



Scientia pro virtute

# Scientia Business Law and Review

P-ISSN: 2829-582X

E-ISSN: 2829-8284

pp. 37-43

## PUBLIC TEACHER RECRUITMENT AND SELECTION IN INDONESIA: A LEGAL PERSPECTIVE

Ryan Saputra Alam<sup>1</sup>, Hurian Kamela<sup>2</sup>

<sup>1</sup> Faculty of Economy and Business, Universitas Indonesia, Jakarta, Indonesia.

E-mail: [rysalamilmi@gmail.com](mailto:rysalamilmi@gmail.com)

<sup>2</sup> Faculty of Economy, Business and Humanities, Universitas Tangerang Raya, Tangerang, Indonesia.

E-mail: [huriankamela@untara.ac.id](mailto:huriankamela@untara.ac.id)

Article	Abstract
<p><b>Keywords:</b> legal perspective; recruitment; selection; teacher</p> <p><b>History of Article:</b> Received: April 1, 2022; Reviewed: April 11, 2022; Accepted: April 13, 2022; Published: April 14, 2022.</p> <p><b>DOI:</b> <a href="https://doi.org/10.56282/sblr.v1i1.51">https://doi.org/10.56282/sblr.v1i1.51</a></p>	<p>The existence of Law No. 14 of 2005 and some thoughts that take issue with the low quality of teachers, one of the causes of which cannot be separated from the impact of the recruitment process and inadequate selection. It is necessary and urgent to conduct normative juridical studies to construct how the process of recruitment and selection of state teachers in Indonesia so that recruitment reconstruction and selection of ideal state teachers are produced in Indonesia. Two conclusions were made based on the knife analysis in the form of agency theory that emphasizes the contractual relationship between the principal and the agent that must reflect the efficient organization. First, the recruitment and selection of prospective state teachers have only been carried out en masse and almost simultaneously. The selection test is carried out by working on multiple-choice questions in which various types of questions are widely sold and can be learned or learned, even traced patterns of the problem. Thus, the correct answer to a question does not correlate with the ability of prospective teachers to carry out their duties and responsibilities later as a teacher who is loved and respected by students and colleagues. Second, it is necessary to update the rules related to the recruitment process and selection of prospective state teachers, including maximizing information technology in knowing the behavior of future teachers in using social media and so on.</p>

©2022. This work is licensed under a CC BY 4.0 license.

### 1. INTRODUCTION

As Article 1 number (1) of Law No. 14 of 2005 concerning Teachers and Lecturers has confirmed that teachers are professional educators who are in charge of educating, teaching, guiding, directing, training, assessing, and evaluating students in early childhood education, formal education, and secondary education, then the process of recruitment

and selection of teachers in Indonesia, especially teachers in upper secondary education, should refer to the belief that teachers who have passed the recruitment and preference will be able to become professional educators.

It is suspected that some teachers still do not show capacity as professional educators are the impact of the recruitment process and inadequate selection, in addition to certain factors, such as superior pressure, economic and social factors and environmental factors of these teachers. This is inferred from several thoughts, such as Soefijanto et al. (2016), Hamdani (2016), and Atmaja (2015). Soefijanto et al. and Paramadina Public Policy Institute (2016) concluded that there was a statement by the Minister of Education and Culture 2016, Anis Baswedan, which explained the emergency education department that could not be separated from the issue of teacher professionalism in Indonesia requires the government to consider the proposed centralization of teacher recruitment policy carefully. Then, Hamdani (2016) revealed that the severe problems faced by the world of education in the form of low teacher awareness of the magnitude of the responsibility he carries and the low competence and quality of teacher performance today could not be separated from the recruitment process of prospective teachers who are less selective, where the reality shows that not a few students who make the teacher's department as the second choice or even the last choice. Furthermore, Atmaja (2015) stated that the selection process factor is one of the factors for the emergence of low-quality teachers.

