metro in Academic Year 2014/2015 ~ Eva Faliyanti..... 581
68. The Waste Bank in Caring the Environment (The Study of the Creative Economy of Cangkir Hijau Waste Bank Metro - Lampung) ~ Hifni Septina Carolina & Achyani 585



Law and Human Rights in ASEAN Countries: Challenges and Prospects

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Abstract

Traditionally, the rule of law has not been viewed as a unifying concept amongst ASEAN countries. ASEAN was established principally as a political organisation. It did not set out to be an organisation focused on human rights. Its formative instrument- the 'Bangkok Declaration' 1967- did not mention the term 'human rights', and the term itself was viewed with many hesitation by various governments in the region. They viewed the idea incompatible with their principles for social unity and stability, effective economic development and sovereignty. However, the position has changed with the establishment of the ASEAN Inter-governmental Commission on Human Rights (AICHR). The paper aims to examine the relationship between law and human rights in ASEAN countries addressing the challenges and prospects in promoting and protecting human rights. This paper adopts a legal library research methodology focusing mainly on primary and secondary legal sources. The paper argues that unlike the European Union (EU), ASEAN is a strictly inter-governmental organisation. This means that the enforcement of citizen's rights and rule of law are entirely a prerogative of the member states. The paper also argues that the ASEAN Charter framed human rights as goals of the organisation but did not specify the concrete means by which those goals would be achieved or the sanctions that would follow non-compliance. The paper concludes that to secure human rights in ASEAN, consensus on human rights issues among member states is urgently needed.

Keywords: ASEAN, EU, Human Rights, Rule of Law

1. INTRODUCTION

The Association of South-East Asian Nations (ASEAN) was formed as a regional inter-governmental organisation in 1967 through the Bangkok Declaration. The ASEAN was established principally as a political organisation. Its formative instrument- the Bangkok Declaration 1967- did not mention the term 'human rights', and the term itself was viewed with hesitation by various governments in the region [1, 2]. Regardless of what has been said here, the idea for an ASEAN human rights body was not particularly new. It emerged in 1993, after the UN World Conference on Human Rights adopted the Vienna Declaration and Programme of Action and called on member states to establish regional human rights where they did not already exist [3]. ASEAN Foreign Ministers convened soon afterward and agreed that "ASEAN should also consider the establishment of an appropriate regional mechanism on human rights [4]". Hence, it is important to note that a regional human rights body took 16 years to come to fruition in Southeast Asia. On the other hand, looking at law per se in ASEAN, it is vital to note that the degree of application of the rule of law in individual ASEAN countries varies according to their specific contexts and capacities. These variations do not reflect 'competing conceptions' as much they are different notes on the same normative register for the rule of law in ASEAN [5]. Bearing all this in mind, developing an institution dedicated to human rights was challenging in an institution with a long-standing commitment to strong state sovereignty and a weak record of human rights enforcement.

The paper aims to examine the relationship between law and human rights in ASEAN countries focussing on the challenges and prospects in promoting and protecting human rights in the region. The paper is divided into four parts excluding the introduction. The first part addresses the relationship between law and human rights in ASEAN. This part of the discussion is important in order to understand the role that law can play in terms of promoting and protecting human rights. The second part deals with the challenges faced by ASEAN in the context of promoting and protecting human rights in the region. The third part addresses the future prospects in promoting and protecting human rights in ASEAN. Under this part, the discussion will revolve on the issue of future prospects despite the availability of the challenges faced by ASEAN in its quest to promote and protect human rights in the region. The fourth part shall focus on the conclusion. This part will embrace some recommendations bearing in mind that from the very beginning ASEAN developed a set of diplomatic norms and practices designed to discourage political interference.

2. RELATIONSHIP BETWEEN LAW AND HUMAN RIGHTS IN ASEAN

Unlike the European Union (EU), ASEAN is a strictly inter-governmental organisation. This means that the enforcement of citizen's rights and rule of law are entirely a prerogative of the member states. Given the great diversity of political systems in the region, rights granted to citizens and the enforcement of citizens' rights vary markedly. Limited space allows only for exemplary evidence as far as the rule of law in individual member

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countries is concerned. Traditionally, the rule of law has not been viewed as a unifying concept amongst ASEAN countries, but as a “protean” one. As mentioned earlier, while the degree of the application of the rule of law in individual ASEAN countries varies according to their specific contexts and capacities, recent global and regional developments have helped to crystallise a growing but firm consensus about the basic elements of the rule of law [6]. These developments include broad global acceptance for a UN definition of the rule of law linking the concept to human rights and democracy; the incorporation of the rule of law (and this linkage) in the ASEAN Charter; and the entrenchment of the rule of law and human rights as part and parcel of ASEAN’s move toward becoming a rule-based and integrated community with shared values [7].

Regardless of the approach taken by the ASEAN countries in terms of the relationship between law and human rights, there is no doubt that there appears to be a growing consensus on the constitutive elements or central principles of the rule of law as a principle of good governance; and acceptance that the rule of law is compatible with strengthening democracy and promoting and protecting fundamental human rights. Thus, the advent of the ASEAN Charter opened the door to integrating human rights into ASEAN framework. For example, in the national context, certain ASEAN countries have made human rights a part of their national agendas by setting up human rights commissions. At the international level, individual ASEAN member states have displayed a greater openness to acceding to human rights conventions and have participated vigorously in human rights debates within United Nations fora [8]. This may be seen as an unequivocal acceptance that human rights are a matter of legitimate international concern; how this concern should be expressed, however, is still open to question. At the sub-regional level, ASEAN states have departed from previous practice by discussing the issue of human rights in formal meetings, albeit stressing that human rights are contingent upon distinct economic and cultural conditions of the region [9]. Though all these may sound to be good news in promoting and protecting human rights in the region, it is sad to note that Article 1(7) of the ASEAN Charter identifies human rights as an explicit goal of the Association but again places that objective in dynamic tension with the rights of sovereign member states. The espoused goal is: “to strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN”. The provision treats human rights as norms to be reconciled with sometimes balanced against norms of sovereignty and non-interference [10].

From the foregoing discussion above, it is undeniable fact that although the legal systems in the region seem to be different and to a certain extent maybe a hindrance in promoting and protecting human rights, the ASEAN Charter marked a significant step in the establishment of a formal ASEAN human rights system, which may help to form a solid foundation for the development of those legal instruments and independent mechanisms required to strengthen human rights protection in the region.

3. CHALLENGES FACED BY ASEAN IN PROMOTING AND PROTECTING HUMAN RIGHTS

As stated earlier that ASEAN was established principally as a political organisation, there is no doubt that it did not set out to be an organisation focused on human rights. However, the advent of the ASEAN Charter in 2007 has raised hopes in the region for the promotion and protection of human rights. Regardless of the ASEAN Charter, the following are some of the challenges faced by ASEAN countries in promoting and protecting human rights in the region:

3.1 Non-Interference and Sovereignty in Southeast Asia

The non-interference principle seems to remain a permanent fixture of ASEAN as it made its way into the ASEAN Charter, and constrains the ASEAN Inter-governmental Commission on Human Rights (AICHR’s) mandate. Although used interchangeably, non-interference seems to suggest a wider application than non-intervention as described in the United Nations Charter’s Article 2(4). The Article stipulates that all UN member states shall refrain from the threat or use of force against the territorial integrity or political independence of any state. Hence, it would suffice to note that non-interference is a core component of sovereignty. Sovereignty is an institutionalised legal or juridical status, not a viable or sociological condition [11]. In the context of this paper, it is important to note that criticisms of traditional understandings of sovereignty commonly point to globalization as having eroded or fragmented state sovereignty practically and judicially [12]. In this paper, the author will use the term non-interference since this is the preferred term of ASEAN.

Having said all that, it is important to make reference to Article 2 of the ASEAN Charter. The Article provides that the Commission will promote and protect human rights in a manner consistent with the norm of non-interference, with deference to the primary responsibility of states and “avoidance of double standards and politicisation”. Instead ASEAN will pursue a “constructive and non-confrontational approach,” stress “cooperation,” and take an evolutionary approach [13]. Based on the principle of non-interference, we are bound to face some pertinent questions. How shall for example the AICHR “contribute to the realisation of the purposes of ASEAN as set out in the ASEAN Charter in order to promote stability and harmony in the region, friendship and cooperation among ASEAN [14]” when the purposes, on the one hand, is “to promote and protect human rights and fundamental freedoms of peoples of ASEAN [15]”, and on the other, “to respect the principles

of ASEAN as embodied in Article 2 of the ASEAN Charter, in particular: (a) respect for the independence, sovereignty, equality, territorial integrity and national identity of all ASEAN Member States”?

