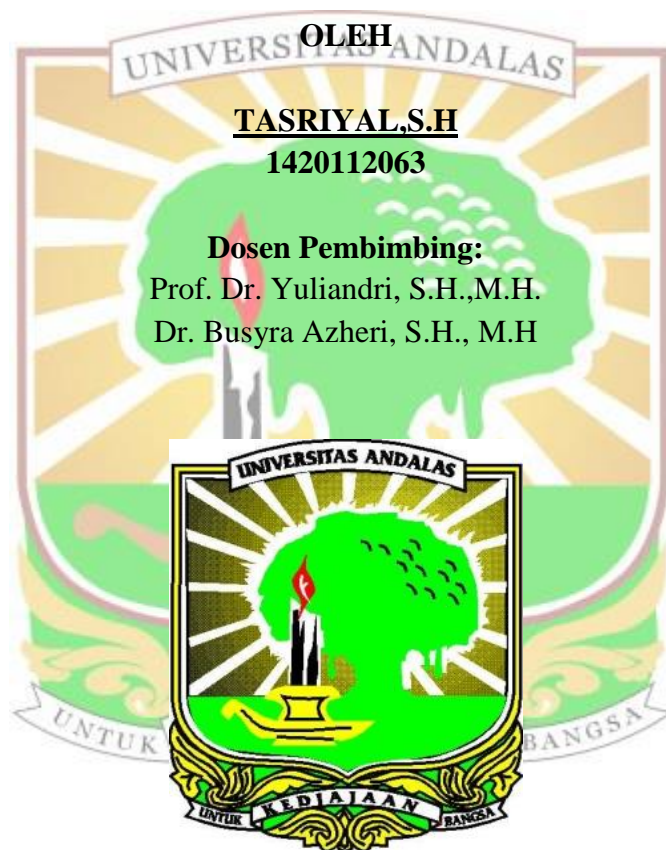


**PENGATURAN YAYASAN SEBAGAI BADAN HUKUM
PENYELENGGARA PENDIDIKAN DALAM MENJAMIN PEMENUHAN
HAK PENDIDIKAN**

TESIS

*Diajukan Untuk Memenuhi Salah Satu Syarat Memperoleh Gelar
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Setting The Foundations As Legal Institution of Education Providers In Ensuring The Fulfillment of The Educational Rights

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ABSTRACT

The existence of the Foundation, is not a body or a new institution in Indonesia. Through its activities, aims and objectives are social, the Foundation has been contributing to the social life of the community, including in education. However, in the process of its development, the existence of the Foundation is currently seen experiencing a shift, both in terms of community practice when managing foundations, as well as the shape of its settings. The Foundation is currently governed by the Act of Foundation, the Act of 2001 and 2004. The existence of the Foundation is already declared as legal entities, and also as a legal entity that can be organizing education. Remember, education is a right of the community, based on the Constitution of 1945, and the Foundation is one of the bodies that can organize and manage those rights. Therefore, in this thesis discusses about how is the setting of Foundation, as a legal entity which organize education in ensuring the fulfillment of the education rights, especially in the primary and secondary formal education. In this discussion, the methods used are; normative research i.e. research focused on legal materials namely legislation and related literature. The study also uses several theories, the theory of the subject law, legislation and legal certainty. After discussion, it was found that, in a setting that sets the Foundation as one of the Agency's education providers is the resolution of the Constitutional Court No. 11-14-21-126-136/PUU-VII/2009. This resolution invalidates the BHP Act which is the delegation of SISDIKNAS Act in terms of conducting education through a legal entity. The resolution of the Foundation as a legal entity that can serve as education providers, and BHP Act stated does not apply binding, it bears the legal consequences that, the Foundation Act 2001 *jo* Foundation Act 2004 formed the basis for the Foundation in managing and/or organized education. Referring to the Foundation Act in 2001 *jo* Foundation Act 2004, when connected to education, the Act does not have the legal constraints and legal obligations that oriented to fulfillment of the education right, Moreover, in Foundation Act, the management of the Foundation also has a gap in terms of gaining wealth or profit through the activities of the Foundation, and specifically to the Foundation Board can also be paid / payable in accordance with the results of the wealth obtained. Seeing the condition of such a law, it can be concluded that such arrangements do not have a legal guarantee to education as the right of people to be fulfilled and respected. The Foundation can be exclude the status of education as a right of the community in the organizers, if want to prioritize the profits for the wealth of the Foundation. And, such behaviour is not an offence according to the Foundation Act.

Keywords: Foundation, legal entity, organization of Education, Education Right.