The existence of Law No. 14 of 2005 and some thoughts that take issue with the low quality of teachers whose causes cannot be separated from the impact of the recruitment process and inadequate selection, raise two main problems that will be studied in this paper. First, how the process of recruitment and selection of state teachers in Indonesia. Second, how to reconstruct recruitment and selection of ideal state teachers in Indonesia.

## 2. METHODS

In producing the concept (legal) recruitment and selection of ideal teachers in Indonesia, this study adequately uses normative juridical methods using secondary data. Secondary data obtained during the survey will be analyzed using several approaches, such as historical approaches, statute approaches, conceptual approaches, and analytical approaches. Normative studies must use a statutory process because what is studied is various legal rules that become the focus of research by dodging applicable laws and regulations. The conceptual approach is carried out by staying away from the existing law practice. This is done because there is no or no rule of law for the problem at hand, so a concept must be built from the views and doctrines that develop in the Legal Sciences to be used as a reference in research. At the same time, the purpose of the analytical approach is to find out the meaning contained in the terms used in the rules of law conceptually<sup>1</sup>.

The data processing techniques in this normative research include inventory, exposure, interpretation, systematization, and evaluation of favorable laws related to education law that applies in Indonesia with a variety of concepts, categories, theories,

---

<sup>1</sup> Johnny Ibrahim, *Teori & Metodologi Penelitian Hukum Normatif*, Bayumedia Publishing, Malang, 2007. pp. 299-317.

classifications, and methods, which are adequate in answering the formulation of existing problems<sup>2</sup>.

### 3. ANALYSIS AND DISCUSSION

#### a. Prevailing Law of the Public Teacher Recruitment and Selection in Indonesia

In addition to honorary personnel, public teachers in Indonesia have the status of civil servants (*PNS*). The quality of the teacher civil servant also shows that the recruitment and teacher selection process is almost the same as the recruitment process and other civil servant selection. According to Ardiansyah (2011) that recruitment is a process of finding, finding, inviting, and assigning several people from within and outside the school as candidates for labor with specific characteristics as stipulated in human resource planning, while selection is the process of determining, selecting and determining certain people who will be accepted as new personnel/employees after the recruitment process is first held. The same applies to actual terms of state teachers' admission in Indonesia.

The recruitment process of civil servant candidates who will be used as teachers has been carried out through 4 (four) stages, namely: 1) the stage of fulfilling vacancies, registration, and administrative verification, 2) the selection implementation stage, 3) the graduation announcement stage, and 4) the enforcement stage. At the same time, the selection process is carried out based on 3 (three) stages, namely administrative selection, essential competency selection (*SKD*), and field competency selection (*SKB*). This is by Article 19 of Government Regulation No. 11 of 2017 concerning Civil Servant Management as amended last by Government Regulation No. 17 of 2020, which confirms that civil servant recruitment must be done by announcing vacancies and application processes. The selection process is based on Article 26 PP No. 11 of 2017, which is carried out through the administrative selection stage, selection of essential competencies, and selection of field competencies. Administrative selection is carried out to match administrative requirements and application documents submitted by the applicant; basic important competency selection is carried out to assess the conformity between essential competencies possessed by applicants and basic civil servant competency standards that include personal characteristics and general intelligence national insights. In contrast, field competency selection is carried out to assess the conformity between field competencies owned by applicants and field competency standards for the position's needs.

It is realized that the recruitment and selection of civil servant candidates, including prospective state teachers, is carried out almost simultaneously so as not to cost a very expert in general. The selection test is done by doing multiple-choice questions and interviews. But it must be realized that various *CPNS* questions are sold and can be

---

<sup>2</sup> Bernard Arief Sidharta, *Penelitian Hukum Normatif: Analisis Penelitian Filosofikal dan Dogmatikal*, via S. Irianto & Sidharta (Ed.), *Metode Penelitian Hukum: Konstelasi dan Refleksi*, Jakarta: Yayasan Obor Indonesia, 2009.

learned or even traced to the patterns of the problem so that the correct answer does not correlate with the answerer's ability to answer the question (Ardiansyah, 2011).