In addition to the above, it is important to note that the principle of non-interference is hardly something unique to ASEAN, but finds prominent places in other organisational structures as well, most notably other regional human rights regimes organisations such as the Organisation of American States by virtue of Article 3(e) and the African Union as a result of Article 4(g). Despite the principle of non-interference remains strong in other regional human rights regimes, they have been able to consolidate it, at least to some extent, with the abilities of human rights organs to scrutinise and render binding decisions [16]. So in principle at least there does not have to be a complete contradiction between accepting, by the political will of a state, the decisions of an international body and the principle of non-interference. However, when it comes to ASEAN, it is obvious that the principle is interpreted and applied quite rigidly, especially when it comes to human rights. This is one of the major reasons why pushing human rights under ASEAN has been a very difficult process [17].

Still on the principle of non-interference as one of the challenges faced by ASEAN countries in promoting and protecting human rights in the region, Eberhard Ronald pointed out that the ASEAN Human Rights Declaration would have run counter to the ASEAN Charter had it adopted the universality principle in accordance to the Vienna Declaration [18]. Furthermore, Lee Jones argued that the non-interference principle in ASEAN is not as static as it seems. ASEAN’s history of interference and intervention, and its current process of integration, point to a more dynamic and flexible approach to non-interference and sovereignty than what is commonly perceived [19]. Jones argued that ASEAN has undergone a diverse range of sovereignty regimes, and that when ASEAN states intervene militarily it was primarily to protect domestic order [20].

In discussing the principle of non-interference, reference must be made to Article 1(7) of the ASEAN Charter as well. This Article is also seen as a hindrance in promoting and protecting human rights in the region. The Article treats human rights as norms to be reconciled with and sometimes balanced against norms of sovereignty and non-interference. Thus, the ASEAN Charter appears to be inadequate to bring about any real changes in terms of promoting and protecting human rights in the region.

3.2 The Consensus Requirement

The principle of consensus-based decision making is hardly controversial in the operation of ASEAN. The officials who comprise the commission are government appointees (normally from foreign ministries) and accountable to their host governments [21]. They are called “Representatives” rather than “commissioners,” which puts emphasis on their loyalty to home capitals [22]. With this kind of atmosphere in place, it makes it difficult to reach a conclusive decision bearing in mind that the problem lies in the fact that within ASEAN, no lower standard exists- no two-thirds majority or simple majority is prescribed in cases where consensus cannot be reached [23]. In short, the Southeast Asian ‘culture’ of dealing with one another- the ASEAN WAY- will make it very difficult to move forward in sensitive issues such as human rights. The ASEAN Charter procedurally provides that decision-making in ASEAN shall be based on consultation and consensus without any real dispute settling mechanism. Perhaps, it is important here to make reference to Article 20 of the ASEAN Charter [24], which provides that the Commissions decisions shall be based consultation and consensus. The problem with this provision is that, such an arrangement means that each state would be able to reject any criticism of its own human rights record by veto. Clearly, this could either lead to hampered progress or to adoption of weak positions based on the lowest common denominator [25].

3.3 The ASEAN Values Debate

This debate has been used in ASEAN as a blanket means not to codify core human rights norms (or the first-generation civil and political rights) in its constitutive instruments, the Treat of Amity and Cooperation (TAC) and the Bangkok Declaration. Its declarations, treaties, and protocols across its forty-year history have likewise denied express codification of these norms. Instead, ASEAN has focused much of its effort towards codification and enforcement of “second-generation” human rights norms on economic and social rights throughout the region [26]. This lack of codification of “first-generation” rights fuelled the “Asian values” debate in the 1990s, led by some Southeast Asian heads of state who decried “Western imperialism” through “Western imposition of rights” deemed antithetical to “Asian values” [27]. Because of this approach, accession of ASEAN countries to international human rights treaties is still unsatisfactory. Several ASEAN states, including Brunei Darussalam, Malaysia, Singapore and Thailand, have entered substantial reservations on certain provisions of the international human rights treaties. Singapore, for instance, has made all its international obligations subject to the city state’s law and constitution, while Malaysia and Brunei Darussalam have subjected obligations to Islamic and domestic law [28]. Spokesmen from some ASEAN states, particularly Singapore and Malaysia, buoyed atop a wave of impressive economic development and growth rates, have challenged the Universalist pretensions of human rights law. Under the relativistic banner of “Asian values,” they champion an alternative model of domestic governance and development [29]. It could be argued that the “right to culture” has been invoked as a competing right that qualifies, if not exempts, observance of core human rights norms on civil and

political rights as far as some ASEAN countries are concerned. This has indeed hampered the promotion and protection of human rights in the region.

3.4 Lack of Enforcement Mechanism

The AICHR does not possess any compliance or enforcement mechanism, which means that there is no mechanism for submitting complaints and receiving binding judgments and remedies. For example, ASEAN declarations putatively strengthening citizens' rights suffer from a key problem member states sought to remedy with the Charter. They are of a non-binding nature and without any legal mechanisms to enforce them. The call of ASEAN reformists to establish an ASEAN Court of Justice has not made it into the Charter. Neither have proposals to impose sanctions on member countries failing to comply with the obligations the Charter entails. As mentioned earlier, the AICHR does not install mechanisms for human rights victims to complain. Neither does the ASEAN Commission for Women and Children (ACWC). It is indeed sad to note that the Charter framed human rights as goals of the Association, but did not specify the concrete means by which those goals would be achieved or the sanctions that would follow non-compliance [30].

3.5 Weak Independent Authority

This point is closely related to the lack of enforcement mechanisms addressed above. There is no doubt that regional human rights bodies can serve as independent adjudicators and enforcement agencies when they are given sufficient autonomy and backed by enough political muscle [31]. For example, they can serve as "norm incubators" that provide fertile institutional ground for the development and dissemination of human rights principles. Perhaps it is important to point out that the European Court of Human Rights and Inter-American Commission and Court of Human Rights are the best regional examples of courts that can indeed promote and protect human rights. Both courts can investigate cases brought by private citizens and issue judgments against states. Some have argued that Southeast Asia merits a similar regional court that could offer Southeast Asian citizens fairer hearings than many could get at home [32]. However, as mentioned earlier, the AICHR is far from that model, both in terms of political independence and institutional power.

4. PROSPECTS FOR ASEAN IN PROMOTING AND PROTECTING HUMAN RIGHTS

Regardless of the challenges discussed in this paper, it is pertinent to note that we cannot totally deny the fact that there are some positive prospects for the future in terms of promoting and protecting human rights in the region. Change will not happen overnight; regional institutions cannot soar too far above the plane of relevant political will without getting their wings clipped [33]. Those that have developed real teeth—such as the European Union (EU) earned its influence gradually. If ASEAN is to build influence, it will have to do the same. The following are some of the future prospects for ASEAN in promoting and protecting human rights in the region:

4.1 Impact of the Asian Charter in The Region

With the signing of the ASEAN Charter in 2008, the Charter added democracy, respect for human rights, rule of law and good governance to the sovereignty norms dominating the ASEAN Way, the grouping's established repository of cooperation norms. The subsequent formation of a human rights body and the enactment of an ASEAN Human Rights Declaration (AHRD) created new avenues for strengthening citizen's rights in the region. In other words, the adoption of the Declaration represents a significant milestone in the development of the ASEAN human rights system and underlines both its current significance and future possibilities [34]. Despite the criticisms levelled against the Charter, it is important to note that regional human rights systems are not fixed products, established at particular points in history, but rather are works-in-progress, evolving over time. The European Convention on Human Rights (ECHR), for instance, was adopted in 1950 and came into force in 1953, but it evolved slowly over the next sixty years with the cumulative addition of substantive protocols [35]. It reached an important milestone in 1998, for instance when Protocol 11 abolished the European Commission on Human Rights, eliminating its filtering of cases sent to the European Court of Human Rights and subjecting national parties to the compulsory jurisdiction of the Court by eliminating optional derogations [36]. What began as a political construct, therefore, evolved gradually to become a powerful judicial mechanism. It would suffice to note that the ASEAN human rights system is on a similar road, in many respects, starting out as a political project, but evolving along the path to becoming, potentially, an authoritative law-making and law-enforcing body.

4.2 Application of International Human Rights Conventions in the Region

All ASEAN states have ratified the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Convention on the Rights of the Child (CRC), the provisions of which ASEAN states pledge to uphold in the Terms of Reference of the ASEAN Commission on Women and Children (ACWC). Among other rights, CEDAW guarantees equal rights for women [37], including rights to property and rights regarding marriage and family planning [38]. CEDAW also prohibits trafficking in women [39] and grants women equal rights to participate in government [40]. The CRC guarantees children the right to life, a broad range of rights relating to legal processes, freedom of association and assembly, freedom to practice

religion and culture, and rights to asylum, expression and information, health, education, and privacy. Both conventions guarantee the right to nationality [41]. Although the two conventions have been signed by all the ASEAN states and even making some reservations to certain provisions as mentioned earlier, this should not be used as a ground to deny the impact of these two conventions which can clearly be seen in several ASEAN State's national constitutions. For instance, the right to life can be seen in Article 5(1) of the Malaysian Federal Constitution, Articles 32 and 38 of the Cambodian Constitution, Article 353 of the Myanmar Constitution, and Article 9(1) of the Singapore Constitution etc.

