

Educated Labor Regulations; Confirmation Non-PNS Permanent Lecturer Status in Higher Education Work Units

Don Gusti Rao¹, Izhatullaili²

dongusti@polteknaker.ac.id¹, Izhatullaili@polteknaker.ac.id²

Polytechnic of Manpower, Jakarta - Indonesia^{1,2}

The status of non-civil servant permanent lecturers in Higher Education Work Unit (Satker) is still ambiguous. Based on the Minister of State Apparatus Empowerment and Bureaucratic Reform Number B/185/M.SM.02.03/2022, employees in government agencies only consist of civil servant and Government Employees with Work Agreements (PPPK). Some of non-civil servant permanent lecturers in several agencies has the status as Non-civil Servant Government Employees (PPNPN) or honorary employees with *Employee Agreement* for a Specific Period (PKWT) system. In other hand, non-civil permanent lecturers have National Lecturer Registration Number (NIDN), work full time, and are not currently employees at the agencies. A polemic arose when the position of the non-civil servant permanent lecturers in the Higher Education Work Unit was not regulated like the non-civil servant permanent lecturers of The Ministry of Education, Culture, Research and Technology. So, some of agencies need to solve the problem before November 2023 as stated on the regulation related the issue.

The purpose of this study is to find out the formulation related to the status of non-civil servant permanent lecturers using a **qualitative method**. The primary data in this study were obtained through interviews and the secondary data were obtained by collecting government regulations related to the issue. **The result** of this study showed that there are no regulation of non-civil servant permanent lecturers at higher education work unit. **This conclusion** of this study is the Status of non-civil servant permanent lecturers is irrelevant categorized as PPNPN or PKWT. There is a principle that can be used; *the lex specialis derogat legi generalis*. It means that the Regulation of The Minister of Education and Culture No. 84 of 2013 concerning the Appointment of Non-Civil Servant Permanent Lecturers at State Universities and Permanent Lecturers at Private Universities and Manpower Act Number 13 of 2003 can be a valid reference.

Keywords: *Educated labor regulation, Non-Civil Servant Permanent Lecturers, Higher Education Work Unit*

INTRODUCTION

The Indonesian government, through Law Number 5 of 2014 concerning the State Civil Apparatus (UU ASN) emphasized the

downsizing of the structure of the state apparatus. The downsizing is for the sake of realizing efficiency and focus on the performance of state apparatus, this is seen from the categorization of ASN in the

bureaucracy consisting of Civil Servants (PNS) and Government Employees with Work Agreements (PPPK). So the employees who are not included in the two categories, such as honorary staff or non-civil servant government employees (PPNPN) must take part in the selection for the opening of PNS or PPPK formations if they want to become ASN. This commitment, according to the narrative in the Letter of the Minister for the Empowerment of State Apparatus Number 185 on May 31, 2022 was carried out to resolve and handle honorary staff who have worked in government agencies.

The ASN Law, which is claimed to be part of the implementation of bureaucratic reform, become a reference of several relevant regulations, such as Government Regulation Number 11 of 2017 concerning Management of Civil Servants (PP 11/2017), Government Regulation Number 49 of 2018 concerning Management of Government Employees with Work Agreements (PP 49/2018), Government Regulation Number 17 of 2020 concerning Amendments to Government Regulation Number 11 of 2017 concerning Management of Civil Servants (PP 17/2020), and a letter from the Minister of State Apparatus Empowerment and Bureaucratic Reform (MenpanRB).

However, the strength of the regulation leaves one polemic that is neglected. It is the existence of non-PNS permanent lecturers – who are also not registered as PPPK – in higher education Work Units (Satker) as educated workers. There is no regulation about the non-civil servant permanent lecturers who work in Higher Education Work Unit non the Ministry of Education, Culture, Research and Technology (Kemdikbudristek) and the Ministry of Religion (Kemenag). There is only a regulation of the Minister of Education and Culture Number 84 of 2013 concerning Appointment of Non-Civil Servant Permanent Lecturers at State Universities and Permanent Lecturers at Private Universities (Permendikbud 84/2013) which "approaching" the rules regarding non-civil servant permanent lecturers, although it could refer to the Minister of Education and Culture Regulation. There is still ambiguity about the phenomenon of non-civil servant permanent lecturers in higher education working units. Sumiyati (2019) stated that in the context of employment, if the legal position of non-PNS permanent lecturers has not obtained an overview – from the ASN Law – then they can use other, more general provisions of legislation, namely the Manpower Act Number 13 of 2003 (UU13/2003). 2003). It is another matter if a non-PNS permanent lecturer becomes a civil servant, then he will obey the ASN Law, because the regulation regarding civil servants is separated from labor

law in general (Ramadhani & Joesoef, 2020). Furthermore, Ramadhani & Joesoef (2020) explained regarding this matter which was adapted from the civil service rules belonging to the Dutch government.