**b. Reconstruction of Recruitment and Selection of Teachers Discussion (Analysis and Study Based on the Theory/Approach of HR Management).**

Recognizing that the process of recruitment and selection of state teachers that exists so far has dramatically affected the quality of state teachers in Indonesia, it is essential to reconstruct the recruitment and selection process, as the understanding of reconstruction is an action or strategy to rebuild, recreate, or reorganize specific existing models so that it becomes more ideal to be used as one of the solutions that prioritize output and outcome to overcome certain dangers or losses (Sinaga dan Sinaga, 2018, 35-36).

Efforts to reconstruct the recruitment process and selection of state teachers running so far are dissected using analytical knives in the form of agency theory. Agency theory emphasizes the contractual relationship between principals and agents that must reflect the efficient organization, especially related to information and the risk of costs, to solve the problem of information asymmetry in agency relations caused: (a) the conflict of purpose between principals and agents, and (b) the difficulty and arise of costs that are not small experienced by the principal in supervising the actions of agents (Eisenhardt, 1989, 57-59). In terms of agency relations, the government can be said to be the principal, which according to the Black's Law Dictionary, is the one who authorizes another to act on their behalf as an agent. In contrast, the individual who directly exercises the principal's wishes is considered an agent of the principal (Gardner, 2004, 1230). The existence of agency theory should provide parameters to test the problem of recruitment and selection of teachers in the country so that it is objective in providing output and outcome in terms of teacher professionalism. The urgency of agency theory in recruitment and selection of state teachers is increasingly realistic with the development of agency theory today in pursuing information system problems, the uncertainty of impact, and management of government risks; according to Eisenhardt (1989), the development of this theory strongly emphasizes the analysis of contractual relationships between principals and agents whose scope reaches positivist agency theory and principal-agent research. The subsequent elaboration of positivist studies, whose focus of the study was on the identification of problems between principals and agents that occur in achieving goals, was developed by Eisenhardt based on two propositions, namely related to effectiveness in limiting the opportunism of agents can be done through contracts based on impact (outcome-based) and information systems. While the description of the agent's principal, whose focus of the study is on establishing an optimal contract related to behavior (behavior-based contracts) versus the impact between the principal and the agent (Eisenhardt, 1989).

The development of agency theory further confirms that the government as the principal has justification for fairness and plays a more role in improving the recruitment process and selection of state teachers better in producing added value for state teachers in the future. The implementation of agency theory in reconstructing state teachers'

recruitment and selection process is reflected in preventing violations that can, directly and indirectly, reduce the quality of teacher professionalism, even though the government has improved teacher incentives and remuneration. The relationship between the actions of prospective teachers and those who carry out the selection and recruitment process with the principal can also be seen from the contractual relationship between the principal and his agents in the work environment so that the imposition of accountability for negligent agents is one of the instruments that force the government to issue practical guidelines and controls on teachers and prospective teachers as stipulated in the standard operating procedure, organizational structure, and manual flow chart. So that with this agency theory, it can be done more profound identification of the formal and informal system of the recruitment and selection team, as well as the compensation structure that should apply in recruitment and selection. The same thing was also expressed by Abduh Zein about the new government with a fundamental paradigm of mental revolution in the form of "Rombak and focus on education," by proposing that the status quo of teachers so that teachers will be the profession of choice, not so far the assumption that being a teacher is the "remnant" of people who are not accepted into other occupations, not people who want to become teachers (Soefijanto et al. and Paramadina Public Policy Institute, 2016).