4.3 Parliamentary Role

One of the longstanding features of the ASEAN is that it is basically an inter-governmental, inter-State organisation. Despite the many references to people's participation in its various instruments, there is still no people's organ in the structure of ASEAN itself [42]. There is no ASEAN Parliament or Assembly. This invites reflection on how to 'popularise' ASEAN in the more people-centred sense both structurally and substantively. The ASEAN Inter-Parliamentary Assembly (AIPA) now has representation from parliamentarians from all ten ASEAN countries, and it may, one day, sow the seeds and open the door to the much needed presence of a regional parliament in the ASEAN structure. On a forward-looking note, the dynamic which could be propelled as the next crucial step for ASEAN is to take the quantum leap to set up formally in the ASEAN structure a regional Parliament or Assembly, and the AIPA could be a platform for this. This would help to respond to the need for checks and balances at the ASEAN level in regard to human rights protection and be a possible voice of the peoples of the region in this regard [43].

4.4 Better Implementation of Existing Domestic Laws

The future looks bright in terms of narrowing the gap between legislation and implementation in the region. As the Association moves forward, we are likely to witness some positive developments in the area of promoting and protecting human rights. In order to promote and protect human rights in the region, apart from focusing mainly on the ASEAN Charter, the best protection for ordinary people will be better implementation of existing domestic laws, strengthening of legal bodies and improvements in legal education, which, in turn, will facilitate effective implementation of ASEAN mechanisms. In this regard, the region to a certain extent is moving towards that direction with the establishment of Human Rights Commissions at national level or into their domestic laws and they are tasked with promoting and protecting human rights. Interesting, four ASEAN countries (namely, Indonesia, Malaysia, Thailand and the Philippines) now have national human rights commissions which are accepted internationally as independent, and they act as promoters and protectors of human rights in the most direct sense [44]. Furthermore, every ASEAN member state has existing domestic laws if routinely and robustly implemented could be strong tools to promote and protect human rights, even if not couched in specific human rights language. In almost all ASEAN countries, the grounds and procedure for arrest, trial and detention are prescribed by law. Employing right-based language, their criminal procedure codes expressly provide for, at least in theory, the fair and equal enforcement of due process protections.

4.5 Presence of Civil Society Actors and Networks in the Region

The number of civil society actors, such as NGOs, working on the issue of ASEAN and human rights has grown considerably throughout the years [45]. While some take a low-key approach, others adopt a more assertive role. While some are linked with academic institutions, others are more grassroots-oriented. While some are more local in inputs and networking, others are more from the international field [46]. A key message concerning the role of civil society is that in their plurality, they act as an important check-and-balance for the promotion and protection of human rights in the region and they deserve to be well supported as part of the building of a comprehensive human rights system for the region. Generally, civil society groups are in a position of applying pressure on the government to succumb to the will of the citizens or members of the public. Hence, civil society groups and other citizens or collectives could change the cost-benefit calculation of their national leaders even if reshaping their leaders' normative beliefs proves too formidable a task.

5. CONCLUSION

The discussion in this paper shows that the challenges of promoting and protecting human rights in ASEAN do not end with the adoption of the ASEAN Human Rights Declaration. Ensuring the effective implementation of the Declaration and mainstreaming the values contained therein remains a crucial challenge, particularly for the AICHR and all relevant mechanisms in ASEAN. The commitment to promote and protect human rights in ASEAN is high. ASEAN and its member states have striven to bring their constitution and rights legislation in consonance with international standards and long term improvements of citizens' rights can be identified. Noteworthy in this respect are the more recent political reforms in Myanmar. Of recent, we have witnessed some positive developments in the area of human rights. In Malaysia, the Internal Security Act 1960 has been abolished as the law allows for detention without trial. In Singapore, a relaxation of security-related limitations of citizens' rights can be observed. It cannot be denied that loopholes and weak enforcement still account for

serious gaps between norm and reality even in more democratic countries. However, most constitutions of the region provide for essential citizens' rights. They guarantee a broad range of fundamental freedoms, political and civic rights as well as economic and social rights [47]. Most ASEAN countries grant rights of political participation, press freedom, freedoms of association, assembly, speech and information, freedoms of thought and conscience, the protection of privacy, habeas corpus rights, and protection from arbitrary treatment by state authorities, due process and equality before the law.

In addition to the above, at the international level, individual ASEAN member states have displayed a greater openness to acceding to human rights conventions and have participated vigorously in human rights debates within the United Nations. However, there is no doubt altogether that the process of the enhancement and protection of human rights has started slowly with the formation of the AICHR. The future looks bright, but concerted effort is needed from the regional body. Hence, to secure human rights in ASEAN, some initiatives have to be taken such as: a process of community building; awareness enhancement through various channels of communication, consensus on human rights issue among member states; adopting compliance and enforcement mechanisms; establishing ASEAN Parliament or Assembly; introduction of a review process for monitoring member states to see their performance in the promotion and protection of human rights; support from the international community in the development of civil society; focusing attention on establishing the groundwork for an institutionalised human rights culture at the grassroots level, line by line, precept by precept and government action must be called to account first through the internal check of an active civil society, and then through the external check of the international community.

As a concluding remark, it is inevitable to point out that the expectations facing ASEAN are thus high, especially as a consequence of the Charter and the birth of the various bodies mentioned in this paper. The challenge now is to progress beyond the legitimisation of human rights through those entry points to the actualisation of human rights in terms of genuine protection and implementation of human rights in the region.

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Challenges and Solutions of Higher Education Institutions in Asia in the Face of the ASEAN Economic Community (AEC)

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Abstract

This paper identifies challenges and solutions of higher education in the ASEAN economic community. The discussion is divided into human index development followed by the development of higher education in ASEAN. The article then discusses the challenges faced by ASEAN countries concerning ASEAN economic community. The final part of the discussion focuses on several solutions for a higher education institution. The most important aspect is to develop a real framework of cooperation among ASEAN countries. This comprises four important aspects, namely the establishment of an ASEAN Research and Development (R&D) Centre; improvement of the quality of publication and university ranking; reformation of educators and researchers; and standardisation of academic programmes among ASEAN higher education institutions.

Keywords: Solutions of Higher Education Institutions, ASEAN Economic Community, Human Index Development

1. INTRODUCTION

The Association of Southeast Asian Nations (ASEAN) was established on August 8, 1967, in Bangkok. It consists of five original member countries, namely Indonesia, Malaysia, Philippines, Singapore and Thailand. The membership has expanded and currently includes five additional member countries, namely Brunei, Myanmar, Cambodia, Laos, and Vietnam. The total population in the ASEAN region is more than 600 million people with a cumulative gross domestic product (GDP) of US\$1.8 trillion and total trade valued at \$2 trillion [1]. The main emphasis of ASEAN has been regional cooperation for the benefit of all member countries. To obtain this regional cooperation, in January 2007, the ASEAN leaders affirmed their strong commitment to accelerate the establishment of an ASEAN Economic Community (AEC) by 2015. The main objective of AEC is to transform ASEAN into a region with free movement of goods, services, investment, skilled labour and the free flow of capital [2]. In addition, it is hoped that the close cooperation through the AEC will decrease economic and development gaps between ASEAN countries. Disparities exist in term of national income levels and access to technology, urban and rural inequalities, and gender gaps in some countries and regions within countries. Poverty in rural areas, where the majority of ASEAN members live, has been difficult to address and has a significant impact on the educational and economic opportunities available to the populations in these areas.

Even though ASEAN countries are diverse in size, the level of development, language and religion, they share the goal to be united as one. Regardless of their differences, these ten countries share a similar emphasis on human resource development. Human resource development is the important key in developing ASEAN to enter the knowledge-based economy and global environment. Education, as a fundamental human right, is considered critical and strategic for developing their human resources to increase integration and competitiveness [3]. Governments play a role by providing high-quality education and learning to all people. However, opening access to quality education and learning the opportunity to all people is not always easy as there are a number of challenges. Therefore, the main objective of this paper to identify challenges and solutions for higher education in the ASEAN economic community.