“This provision – that civil servants are not included in the Manpower Law – explains that the classic opinion is no longer used which views a civil servant holding a public office as essentially having a civil law relationship with the State (government). Civil servants do not have an employment agreement or contract but are employed under a public agreement that is generally recognized by many countries/unilateral).”

Clarity on the status of non-PNS permanent lecturers in the higher education Work Units is urgent, considering that the issue - related to the status of PNS and PPPK - must be completed before November 28, 2023. If it is not resolved and still become a polemic, in accordance with the letter from the Minister of Administrative and Bureaucratic Reform - and referring to its considerations – it will sanctioned in accordance with statutory provisions. In addition, government agencies are required to map out Non-ASN employees in their work units and give the opportunity to take part in the selection of PNS/PPPK for those who are eligible. Mapping and providing opportunities for Non-PNS employees to take part in the selection, becomes a kind of recognition for employees who have served quantitatively – and have qualitative performance for the institution.

LITERATURE REVIEW

Based on the research data in cyberspace in the form of google scholars and crossref – also by the tools publish or perish 8 (windows GUI Edition) – it is recorded that only Sumiyati (2019) has studied non-PNS permanent lecturers in work units (the position of statutory law and the locus of the necessity of educational institutions in the Work Units recruiting non-PNS permanent lecturers but it does not include the substance of what rules are needed for the existence of Non-PNS permanent lecturers ranging from functional positions (jabfung), lecturer certification (serdos), and status conversion become a state civil aparatus). One of the interesting findings from this research is the affirmation that although ministerial regulations are lower than government regulations or laws, Permendikbud 84/2013 which is considered a more technical derivative of Law No. 14 of 2005 concerning Teachers and Lecturers (Law 14/2005) as well as government regulation number 37 of 2009

concerning Lecturers (PP 37/2019) are very appropriate to be used as a reference. In addition, non-PNS permanent lecturers in the Satker can also refer to Law 13/2003 concerning Manpower with the emphasis that the work agreement obtained (which contains a decree/SK or work order/SPK that includes the duration of the position) cannot be held for jobs that permanent.

Then, regarding to the Government Employees with Work Agreements (PPPK) there are Ramadhani & Joesoef (2020) who researched the legal protection of Government Employees with Work Agreements (PPPK) in the concept of a *Employee Agreement* for a Specific Period (PKWT) in state higher education institutions. This research focuses on the phenomenon in the Regulation of the Minister of Research, Technology, and Higher Education Number 38 of 2016 concerning Lecturers and Education Personnel as Government Employees with Employment Agreements at Thirty Five New State Universities (Permenristekdikti 38/2016), which concludes that the law protection for PPPK in new state universities (PTNB) in accordance with Permenristek 38/2016 has not been optimized, like for PPPK to occupy the highest position. This research is one of the literature reviews considering that it is relevant to the context of the PKWT concept for non-PNS permanent lecturers at educational institution as a work unit.

Then, there is Artisa (2015) who reviewed the PPPK related to the ASN Law. In her research, Artisa considers that PPPK is a fairly important part, so it is very necessary to manage it proportionally because it is related to government performance and resources. However, she criticizes that the existence of PPPK is the result of the system's inability to create employees (PNS) who can carry out all the burdens of the organization. Thus, the merit system which is echoed as part of bureaucratic reform in the ASN Law, opens new hopes for realizing a bureaucracy with good performance. The context of governance and merit system is very relevant to the discussion of non-PNS permanent lecturers.