Furthermore, more specifically in the system of recruitment and teacher selection, the implementation of agency theory can be implemented based on monitoring education provider–education agent relationships under asymmetric information as much literature reveals that guidelines for best practices in recruitment and selection can be carried out based on detailed monitoring techniques that are currently available by utilizing technology<sup>3</sup>. That is, reconstruction efforts to the provisions that apply so far can be made through a recruitment system that is not decentralized while still using information technology. It can be seen that one of the main concerns of agency theory is the efforts of the central control so that in the process of recruitment and selection of public teachers, there is no misuse of state resources considering that the behavior of teachers who pass the section has a direct impact on the output and outcome desired by the state<sup>4</sup>. It is not entirely realistic to assume that the actual behavior of an agent can be fully detected during the recruitment and selection process because no monitoring tool can fully reveal the actual behavior of the agent. But through the systematic work of the proposed mix of monitoring tools, the provision of teachers through recruitment and selection will achieve a deeper understanding of the agent's behavior through strengthening other dimensions, such as in-depth interviews, contracts, and training<sup>5</sup>.

It is hoped that in the current era of autonomy, areas involving universities or schools that have experienced and qualified can determine for themselves recruitment and

---

<sup>3</sup> Pii-Tuulia Nikula and Jussi Kivisto, Monitoring of Education Agents Engaged in International Student Recruitment: Perspectives from the Agency Theory", *Journal of Studies in International Education*, Vol. 24, Issue 2, 2019. pp. 212-231.

<sup>4</sup> Blanche Segrestin and Armand Hatchuel, "Beyond Agency Theory, a Post-crisis View of Corporate Law, *British Journal of Management*, Vol. 22, Issue 3, 2011, pp. 484-499, DOI: 10.1111/j.1467-8551.2011.00763.x

<sup>5</sup> Pii-Tuulia Nikula and Jussi Kivisto, Loc.cit.

selection mechanisms that can screen quality teachers, in addition to using existing multiple-choice tests, as well as applying internship teachers in terms of teacher recruitment can be done with teaching practice tests. (Atmaja, 2015). In addition, maximizing information technology during the recruitment process is beneficial for the selection stage. The behavior of prospective teachers who follow the registration will be screened before being passed at the administrative selection stage. Based on the use of information technology, what news about the prospective teacher can be known, how the karma of funds knows his manners when utilizing social media, etc. With these efforts, it is hoped that new teachers who pass the selection will be more assured of quality because the selection process is not only based on the ability to do multiple-choice questions.

#### 4. CONCLUSION

Two main conclusions were produced. First, the process of recruitment and selection of prospective state teachers has only carried out en masse and almost simultaneously, where the selection test is carried out by doing multiple-choice questions that various types of questions are widely sold and can be learned or even traced to the patterns of the problem so that the correct answer to a question does not correlate with the ability of prospective teachers in carrying out their duties and responsibilities later as teachers who are loved and respected by students and students. Second, the reconstruction of the recruitment process and selection of prospective state teachers is mandatory and urgent to be done by leaving multiple-choice problem methods that do not correlate with their professionalism as educators and maximizing information technology in knowing the behaviors of prospective teachers in using social media and so on.

The system of recruitment and selection of state teachers with multiple-choice examination methods and interviews is already inadequate in the context of the modern state. It must be realized that the teaching profession urgently needs very high professionalism, especially as a state teacher, because the remuneration system of state teachers has received adequate attention from the government. So, it takes a recruitment and selection process that is not just a multiple-choice test selection and interviews. But it is, urgently needed, the participation and involvement of local governments in the framework of regional autonomy and the role of the best universities and independent and credible educational institutions in Indonesia to carry out recruitment and selection of state teachers to produce prospective teachers who are responsible for their duties and duties to the state, who of course must be willing to sign moral contracts and social contracts to improve the quality and quality of students. In addition, it is expected that in the future, prospective state teachers who have passed the selection must pass the final selection process in the form of an internship teacher for a certain period before being legally appointed as a teacher who has an Employee Master Number (*NIP*).