2. HUMAN DEVELOPMENT INDEX

Human development is a development of expanding an individual's options. It places importance on three essentials; for individuals to lead a lengthy and good life, to obtain knowledge, and to have rights to use resources required for a respectable living standard. The Human Development Index (HDI) has become a standard for measuring human development. Its element indices assess life expectancy, literacy and education, as well as GDP per capita. The HDI is a statistical tool used to measure a country's overall achievement in its social and economic dimensions. The social and economic dimensions of a country are based on the health of people, their level of education and their standard of living. The 2015 Human Development Report (HDR) keeps the same cut-off points for the four categories of human development achievements that were introduced in the 2014 HDR: 1) very high human development (0.8 and above); 2) high human development (0.700–0.799); 3) medium human development (0.550–0.699) and 4) low human development (below 0.550). Table 1 shows

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the education index for ASEAN countries from 1990-2014. Colum one revealed the HDI rank by country. Singapore is the highest ranking for HDI followed by Brunei. On average, both Singapore and Brunei are categorised under very high human development. Meanwhile, Malaysia and Thailand are categorised under high human development. Indonesia, Philippines and Vietnam are categorised under medium human development. Laos and Cambodia are under low human development. Overall, the indices showed an increasing pattern throughout the period.

Table 1 Education Index: ASEAN Countries

HDI Rank	Country	1990	1995	2000	2005	2010	2011	2012	2013	2014
31	Brunei Darussalam	0.78	0.80	0.82	0.84	0.84	0.85	0.85	0.85	0.856
143	Cambodia	0.36	0.38	0.42	0.49	0.54	0.54	0.55	0.55	0.555
110	Indonesia	0.53	0.56	0.60	0.64	0.67	0.67	0.68	0.68	0.684
141	Laos People’s Democratic Republic	0.39	0.42	0.46	0.50	0.54	0.55	0.56	0.57	0.575
62	Malaysia	0.64	0.68	0.72	0.73	0.77	0.77	0.77	0.78	0.779
148	Myanmar	0.35	0.39	0.43	0.48	0.52	0.52	0.53	0.53	0.536
115	Philippines	0.58	0.59	0.62	0.64	0.65	0.65	0.66	0.66	0.668
11	Singapore	0.71	0.77	0.82	0.84	0.89	0.90	0.91	0.91	0.912
93	Thailand	0.57	0.61	0.65	0.68	0.72	0.72	0.72	0.72	0.726
116	Viet Nam	0.47	0.53	0.58	0.62	0.65	0.66	0.66	0.66	0.666

(Source: UNDP, International Human Development Indicators, 2015).

Download the data: <http://hdrstats.undp.org/en/indicators/default>.

3. DEVELOPMENT OF HIGHER EDUCATION IN ASEAN

Education plays a vital role in creating a knowledge-based society and contributing to the enhancement of ASEAN competitiveness [4]. The main objectives of education in the ASEAN community are to advance and prioritise education and focus on creating knowledge-based society; achieving access to primary education; promoting early child care development and enhancing awareness of ASEAN to youth through education [5]. The government of each member country has taken key steps in the development of their higher educational policies. Table 2 shows the policies and objectives of higher education for each country in ASEAN. Most of the ASEAN countries like Brunei, Cambodia, Indonesia, Laos, Myanmar, Vietnam and Philippines focus on improving the quality of higher education. Singapore plans to mould its human capital with cross-cultural skills, critical and inventive thinking and communication skill. Meanwhile, Malaysia and Thailand focus on becoming regional hubs for higher education in ASEAN. ASEAN countries face several challenges in achieving these objectives.

Table 2 Development of Higher Education Policies in ASEAN

Countries	Policies	Objectives
Brunei	The 21st Century National Education System (SPN 21) - 2012	1. Equip students with necessary skills and knowledge that is necessary for them to compete in both local and international job market. 2. Gear nation towards quality education and better economic performance.
Cambodia	Educational Strategic Plan (2006 -2010)	1. Increase opportunities for higher education among prioritised students (poor students, female students, students from remote areas). 2. Improve quality and efficiency of education service and institutional development and capacity building.
Indonesia	Higher Education Long Term Strategy (2003 – 2010)	1. Integrate internal and external quality assurance by developing the HEI database. 2. Implement new paradigm in education management and quality improvement.
Laos	Higher Education and Skills for Growth in Lao PDR -2012	1. Improve the quality of higher education. 2. Improve functional skills among students that are required to be employable in the future. 3. Prioritise underfunded fields such as science and engineering.
Malaysia	National Education Strategic Plan (NHESP - 2020)	1. Make Malaysia a hub of higher education excellence. 2. Develop human capital with first class mentality. 3. Reposition country’s higher education to meet current and future challenges.
Myanmar	Long Term	1. Generate a learning society capable of facing the challenges of the

	Education Development Plan (2001 – 2030)	knowledge-based society. 2. Development of human resource, expansion of research, promotion of quality education, and preservation of national identity and values.
Philippines	Long Term Development Plan (2010 – 2020)	1. Broaden the access of disadvantaged groups to higher education. 2. Improve the quality of HEIs, programmes and graduates to match the demands of domestic and global markets. 3. Strengthen research activities in HEIs. 4. Expand alternative learning systems/modality in higher education.
Singapore	21st Century competencies in academic curriculum (2012 – 2014)	1. Prepare students to thrive in a fast-changing and highly connected world. 2. Develop civic literacy, global awareness, cross-cultural skills, critical and inventive thinking and communication skills. 3. Refine teaching approaches and assessment methods. 4. Develop tools for holistic feedback and assessment.
Thailand	Long Term Higher Education Plan – Phase 2 (2008 – 2022)	1. Focus on education ethics. 2. Focus on linking education with employability. 3. Development of Thailand as a regional hub for higher education. 4. Innovation to improve national competitiveness. 5. Liberalisation of trade in education services and the future employment in AEC. 6. Encourage educational institutions to produce graduates who are equipped with professional skills, language skills and inter – cultural skills
Vietnam	Education Development Strategy (2008 – 2020)	1. Develop high-quality human resource to match the socio-economic structure and modernisation of country. 2. Enhance national competitiveness in the regional economic integration. 3. Focus on linking educational training with job placement and demands of employability.

4. CHALLENGES IN HIGHER EDUCATION FOR ASEAN COMMUNITY

The following discussion will focus on challenges by ASEAN countries:

4.1 Brunei Darussalam

The Ministry of Education continues to work hard to develop and prepare the nation’s youth for employment in realising its vision 2035. Every citizen and residence are given opportunities to equip themselves with knowledge and skills required by the industry. Various departments within the Ministry of Education have been coordinating and collaborating with relevant stakeholders in addressing the needs and implementation of inclusive education in Brunei. Ensuring support for the different at-risk groups poses a challenge in terms of manpower, resources, information, understanding and acceptance [6].

4.2 Cambodia

Higher education in Cambodia still faces significant challenges in term of access, equality, quality, relevance, funding and management and administration. A drastic increase in enrolment for higher education in Cambodia caused triple challenges to build a mature core system in order to assure the minimum levels of quality [7].

4.3 Indonesia

One of the key challenges faced by the Indonesian higher education institution is the inability to support the number of enrolments due to the small size of the institutions [8]. Besides, [9] Indonesia also faces challenges in term of financing, quality of teaching and research, difficulties of access and equity and limited accreditation. Comparing with neighbouring countries, the relatively low research outputs are correlated with the insufficient budgets allocated for research. The majority of institutions do not have the financial and academic basis to conduct research; thus, they should concentrate their efforts on developing high-quality, relevant teaching. Furthermore, Indonesia only allocated 0.08 % of its GDP for research in 2013. An accreditation system is necessary to access the progress and quality of Indonesian higher education. The biggest challenge is that approximately 20% of institutions or study programmes are unaccredited.

4.4 Laos PDR

In the case of Laos, the major challenges faced in higher education are to produce and provide good quality human resources to meet the needs of the country’s socio-economic development. Currently, higher education in

Laos is described as lacking a clear vision, appropriate policy, strategy, and master plan to meet regional and international quality and competitiveness [10].

4.5 Malaysia

To become a regional hub of educational excellence, Malaysia must first and foremost address the challenges within Malaysian universities. The fall in the position of premier Malaysian universities like Universiti Malaya and Universiti Sains Malaysia in the Times Higher Education (THES) 2005 and later in THES 2007 signifies a crisis within Malaysian universities. If higher education in Malaysia is to reach its aspirations laid out in the National Higher Education Strategic Plan (NHESP), then these rankings must be viewed as an important wake-up call for the country to tackle the fundamental problems within institutions of higher education in Malaysia. It is hoped that with the rating system for Malaysian higher education institutions in place for all local universities, both public and private, it will work towards achieving a Band 6 (outstanding) on the ranking. HE in Malaysia needs to reposition the country's higher education to meet current and future challenges through the internalisation policies. The NHESP has outlined a number of strategies that will be adopted to transform Malaysia's higher education in order to provide a solid foundation for the future.