There is Qomarani (2020) regarding the anomaly in the presence of the PPPK. For Qomarani, the presence of the PPPK which *mutatis mutandis* (with necessary adjustments) can eliminate the existence of honorary workers, on the other hand it can provide legal protection and solutions to the chaotic problems of competence, integrity, professionalism of the State Apparatus, existence of PPPK and its offence with experts. Based on Qomarani's research, it can be stated that non-PNS permanent lecturers can be categorized as

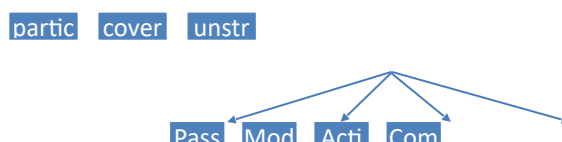
experts and match with the concept of a merit system. Jati (2015) which analyzes the status, position, and precarious work in the ASN Law, considers that there has been an evolution in the pattern of employee analysis from Law Number 34 of 1999 concerning Amendments to Law Number 8 of 1974 concerning Basic Personnel (UU 34/1999) to the ASN Law.

From the five previous studies, the discussion about non-PNS permanent lecturers is not so detailed. Specifically related to career paths, clarity of employment status, salary and remuneration, and of course the void of regulations that regulate it.

METHOD, DATA, AND ANALYSIS

This study uses a qualitative approach. This approach is used with the assumption that the data obtained will be analyzed comprehensively, so as to get a sharp dialectic. The data is taken by conducting participatory observation. In participatory observation, the researcher observes what people do, listens to what they say, and participates in their activities (Stainback, 1988).

Participation in the observation was carried out with a complete participation technique. In collecting data, the researcher was fully involved in what the data sources were doing. So the atmosphere is natural and researchers don't seem to be doing research. This is the highest involvement of researchers in the life activities studied. (Sugiyono, 2014:66).



Pic 1. Types of observation technique based on Sugiyono (2014:65)

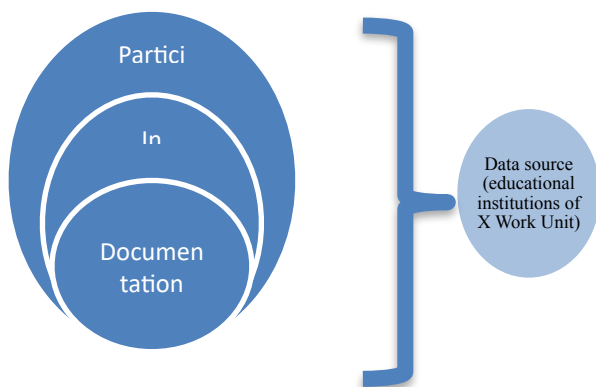
Furthermore, data were also collected through interviews. The technique used is a free interview technique (Yusuf, 2014:377) to two informants, and a depth interview to one informant. Secondary data is also taken through documentation in the form of regulations, and research journals related to the theme being studied.

The research took place at educational institution X as a work unit for one of the ministries. This was taken as a sample of the large population of the work unit of non-the Ministry of Education and Culture and the

Ministry of Religion. For this reason, the data sources are in the form of observations made, interviewed informants, and part of the documentation sourced from educational institutions X working units that manage non-PNS permanent lecturers.

After the data is obtained, it is then reduced. In this reduction process, the researcher reduces the data found in stage one to focus on certain problems. In this reduction stage, the researcher sorts the data by choosing which data is interesting, important, useful, and new. Data which not used is removed. Based on these considerations, then the data are grouped into various categories that are determined as the focus of the research.

Data is analyzed by triangulation technique. In technical triangulation, researchers use different data collection techniques to obtain data from the same source (Sugiyono, 2014:83). Researchers use participatory observation, in-depth interviews, and documentation for the same data source simultaneously.



Pic 2. Triangulation technique of Sugiyono (2014:84)

The three data sources are combined and analyzed to obtain accurate data. Information, suggestions, and criticisms through informants who are considered relevant, are conveyed as is.

RESULT AND DISCUSSION

Non-PNS permanent lecturers in the Work Units, as mentioned at the beginning of this study, are often considered as PPNPN. In educational institution X, based on complete participatory observations and interviews (free and deep) with non-PNS permanent lecturers as informants, that in several activity invitation documents, Non-PNS permanent lecturers are often categorized as PPNPN. Not to mention related to rigid working hours (such as PPNPN employees) and the rights of lecturers such as

salaries and honorariums are not so far away from PPNPN. In fact, as a work unit of non-Ministry of Education and Culture and Ministry of Religion, educational institution X which must also comply with local regulations – Ministerial Decree at Ministry X – which states that Lecturers are not included in PPNPN, the Decree states that PPNPN consists of (a) operational staff technical (b) office administration staff (c) service assistant (d) security unit (e) driver and (f) cleaning staff.