## REFERENCES

- Ardiansyah, M. Asrori, Pengertian, Prosedur, dan Sistem Rekrutmen Dan Seleksi, dari laman <http://kabar-pendidikan.blogspot.com/2011/05/pengertian-prosedur-dan-sistem.html>, accessed on September 17, 2019.
- Atmaja, Blasius P. Purwa, Bagaimana Merekrut Guru Profesional, 23 April 2015, from [https://www.kompasiana.com/blasius\\_tnh/55547d116523bd3e164af05f/bagaiman-a-merekrut-guru-profesional](https://www.kompasiana.com/blasius_tnh/55547d116523bd3e164af05f/bagaiman-a-merekrut-guru-profesional), accessed on March 17, 2022.
- Bernard Arief Sidharta, Penelitian Hukum Normatif: Analisis Penelitian Filosofikal dan Dogmatikal, dalam S. Irianto & Sidharta (Ed.), *Metode Penelitian Hukum: Konstelasi dan Refleksi*, Jakarta: Yayasan Obor Indonesia, 2009.
- Blanche Segrestin and Armand Hatchuel, "Beyond Agency Theory, a Post-crisis View of Corporate Law", *British Journal of Management*, Vol. 22, Issue 3, 2011, pp. 484-499, DOI: 10.1111/j.1467-8551.2011.00763.x.
- Eisenhardt, Kathleen M., "Agency Theory: An Assessment and Review", *Academy of Management Review*, Vol. 14, No. 1, 1989.
- Garner (Ed), Bryan A., *Black's Law Dictionary*, St. Paul, West Publishing Co., 2004.
- Hamdani, Ramdan, Memperbaiki Pola Rekrutmen Guru, 13 Februari 2016, from <https://www.kompasiana.com/ramdan69/56beb3bcf096737205c8ed83/memperbaiki-pola-rekrutmen-guru>, accessed on March 16, 2022.
- Johnny Ibrahim, Teori & Metodologi Penelitian Hukum Normatif, Bayumedia Publishing, Malang, 2007.
- Peraturan Pemerintah Nomor 11 tahun 2017 tentang Manajemen Pegawai Negeri Sipil sebagaimana telah diubah terakhir dengan Peraturan Pemerintah Nomor 17 Tahun 2020 / Government Regulation Number 11 of 2017 concerning Management of Civil Servants as last amended by Government Regulation Number 17 of 2020.*
- Peter Mahmud Marzuki, Penelitian Hukum, Prenada Media Group, Jakarta, 2008.
- Pii-Tuulia Nikula and Jussi Kivisto, Monitoring of Education Agents Engaged in International Student Recruitment: Perspectives from the Agency Theory", *Journal of Studies in International Education*, Vol. 24, Issue 2, 2019.
- Sinaga, Henry DP dan Sinaga, Benny RP, Rekonstruksi Model-Model Pertanggungjawaban di Bidang Perpajakan dan Kepabeanan, Yogyakarta, Penerbit PT. Kanisius, 2008.
- Soefijanto, Totok Amin et al dan Paramadina Public Policy Institute (PPPI), Studi Program Sertifikasi Guru Sekolah Dasar: Analisis Kepuasan Pengguna Layanan Pendidikan Dasar (Studi Kasus di DKI Jakarta dan Labuan Bajo), *Paramadina Public Policy Institute (PPPI)*, Jakarta 2016.
- Tribunnews.com, 4 Tahap Rekrutmen CPNS 2018, dari pendaftaran hingga Pengumuman, Catat Waktunya", September 2018, from [https://style.tribunnews.com/amp/2018/09/07/4-tahap-rekrutmen-cpns-2018-dari-pendaftaran-hingga-pengumuman-catat-waktunya?page=all&\\_ga=2.261792139.78278483.1568807797-170302514.1568807797](https://style.tribunnews.com/amp/2018/09/07/4-tahap-rekrutmen-cpns-2018-dari-pendaftaran-hingga-pengumuman-catat-waktunya?page=all&_ga=2.261792139.78278483.1568807797-170302514.1568807797), accessed on March 16, 2022.
- Undang-Undang Nomor 14 Tahun 2005 tentang Guru dan Dosen / Law Number 14 of 2005 concerning Teachers and Lecturers.*