4.6 Myanmar

One of the key challenges of higher education in Myanmar is to create strong research activities by expanding activities of research to international collaborations [11].

4.7 Philippines

As for higher education in the Philippines, local, regional and international stakeholders collaborate toward improving the country's higher education sector by implementing reforms that enable the acquisition of knowledge, development of skills, values and attitudes which will enhance productivity, globalisation and competitiveness of graduates [12] and address the challenges arising from unanticipated environmental, social, and economic change [13].

4.8 Singapore

To become an educational hub for the ASEAN region, the government of Singapore has broadly promoted the internationalisation of national policy and recruited prestigious foreign universities to establish local campuses. This strategy is important to expand access for the local students to develop their potential.

4.9 Thailand

To become the regional education hub in South-East Asia, one of the key challenges of the Royal Thai Government is to upgrade the quality of Thai universities while upholding their academic freedom and social responsibility [14]. Ultimately, Thailand aims to attract more foreign students to continue their study in Thailand. In addition, to ensure their students stay competitive in the international market place, the Kingdom of Thailand aim to accelerate the development of university research activities nationwide to enhance national competitiveness.

4.10 Vietnam

The main concern in Vietnam's higher education is the lack of quality. Most university graduates do not have the adequate capacity to cope with rapid industrial and technological changes [15]. In order to improve the quality of higher education, Vietnam underwent structural adjustments including improvement of higher education programmes and teaching and learning methods, development of lecturing staff and higher education managers, increase in research, etc [16].

5. SOLUTIONS HIGHER EDUCATION FOR ASEAN COMMUNITY

Research education is central to any education system since it will provide significant data for the success of the process of teaching and learning. Today, there are a lot of issues regarding education which need to be explored or studied especially in higher education. Several important aspects of higher education should be reviewed together or reformed collectively by the educational experts and authorities. This issue can be seen from several perspectives such as research, publication, consultation, curriculum design, teaching and learning as well as evaluation and assessment. A significant number of books, journals, reports and documents should also be published.

There is a pressing need to promote a platform in which researchers in ASEAN countries should work together in terms of research. Given its shared community and interest, ASEAN members should work together to enhance the quality of education in their countries. All best education practices should be based on research, and this aspect could be distributed and conducted by universities and other higher education institutions across ASEAN. Cultivating research through various fields of research of education and developing international networking are some of the steps that can be promoted by all scholars, experts and academicians in higher education institutions.

Globalisation has created unprecedented challenges. In terms of higher education, [17] emphasised that most of the Southeast Asia countries lack qualified faculty staff, declining academic community, limited experience of quality assurance processes, lack equitable access for all students, lack infrastructures, geographic spread and diversity of universities, have poor use of English, and limited research expertise. AEC poses similar challenges to the higher educational institutions in ASEAN. The education system in ASEAN countries is diverse; therefore, students involved in the intra-regional movement may face many problems in terms of cultural diversity, language and communication barriers, instructional practices and curriculum incomparability.

A real framework of cooperation should be established by ASEAN countries, particularly among their higher educational institutions. In facing the ASEAN economic community, it is hoped that this framework will enable all higher educational institutions to work together to achieve these objectives:

- a. To encourage and carry out joint research and studies among ASEAN experts and academicians.
- b. To disseminate findings of research, knowledge, skill and experience.
- c. To publish journals, books and materials among academicians and researchers.
- d. To support the development of the educational system and policy of every ASEAN member especially the less developed countries.
- e. To promote cooperation and create greater networking and smart partnership among researchers in various fields of education.

Several aspects should be taken seriously into consideration by scholars, experts and academicians to develop the ASEAN regional framework of educational networking and collaboration. Firstly, it is very important to establish an ASEAN Research and Development (R&D) Centre to raise funds and coordinate research and publication for scholars, experts and academicians for ASEAN higher education institutions. This R&D centre will mainly organise research and publish material based on niche areas needed by ASEAN countries. Therefore, teachers, educators or lecturers will be involved in active debates, forums, discussions, seminars and workshops which are frequently organised. They could be able to freely give their ideas, opinions and suggestions to improve and strengthen their research, training, modules and courses based on the research conducted. A research-based institution at the ASEAN level should be jointly established by the governments, universities as well as non-governmental organisations. Every ASEAN country should actively play their roles and financially assist the development of this research institution. They should invite other researchers from ASEAN higher education institutions to participate in research. They could receive research funds from governments, private sectors and NGOs to do joint research regarding important aspects of ASEAN such as the economy, politics, society and education. It is imperative that the philosophy of research education is based on the ASEAN context to improve the quality of education. For example, religion and religious values should be considered seriously in the ASEAN educational system and to eliminate negativities that may influence ASEAN youth.

Secondly, improvement of the quality of publication and university ranking. Today, only a few numbers universities in ASEAN were included in the world's highly ranked universities. In the context of Malaysia, from nearly 500 higher education institutions in 2016, there were less than ten universities included in the top best universities such as UM, UPM, UTM, UKM and UTP. Several factors influence the rankings such as the lack of research funds, indexed journals and books, English language barriers as well as the number of academicians and researchers. Publishing in SCOPUS and ISI indexed journals requires a high level of English writing proficiency. There are thousands of higher education institutions in ASEAN producing a large number of academicians and graduates. This indicates that these higher educational institutions have their quality standards despite not having been included in the world top universities. Thus, there is a need to develop an ASEAN ranking system and criteria as well the ASEAN publications index to promote academic writing and ensure quality standards. Many academicians and researcher are trapped by the current trend of writing in ISI and SCOPUS journals or publications. This issue has become more serious since there are irresponsible people who have manipulated the academicians' eagerness to be published in ISI and SCOPUS publications. Unfortunately, the fee rates of some of the journals are exorbitant and fake journals have emerged. These journals have been blacklisted by the authorities. One solution is that all ASEAN higher education institutions should engage more actively in regional journals and book publications. There should be more MOUs and MOAs among these institutions to increase the number of quality journals and books. A series of discourses and seminars should be organised by ASEAN higher educational institutions to form and produce the ASEAN University Index and the ASEAN Index for Publication and Research.

Thirdly, reformation of educators and researchers. To improve abilities to face challenges as well to provide solutions to higher education institutions, all scholars, experts and academicians should actively carry out research regarding in planning and implementing the integration of knowledge. The development of technology and ICT provide new approaches to developing the education system. Cultivating research among academician should be one of the main agenda in the higher education system. Research lends support to theories and provides data for interpretation. A correct understanding among educators is essential to ensure that they are able to fulfil their duties based on facts and not based on personal perception or assumption.

In educating the 21st century generation, academicians should use the latest pedagogy and approaches in the process of teaching and learning. Besides research and publication, every academician should become effective educators in and outside the classroom. In a borderless world, access to information is critical. *E-learning, blended learning, MOOC, mobile learning, modular, workplace*, etc. are some of the current approaches used in many higher educational institutions. Strong networking among higher educational institutions within ASEAN countries will provide wider educational opportunities to their students. Students will be able to share and obtain knowledge from other universities in ASEAN as well as from other countries via the internet and open sources information. As a result, it will enhance the students' knowledge and information. Students' mobility is another effective mechanism to improve students' knowledge, social skills, experience and international networking.

Fourth, standardisation of academic programmes among ASEAN higher education institutions. Thousands of higher educational institutions exist in ASEAN offering various levels and types of programmes. A standard quality assurance should be developed and recognised by every ASEAN country. This standard will give a new way for student exchange, joint awarding programmes, guidelines for transfer credits and degree recognition by all ASEAN countries. This standard will directly improve the quality of academic programmes offered in these higher educational institutions, and it becomes the benchmark academic standard of ASEAN. It will also be very helpful for the stakeholders, educational authorities and industries to evaluate and improve the quality of the programmes offered by these higher educational institutions.

6. CONCLUSION

In ASEAN countries, education is a critical and strategic approach to developing human resources. The government plays a role by providing high-quality education and learning to all people. However, providing access to quality education and learning the opportunity to all people is not always easy and every ASEAN country has different levels and quality of education. Each country has its challenges, and there is an urgent need to develop practical solutions. To achieve the goals of the ASEAN economic community, a real framework of cooperation should be established by ASEAN countries. It is hoped that the framework will encourage joint research among ASEAN experts and academicians. This will promote disseminating the research findings, knowledge, skill and experience as well as to publish journals, books and materials among academicians and researchers. This framework will also support the development of the educational system and policy of every country of ASEAN especially the less developed countries and to promote cooperation and create greater networking and smart partnership among researchers in various fields of education.