The only regulation that regulates non-PNS permanent lecturers is Permendikbud 84/2013, which according to Sumiyati (2019) is quite relevant as a reference considering that there are no specific rules. The regulation does not explicitly mention the higher education institution of work units, so the bureaucracy – in ministry X – has not dared to take further action. For this matter, the step taken by Institution X is to benchmark it to other institutions of work units. In fact, it was found that not all educational institutions of Work Units have permanent non-PNS lecturers – the majority of the lecturers are civil servants – so it is difficult to get comparisons. However, at the time of this research, educational institution X had already received information regarding one of the educational institutions of work unit at ministry Y, and planned to conduct benchmarking. There are so many things that must be seen – and also adopted – when benchmarking, in addition to employment status, there are also lecturers' career paths and how the salary mechanism is after implementing Lecturer Workload (BKD) input, because usually, payroll is based on BKD and/or serdos in the Ministry of Education and Culture but it has not been arranged.

The substance in solving the problem – the lecturer's career path – has actually been obtained, which is left to the regulations of each ministry. Thus, ministry Y also has internal rules regarding lecturer career paths, it's just a matter of analyzing them and then adopting them according to the situation and conditions at institution X. The polemic arises because there is no legal basis as a foothold for the status of non-PNS permanent lecturers. Ministry X through the organization bureau that oversees the work unit of educational institution X does not dare to make a decision because there are no specific technical rules. Efforts to unravel these problems are carried out by coordinating with an authoritative institution, namely Kemdikbudristek. However, Kemdikbudristek returned it to ministry X to regulate it systemically, because this – especially the career path of lecturers in the form of functional positions – is an internal regulation of each ministry that oversees the higher education work unit.

The polemics in the regulation of non-PNS permanent lecturers in higher education work unit are explained in the table below

Subject	Substance	Status as honorary of "PPNPN" or PKWT	Non-PNS Permanent Lecturers who incidentally have a National Lecturer Identification Number (NIDN) as a homebase are permanent employees, not contract/adhoc, PPNPN, or PKWT. In educational institution X, Non-PNS Permanent Lecturers are considered as PPNPN.
Unregulated lecturer career path	<p>Based on information from informants at educational institution X, these regulations are submitted to the educational institutions. This is a direct statement from the OSDM section of the Ministry of Education and Technology. Thus, the right of lecturers to get a career path can be realized, so they can do the lecturer certification and have an impact on the lecturer's finances.</p> <p>The higher education work unit must make regulations based on the applicable regulations.</p>	PPNPN is a contract employee who is "PKWT", which can subjectively be dismissed by the leadership, also evaluated at the end of each year (re-recruitment is carried out). This is certainly not in accordance with the status of lecturers with NIDN who are permanent.	PPNPN is a contract employee who is "PKWT", which can subjectively be dismissed by the leadership, also evaluated at the end of each year (re-recruitment is carried out). This is certainly not in accordance with the status of lecturers with NIDN who are permanent.
Honorarium	<p>Educational Institution X pays non-PNS permanent lecturers' fees according to the standard, and it's not in accordance with the existing workload. This rule must also be included at the same time as a regulation in the form of a ministerial regulation.</p> <p>Then coordinate it regarding the honorarium for jabfung and serdos, as a rule, the Ministry of Education and Culture pays it every three to four months. The regulations made must confirm this position.</p>	Employment status by November 2023	<p>PKWT in Law 13/2003 Article 59 (2) "A work agreement for a certain time cannot be made for permanent work". In this case, the categorization of Non-PNS Permanent Lecturers as PPNPN is clearly against the law.</p> <p>In Permendikbud 84/2013 Article 10 (3) it is explained that work agreements for non-PNS permanent lecturers are made for at least 2 (two) years and can be extended until the retirement age limit. This is certainly not in accordance with PPNPN which regulates the working period of non-PNS permanent lecturers.</p> <p>In the KemenpanRB letter on May 31, 2022, which considers Law 5/2014, PP 11/201, and PP 17/2020, and PP 49/2018, it is emphasized that before 28 November 2023, government agencies only consist of PPPK and civil servants.</p> <p>In point 6 letter d, the agency – in this case the staffing officer – is asked to draw up strategic steps for the settlement of Non-ASN employees who do not meet the requirements and do not pass the selection of PNS and PPPK candidates in accordance with the provisions of the legislation before the deadline of November 28, 2023. In point 6 letter e, it is explained that if the government agency does not heed this matter, it will be given a sanction based on the provisions of the law and can be part of the object of findings for the government's internal and external supervisors.</p> <p>Thus, this is a constitutional mandate that must be carried out by educational institutions X</p>