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هذه المنة التي امتن الله بها على عباده أعظم المنن وأكبر النعم بل أصلها وهي الامتنان عليهم بهذا الرسول الكريم الذين أنفذهم الله به من الضلالة والهلكة إذ كانوا في ضلال

3- حيث أن ذلك قد

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ومن أهم مهمات الرسول هو توريث ورثتهم إلى أمته من خلال ثلاث طرق:

سواء كانت تلاوته في الصلاة أم في خطبها، ث [أولاً:

يعني تصفية أفكارهم ونفوسهم وخلقتهم من الشرك والذنس والخبث وسائر مساوئ الأخلاق والحياة التي كانوا متلبسين بها في [ثانياً:

يعني تعليم الناس معاني القرآن وحقيقة السنة التي هي ترجم [ثالثاً:

تلك عملية نبوية لتوريث الكتاب والحكمة وهما ورثة الأنبياء وذلك بالوسائل والطرق والأساسية التالية:

1 - التلاوة على الأمة

2 - والتزكية أو التربية

3 - والتعليم لمعاني القرآن والسنة المشتملة على جميع احتياجات الناس على مستويات الفرد والأسرة والمجتمع والدولة والدنيا كلها.

وبذلك يتمكن الناس من الوصول إلى الطريق المؤدي إلى السعادة في الدنيا والآخرة والخروج من الظلمات إلى النور ومن الضلال إلى الهدى.

فبدلوه وغيروه وقلوبه وخالفوه واستبدلوا بالتوحيد شركا واليقين شكاً وابتدعوا أشياء لم يأذن بها [فكما كان للطلعرب كانوا قديماً متمسكين بدين إبراهيم الخليل

أهل الكتاب قد بدلوا كتبهم وحرفوها وألوها محرفين الكلم عن مواضعه فبعث الله محمد صلوات الله وسلامه عليه بشرع عظيم كامل شامل لجميع الخلق فيه هدايتهم لجميع ما يحتاجون إليه من أمر معاشهم ومعادهم والدعوة لهم إلى رضوان الله وجنته والنهي عن سخط الله وناره.

4 - ختاماً

من خلال هذا البحث العاجل توصلت إلى عدد من الحقائق التالية:

أولاً: إن من رحمة الله وربوبيته لخلقه أن خلق لهم الحياة وأنزل لهم الرزق وأكرمهم بالقرآن كمنهج حياة طيبة الذي هو دين الله الحق وهو الإسلام.

ثانياً: إن إكرام الله لعباده بالدين القويم بإنزال الكتب، وآخر كتبه وأفضل شرائعه هو القرآن الكريم. وإرسال الأنبياء والمرسلين من أولهم آدم ونوح إلى آخرهم وأفضلهم النبي الخاتم محمد بن عبد الله ×.

ثالثاً: الوراثة والتوريث في الدين سنتان من سنن الله يجب أن نعتني بهما في أمر إقامة الدين في حياة البشر.

رابعاً: هم أعمال ورثة الأنبياء هو توريث وراثته النبوة وهي القرآن والسنة لمن بعدهم بالطريقة النبوية الصحيحة، وهي التلاوة والتزكية والنصلي الله على نبينا محمد وعلى آله وصحبه أجمعين. وسبحان ربك رب العزة عما يصفون، وسلام على المرسلين، والحمد لله رب العالمين.



Reconstruction of Pesantren Education on Producing Ulama Cadres (a Conception as an Effort to Answer Societies's and Pesantren Alumnae's Discomforts)

Imam Subhi¹

Abstract

The existence of pesantren education in Indonesia makes people happy because its amount is rising and growing more and more. But, pesantren also undergo the change of educational system as growing era nowadays. A part of them keep their salafiyah educational style, and others stand cooperatively with change. However, as pesantren are growing rapidly, it appears a lot of problems and questions, why is the rising number of pesantren not comparable with the number of ulama cadres produced? It is caused by some factors, they are pragmatic educational formalization, short studying time, dynamic societies' demands, and less spiritual approaches. So, it needs some systematically reconstructions, such as institutional reconstruction, the goal of pesantren itself and the curriculum. This is a part of innovation spirit and also sincerity to keep pesantren soul which is 'fort of producing ulama cadres'. However, it agrees with the statement "almuhafadoh ala qodimissholih wal akhdudu bil jadidil aslah" (to keep old traditions and to take new better circumstances

Keywords: Pesantren and Ulama Cadre

1. INTRODUCTION

Pesantren is native educational institution from Indonesia. In its growth history, pesantren has a very strong basic tradition in society. Government's confession and attention to pesantren have been started since the beginning of Indonesia's independence time. It was noted on one of BPKNPI's suggestion at 1945: "Madrasah and pesantren that are one of tools and sources of education to educate Indonesian people and generally have adhered on our society, should get real attentions which are directions and material helps from government".[1]

Then, the existence of pesantren could not be considered trivial, because of the rising number of pesantren goes through more and more. Data released at 2011-2012 reported that the biggest populations of pesantren stay at West Java, East Java, Central Java and Banten which is 78,6% of all number pesantren in Indonesia. Detailed amount are 7.624 (28,00%) on West Java, 6.003 (22,50%) on East Java, 4.276 (15,70%) on Central Java, and 3.500 (12,85%) on Banten. From all numbers above, according to the type, there are 14.459 (53,10%) Salafiyah Pesantren, 7.727 (28,83%) Khalafiyah/Ashriyah Pesantren, and 5.044 (18,52%) Combination Pesantren [2].

From data above, we can say that most of pesantren in Indonesia are Salafiyah type, in which the way of learning is reciting Holy Qur'an and studying '*kitab kuning*'. While some other pesantren are modern type where the students are taught by developing the science and and the other ones are combining between *kitab kuning* and science-technology learning.

Along with growing era, pesantren are going through some changes. Some still remain on their education type which is called salaf, and some other stand cooperatively to changes. So, there are two kinds of pesantren according to science taught perception, they are (1) *salaf* and (2) *khalaf*. [3] Out of the existence and various types of pesantren above, it appears several social questions which are tickling for pesantren livinghood, they are why has the rising number of pesantren more and more not produced some potential ulama cadres yet like its former? And why were the former pesantren able to produce ulama who are *kaffah bil ilmi wal amal* eventhough they stood by lot limitations at that time? Moreover it pops out some gripes why pesantren alumnae are not capable enough at reading *kitab kuning* and *kitab salaf*?

Those social questions above are quite simple at glance. Probably it doesn't come to pesantren leader's mind, because almost all pesantren in Indonesia are forgot about their pure characters and goals, they sink on development and innovation of all aspects. Most pesantren are forgot and even lost of their soul and their glorious target, which is preparing and producing ulama cadres who are *tafaqquh fiddin*. So, this paper will try to describe dynamics of pesantren education, and also answer several social questions are faced by pesantren in Indonesia recently.

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2. RESULT and DISCUSSION

2.1 Dynamics of Pesantren Education

2.1.1 Formalizing Pesantren Education

At first decade when pesantren established, institutionally it was independence, it means that pesantren has full right to manage whole inside aspects on it. But, as the development of education world happens now, it looks like at twentieth-century, government starts to see pesantren even at glance. It was proved by Ali Mukti (cabinet minister at early twentieth-century) did some pesantren reformations through his conception about educational convergence, it is establishing common schools (SD, SMP, and SMU, MI, MTs and MA) into pesantren institution and inserting common lessons into that religious educational institution (pesantren) with comparison score 30% for common lesson and 70% for religious lesson[4]. This situation is commonly called as Formalizing Pesantren Education. At first, formalizing pesantren education is expected to be a new penetration to behave the existing social changes when awareness appears from pesantren leader's and *santri's* mind. It notes that not all alumnae of pesantren are able to be *Kyai* or *Muballigh* after they graduate, but they are only able to be usual citizen who are seeking for jobs and still need certain skill and knowledge. [5]

Masykuri Abdillah and Qodri Azizy noted that forms of formalizing pesantren education are: 1) pesantren which runs formal education by applying national curriculum, both which has religious school (MI, MTs, MA and PTAIS) and which has common school (SD, SMP, SMU and PTS) 2) pesantren which runs religious education on form of madrasah and teaches common lessons but does not follow national curriculum 3) pesantren which only teaches religious lessons on form of madrasah-diniyah 4) pesantren which only becomes house of reciting Holy Qur'an and related kitabs 5) pesantren which only accomodates students' and college students' homestay [6].

Rasionalizing and formalizing are unavoidable fact and entity, but pesantren should has an order and strong principle, at least by considering some reasons: *First*, by formalizing, *santri's* responsibility to study is going harder, moreover if *santri's* input quality is less. *Second*, when the responsibility to study is going harder, *santri* will probably not focus on mastering certain lessons (science). Gus Dur had said that merger between pesantren traditional system and formal education system on several aspects arises weakness, they are causing pesantren gets crisis of identity [7], its *santri* will be insufficient at mastering religious science (*kitab kuning*) and lack of mastering national lessons when they are faced by graduate students of common education. While Mujammil Qomar thought that reason of pesantren independence rans down is pesantren could no more decide its own educational policies [8]. A research organized at some pesantren in Pekalongan city notes that ; *First*, formalizing is impressed pragmatic, only based on societies' demand for pesantren and number of *santri* review; *Second*, formalizing education is an effort to improve quality of pesantren in education, even in fact it has been trapped on an effort to maintain pesantren survives from a schooling and madrasah educational system.[9]

Analyzing the research's note above, it reflects that pesantren truly looses its '*ruhul jihad*', as fort of ulama cadres. If all pesantren are trapped on formalism and pragmatism of an educational institution, so what can we hope?

2.1.2 Societies' Demand

Globalization and modernisation are exactly noted as the biggest contribution to social changes, from life-style, way of thinking, communication, till how to fulfill needs, etc. Real attitude is the change of parent's and *santri's* motivation in circumstance to go to pesantren or not. This is appropriate with Koentjaraningrat's definition about modernisation which is a proces of behaviour and mentality transfer of society to be able to live agree with nowadays demand [10]. If the situation changes so society's life must change too. Thus, many efforts done should give impact to life improvement on all sectors; they are quality improvement of people's education, culture, religion etc. [11]

Before 1970's, parents sent their children to pesantren because they had same motivations each others, they wanted their children to be an expert of religion, just call it *kyai*, ulama or *muballigh* in order to be useful for other people. But now it goes more complex, there are other motivations beside expectation above : 1) reform the morals because of rush and parent's inability to watch their children, and they sent them to pesantren, so no wonder if pesantren often calle d as "*bengkel akhlak*" (morals repair shop), 2) hope to continue the study into good university, 3) have skill to seek for jobs. So many societies' demands described above are on the policy formulators' shoulders. Thus, formalizing which is a major way, to accomodate all those demands, produces unclear directions and standard of expectable passing grade of pesantren.

2.1.3 Short Studying Time

The success of formerly *kyai* and ulama is influenced by *kaffah* in religious sector, it is would like to work hard, take longer time for studying even moving from one pesantren to the other one, eventhough it studied same *kitabs*. This situation is absolutely rare to face at pesantren which establish formal education, because of limitation in studying-time and students' age. Logically of mathematics, it says that using time duration about 3

till 6 years, too much studying responsibility, limited IQ capacity, even using modern methods and facilities, it seems quite difficult to get same or more standard of mastering science as like formerly kyai and ulama did.

In *kitab kuning's* review, which is "alala", a word from Imam Ali ra, there are six factors: smart (healthy intelligence), spirit, patient, available cost, teacher's (ustadz's) advice and long duration time.

أَلَا لَاتَقَاتِلَ الْعِلْمَ إِلَّا بِسِتَّةٍ # سَانِيْبِكْ عَنْ مَجْمُوعِهِاِبْيَتَانِ ذِكَاءِ وَحِرْصِ وَاصْطِبَارِ وَبُلْغَةٍ # وَإِرْشَادِ أَسْتَاذٍ وَطَوَّلِ زَمَانٍ

"Remember, you will not get knowledge but six requirements, they are smart (healthy intelligence), spirit, patient, available cost, teacher's advice and long time" [12].

2.1.4 Less Spiritual Approach

Pesantren educational process commonly is held by using various methods and approaches which are suit with students' readiness and ability. Those approaches are psychological, structural, personal and group ones. For pesantren which has adopted formal education system, it uses modern, planned, rational and structured system approaches. For non-pesantren education, it seems that those efforts are adequate and fulfill formal institutional standards. However, it has not enough yet for pesantren so far. If we look at history about how formerly kyai succeeded in educating their students (santri) till they become great ulama or even the founder of big pesantren. Such as KH. Hasyim Asy'ari was told on many literatures, they noted that first time he led Pesantren Tebuireng, he did *tirakat* or had fasting for 3 years. It was 1 year dedicated for santri, 1 year for pesantren, and 1 year for himself and his own family. And at night, KH. Hasyim Asy'ari slept less because he had to pray, got *dzikir*, and did *tahajjud* praying for his santri.

All activities above are called spiritual approaches. Formerly kyai though simply that all knowledge and glory owned by Alloh SWT only, however if a kyai wants his santri mastered a science or dignity, so ask to the owner, who is Alloh SWT. Exact methods, good means and infrastructures, standard directive books, they are only media.

2.2 Reconstruction of Pesantren Education for Producing Ulama Cadres

2.2.1 Reconstruction of Pesantren Goal

Basic principle to formulate pesantren goal is that pesantren output must be able to give their own characters as santri for society surround them, and give solutions for social problems. However, the serious matter is society has different demands so this factor drives pesantren to hold some reformation and renovations on educational system by formalizing education in pesantren and other urgent aspects. Ironical, the output of pesantren produced run to unclear direction and standard. General science could not be done, religious knowledge (reading kitab) is very minimum. In other side, reformations and renovations are not organized well and do not touch substantial aspects, but only pull societies' interest in order they send their children to pesantren. In contrary, rising number of santri who go to pesantren causes less handling, and slowly but sure it will crush societies' trust.

Answering updated dynamics nowadays, it is coming time for pesantren to go back to its first *khittoh*. Pesantren as one of islamic educational institution should have appropriate goals with principles and values of Islam doctrines. So far, pesantren education's goals are focused on producing religious experts, *ulama* who : *first*, master religious knowledge (*tafaquh fiddin*) and able to bear generations who are *mutafaquh fiddin*; *second*, inspire and apply Islam doctrines diligently and sincerely only to be loyal and serve Alloh SWT; *third*, able to bring Sunnah Rasul to life and distribute it whole (*kaffah*); *forth*, have glorious morals, think critically, have dynamic spirit, and istiqomah; *fifth*, be wise, be strong physic and mental, live simply, *tawaddu'*, *mahabbah*, *khasyah*, and obedient to Alloh SWT.[12].

In globalization era nowadays, the goals of pesantren education above conceptually gets incisive criticism, because it is considered tent to concentrate to *ukhuwiyah* problems only and almost free of *dunyawiyah* circumstances. This such orientation, operationally has produced literatures which only learn about religious lessons, such as tafsir, hadits, mustalah hadits, tauhid, fikih, ushul fikih, nahwu/saraf, etc. And even, that incisive criticism continues to dialog description happened between Iqbal and his spiritual teacher, Rumi. The quotation is: [13]

My mind is flying over the seventh sky. But on earth I am neglected, disappointed and sick. I can not handle secular things. And I always face obstacles on my way. Why am I regardless of control on secular circumstances? Why am I pious on religion but dull about worldly?

Spontaneously Rumi answered: *Someone who claims able to walk on sky why he must be difficult step on earth?*

From dialogue quotation above, we can understand the pesantren education contextually, it explains that: a Moslem who is born from pesantren is "pious" at religious knowledge but "dull" and confused about secular circumstances.

In my opinion, description above is a narrow and shallow perception, and it has been influenced by a very acute secularism, which considers that living in the world and hereafter is lasting rivalry, but it is not in fact.

World and hereafter are two polars which can not be separated each other because they are unity. I know well that those perceptions above are part of societies's worries that alumnae of pesantren can not go to work, can not live well, and will be poor people, suffered and classical.

In fact, *ulamas* that are produced by pesantren education have an independence life and bring prosperity for surrounded societies, such as KH. Hasyim Asy'ri and KH. Wahab Hasbulloh. They were *ulamas* who had released two great inheritances for whole moslems particularly in Indonesia, which are *first*, the biggest Islamic organization in Indonesia, *Jam'iyah Nahdlatul Ulama (NU)* and *second*, establishing of two great pesantren in Jombang, East Java, Pesantren Bahrul Ulum and Pesantren Tebuireng. While the reality happens nowadays, that alumnae of common educational institutions and universities are donating the greatest number of intellectual joblessness in Indonesia.

It needs to affirm that it does not mean pesantren should reduce to rubble the goals formulated before, but that how many pesantren goals number is not priority, it should be maintaining the printer of ulama cadres, because ulama is prophet's heir and also *khalifatul fil ardli*.