Table 1. Subject and Substance

The issue of regulatory vacancies related to non-PNS permanent lecturers from the working unit has not been come to the fore considering that in terms of quantity, the number of non-civil servant permanent lecturers is not so much. Compared to non-PNS lecturers under the Ministry of Education and Culture and Ministry of Religion, which amounted to 9500 people (dpr.go.id). Even the non-PNS permanent lecturers, through their staff, have had an audience with Commission X of the House of Representatives of the Republic of Indonesia (DPR RI) to advocate for their employment status.

Confirmation of the status of non-PNS working staff permanent lecturers must be carefully and explicitly regulated. This is a constitutional mandate that must be carried out by government institutions, including educational institutions X.

CONCLUSION

This research concludes that

1. There are no detailed regulations about non-PNS permanent Lecturers in working units related to functional positions (jabfung), lecturer certification (serdos), honorarium for serdos, inherent rights, career paths, and specific working hours regulations. The existing rules only regulate non-PNS permanent lecturers at the Ministry of Education and Culture, namely Permendikbud 84/2013. Actually, it is possible to use the principle of *lex specialis derogat legi generalis* considering that the Permendikbud is a more technical derivative of Law 14/2005 and PP 37/2009. However, based on observations and interviews, educational institution X still has not dared to implement it, concrete steps taken are coordinating and benchmarking to stakeholders, and planning to make internal regulations.
2. Employment rights of non-PNS permanent lecturers in the work unit, because they are not government employees, can use the Manpower Law 13/2003 – for waiting the specific regulation – which emphasizes that the work agreement obtained (which is contained in the decree (SK) or a work order (SPK) which includes the duration of the position) cannot be held for permanent work.
3. In Permendikbud 84/2013 Article 10 (3) it is explained that work agreements for non-PNS permanent lecturers are made for at

least 2 (two) years and can be extended until the retirement age limit. This is certainly not in accordance with the findings at institution X which regulates the working period of only 1 year.

4. Educational institution X must strictly regulate staffing – in points two and three above – because there are two different reference, based on the Manpower Law 13/2003 or Permendikbud 84/2013.
5. The letter from the Ministry of Administrative and Bureaucratic Reform on May 31, 2022, whose considerations refer to Law 5/2014, PP 11/201, and PP 17/2020, and PP 49/2018, confirms that before November 28, 2023, government agencies only consist of PPPK and civil servants. Based on observations and interviews, Institution X has not taken the constitutional mandate seriously, for example discussing the formation and qualifications of PPPK candidates by prioritizing non-PNS permanent lecturers or PPNPN employees as recognition of their achievements.
6. The Non-PNS Permanent Lecturers in Work Units must move quickly –optimize staffing facilities – do some kind of advocacy, or have audiences with related parties and regulatory stakeholders. This has been done by the Association of Non-PNS permanent lecturers who have had an audience with Commission X DPR RI.

IMPLICATION/LIMITATION AND SUGGESTIONS

The limitation of the study is the difficulty of finding and confirming (in Jakarta) that any work unit of educational institution has permanent Non-PNS lecturers. Currently, there is only educational institutions of Work Unit X clearly have non-PNS permanent lecturers so the observations and interviews are carried out. The educational institution that reportedly has non-PNS permanent lecturers is institution Y, when this research was underway, institution Y was in the process of being confirmed.

Furthermore, not all informants want to speak clearly and openly even though their names have been changed, this is because staffing issues are considered as sensitive issues and prone to criticism and friction. In fact, this research is scientific in nature which respects the confidentiality of the identity of the informants according to the agreement.

In terms of references, very few journals – in fact there was only one – that focus on research

on the Non-PNS permanent lecturers in work units.