Thus, pesantren education's goals must be directed to make students into '*abdullah* and *khalifatullah*' who are able to carry out life tasks in this world, able to pray as Allah's slaves, able to have glorious characters, and able to improve their living potentials, so they can gain safe and glory in this world and hereafter. Besides, formulation of pesantren education's goals must be able to cover all available basic aspects on human beings intactly. Those basic aspects are spiritual aspect (*ahdaf al-ruhiyah*), physical aspect (*ahdaf al-jasmaniyah*) and intellectual aspect. Spiritual aspect must be touched by education because it is connected directly to God and it is source of human's consciousness about this material existence. With this aspect human beings will be able to receive Islamic doctrines perfectly. The point is that firm belief and loyalty unto all Allah's command and prohibition are shaped. And it will look by rebound of religious morality values by following Rasulullah SAW's characters and attitudes as model and applying it into daily activities.

2.2.2 Institutional Reformulation

Institutional reformulation of pesantren education is the next alternative step, as a prolongation of changes on pesantren education's goals, because goal changes without any container or institution which has same breath will cause vagueness happened on the goal itself. Simply, it is difficult if producing ulama cadres is held by formal institutions such as SMP/MTs and SMA/MA, because they have responsibility to standardise their curriculum with national one. However, it is very impossible for one institution runs two curriculums which contain of different literatures and loads. Thus, the decision to establish a new institution which is specially for producing ulama cadres and using special curriculum and also a clear goal, is a correct choice and able to answer societies' and alumnae's worries.

As an example is Pesantren Tebuireng Jombang. Its leader, Dr. (HC) Ir. KH. Salahuddin Wahid "Gus Sholah", explains many times in various events, that if you want to study in Tebuireng and have certain goal to be kyai or ulama cadre, so you can take study more specific in Madrasah Mu'allimin and Ma'had Aly Hasyim Asy'ari.[14]

a. *Mua'allimin Hasyim Asy'ari Madrasah*

Mua'allimin Hasyim Asy'ari Madrasah has been established because of pretension to bring back basic values of pesantren as an autonomous *Tafaqquh fiddin* institution and has orientation on forming individu who has strong characteristic and adequate religious knowledge. Madrasah Mu'allimin is the newest school unit which is owned by pesantren Tebuireng. It was built in the middle 2008 by Tebuireng's leader along with senior alumna and kyai.

It is expected that Madrasah Mu'allimin is able to bear capable cadres to continue *ulamas*'s struggle in islamic religious mission. The establishing of Madrasah Mu'allimin is the answer for alumnae's and societies leader's demand, who want Pesantren Tebuireng bring back to life salafiyah educational system which has been proved able to accompany its alumnae reaching their success at various fields.

Madrasah Mu'allimin Hasyim Asy'ari carries out six-years education, it is one level with MTs and MA, then it releases diploma "*mu'adalah*". Religious lessons are dominate materials taught in this madrasah. Learning and studying process to understand the materials taught are using some methodes such as discussion, deliberation, *sorogan* and *bandongan*. Its first students are 15 children and divided into two classes. First level class is for them who do not have basic religious knowledge yet, and the third level class is vice versa, for children who have known about religious lessons before. The teachers contain of kyai and seniority teachers. Beside fix lessons taught such as *nahwu*, *shorof*, *tafsir*, *hadits* etc, the students of madrasah Mu'allimin get knowledge taught about spoken and written Arabic, computerization (programming and operational), scientific writing methodes, discussion *bahtsul masail* etc.

b. *Ma'had Aly Hasyim Asy'ari*

Ma'had Aly Hasyim Asy'ari is university education unit which was built on 6 September 2006. It is same level with scholar and universities organized by Religion Ministry. Principally producing generation of

Khairu Ummah, Ma'had Aly Hasyim Asy'ari carries out religious studies viscerally through combination between pesantren education system and modern university.

From this point, it is expected that moslem intellectualists who have *akhlaqul karimah* and global intellectuality standard are born.

Studying course endured by the students lasts for 4 years. Each year consists of 2 semester. The curriculum arranged agrees with 5 special religious science programs, they are (1) *Tafsir* deepening program (2) *Hadits* (3) *Fiqh* and *Ushul Fiqh* (4) Arabic and English Grammatical (5) *Akhlak/Tasawuf*. Whole teaching-learning process are delivered in Arabic and English. Learning program includes *dirasah yaumiyah* (daily course) which uses speech and interactive dialog methodes, study about classical literature reviews, *muhadatsah/* speaking, scientific writing task, extra-curricular activities, *mudzakarah*, bahtsul masail *fiqhiyyah-maudlu'iyah-waqi'iyah*, and special study about certain *kitab*s to master the course by the lecturer's guidances. Most of lecturers in Ma'had Aly Hasyim Asy'ari are graduated from Middle-East country by scholar degrees of Magister (post-graduate) and Doctor (doctoral degree).

The candidate of students must fulfill certain requirements to enroll and accepted as Ma'had Aly's students. Those requirements are graduation from SMA/MA, have basic skill about the course will take, have large knowledge about islamic science, and pass the test. The number of students accepted is limited til 30 people only because they all will get scholarship (free of studying-cost). For studying time, the students must stay in Ma'had Aly dormitory. Till right now, the alumna of Ma'had Aly are often sent to some districts in Indonesia to be a teacher, as like Ambon and Riau.

2.2.3 Reconstruction of Curriculum

Theoretically, curriculum is a set of plans and regulations about aim, content, learning material and way used as guidance of organizing teaching-learning activities to reach education's goals. [15] Curriculum of pesantren education is fix related to *kitab salaf* (kitab kuning). The fact shows that pesantren which have formal education as like SMP/MTs (Madrasah Tsanawiyah) or SMA/MA (Madrasah Aliyah), consider *kitab salaf* only as an aspect to keep pesantren characteristic or tradition, not as a center of studying *kitab salaf* perfectly and deeply. This such situation is natural, because formal institution has obligation to adapt standard of national education in our country, Indonesia, while other lessons are considered as local contents which can change anytime. Then ironically, when the demands to adapt two different curriculum even both include urgent contents are rising, the teachers available have not supported those demands yet.

In pesantren education, the lessons taught to santri intensely and continuous are more emphasizing textual materials, and the discourse which developes quickly is only sector *fiqh* or often called as *fiqh sentris*, which only covers one madzhab thought, madzhab Syafi'i. Pesantren curriculum such this gives an exclusive consquence of pesantren from other thought. The impact of that exclusivism is formed on no more critical, analitical and reflective culture in pesantren education. Independence of academics is almost not avowed anymore, and *munazarah* system is almost gone from pesantren tradition.

Besides, *kitab kuning* teaching more emphasizes on deepening and enriching materials and it less directs to aspects of developing theories, methodology, and concept. It could be seen from teaching metode used in pesantren. *Bandongan* and *sorogan* are the example which have characteristics more in emphasizing textually or literally. The weakness is when there is no dialogue between *kyai* and *santri*, and teaching-learning process is only centered to *kyai*, it will make *santri* passive. Finally, creativity power and activity of *santri* ran down.

Thus, teaching metode of pesantren education which only includes aspect of enriching materials textually, should be improved soon into aspects of deepening, enlarging, and developing concepts and also understanding substantially in order that materials of *kitab kuning* remain actual and relevant with always-growing era's demands. So, *munazarah* (discussion) method can be as an alternative. In this method, display of materials is *santri* discuss them together by exploring and exchanging their opinions about one certain topic of text available on *kitab kuning*. The teacher / *kyai* is only as a moderator or facilitator. This method is used in order that *santri* be active in studying. Through this method, it is expected there will grow and develop a lot critical, anlytical and logical ideas.

Al-Zarnuji in his writing *ta'limal-muta'alim* says that discussion (*munazharah*) is more effective than reading many times [16]. One-hour discussion is much better than one-month reading. But, *bandongan* and *sorogan* method is very appropriate used when the number of studying santri is quite big and the available time is short, while the materials going to deliver are much enough.

Then, memorizing method which is also used intensely in pesantren education, there is an utterance says "*al-huffazh hujjah 'ala man la yahfazh*" (meaning that people who memorize well is an argument for them wo do not). This utterance is right when scientific system more give priority to *naqli* argument, transmission and chroniclization because it will make it more believable than guessing. But, when scientific concept more emphasizes rationality such as the basic of modern educational system, so memorizing method becomes important to do. The contrary, the important thing is creativity and capability of santri to explore knowledge

they have had. In modern education system, knowledge is always containing probabilities to criticize and break through.

3. CONCLUSION

Spirit of reform, change, and innovate on education in pesantren becomes necessity because it is logical consequence of globalization and modernization era, society's and government's demand, and it is part of opened-demeanor of pesantren for culture adhered to society. But, maintaining or keeping a soul of pesantren as an institution of "Producing Candidates of Ulama Cadres" is absolutely more important so far. However, it agrees to statement "*almuhafadoh ala qodimishsholih wal akhdudu bil jadidil aslah*" meaning that to maintain the old tradition and take the new one are better. Thus, what becomes fundamental substantiation is proportionality between adopting new values and the old ones.

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