REFERENCES

- [1] Artisa, Rike Anggun. (2015). Pegawai Pemerintah dengan Perjanjian Kerja (PPPK); Review terhadap UU Nomor 5 tentang Aparatur Sipil Negara. *Jurnal Pembangunan dan Kebijakan Publik*. 06 (01). <https://journal.uniga.ac.id/index.php/JPKP/article/view/214>
- [2] Jati, Wasisto Raharjo. 2015. "Analisis Status, Kedudukan, dan Pekerjaan Pegawai Tidak Tetap dalam Uu No. 5/2014 tentang Aparatur Sipil Negara. *Jurnal Borneo Admistrasi*, Vol 11 Nomor 1, April 2015 : 100-120.
- [3] Joesoef & Ramadhani. (2020). Perlindungan Hukum Pegawai Pemerintah dengan Perjanjian Kerja (PPPK) dalam Konsep Perjanjian Kerja Waktu Tertentu di Institusi Perguruan Tinggi. *Jurnal Yuridis*, 7 (1), 1-26. DOI: <http://dx.doi.org/10.35586/jjur.v7i1.1830>
- [4] Peraturan Menteri Pendidikan dan Kebudayaan Nomor 84 tahun 2013 tentang Pengangkatan Dosen tetap Non Pegawai Negeri Sipil Pada Perguruan Tinggi Negeri dan Dosen Tetap Pada Perguruan Tinggi Swasta
- [5] Peraturan Menteri Riset, Teknologi, Dan Pendidikan Tinggi Nomor 38 Tahun 2016 Tentang Dosen dan Tenaga Kependidikan Sebagai Pegawai Pemerintah Dengan Perjanjian Kerja Pada Tiga Puluh Lima Perguruan Tinggi Negeri Baru
- [6] Peraturan Pemerintah Nomor 11 Tahun 2017 tentang Manajemen Pegawai Negeri Sipil
- [7] Peraturan Pemerintah Nomor 17 Tahun 2020 tentang Perubahan Atas Peraturan Pemerintah Nomor 11 Tahun 2017 tentang Manajemen Pegawai Negeri Sipil
- [8] Peraturan Pemerintah nomor 37 tahun 2009 tentang Dosen
- [9] Peraturan Pemerintah Nomor 49 Tahun 2018 tentang Manajemen Pegawai Pemerintah dengan Perjanjian Kerja
- [10] Situs web DPR RI <https://www.dpr.go.id/berita/detail/id/38346/t/Delegasi+Dosen+Non+PNS+Pertanyaan+Stat+us+Kepegawaian> diakses pada Juni 2022.
- [11] Stainback, Susan. (1988). *Understanding & Conducting Qualitative Research*; Kendall/Hunt Publishing Company, Dubuque, Iowa.
- [12] Sugiyono. (2014). *Memahami Penelitian Kualitatif*. Bandung : CV Alfabeta.
- [13] Sumiyati. (2019). Kedudukan Hukum Dosen Tetap Non-PNS pada Perguruan Tinggi Negeri Satuan Kerja Menurut Perundang-Undangan di Indonesia. *Sigma-Mu*, 11 (1), 22-32. DOI: <https://doi.org/10.35313/sigmamu.v11i1.1684>
- [14] Surat Menteri Pendayagunaan Aparatur Negara Nomor 185 pada 31 Mei 2022
- [15] Undang-Undang Ketenagakerjaan Nomor 13 Tahun 2003
- [16] Undang-Undang Nomor 5 Tahun 2014 tentang Aparatur Sipil Negara
- [17] Undang-Undang Nomor 14 Tahun 2005 tentang Guru dan Dosen
- [18] Undang-undang Nomor 34 Tahun 1999 tentang Perubahan atas Undang-undang Nomor 8 Tahun 1974 tentang Pokok-pokok Kepegawaian
- [19] Qomarani, Legina Nadhila. (2020) Anomali Kehadiran Pegawai Pemerintah dengan Perjanjian Kerja (PPPK) dalm Cakrawala Kepegawaian di Indonesia. *Cepalo*. 4 (2). <https://garuda.kemdikbud.go.id/documents/detail/2131633>
- [20] Yusuf, Muri. (2014). *Metode Penelitian; Kuantitatif, kualitatif & Penelitian Gabungan*. Jakarta: Kencana.