

The Policy of Legal-Entity State Higher Education Institutions (PTN-BH) Determination Viewed from Material Law

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Abstract

PTN-BH is a state university established by government with the status as an autonomous public legal entity. The existence of PTN-BH in ensuring quality and affordable education is questionable because the application of the non-profit principle in the autonomy of higher education is the basis that students must be protected in the imposition of education costs that the state cannot afford, especially in universities with legal entity status. The purpose of this study is to determine the urgency of PTN-BH determination in terms of material law. This study uses a normative juridical method, the data sources used are secondary data and primary data analyzed qualitatively. The results of the study indicate the emergence of the term Legal Entity State Higher Education Institutions beginning with the enactment of Law Number 9 of 2009 concerning Educational Legal Entities, named PTN-BHMN. In the end, the BHP Law was annulled by the Constitutional Court, with the Constitutional Court Decision Number 11-14-21-126-136/PUU-VII-2009 dated March 10, 2010. The BHP Law was declared contrary to the 1945 Constitution of the Republic of Indonesia that leads to no legally binding power. The enactment of Law Number 12 of 2012 concerning Higher Education becomes the basic foundation for State Universities Ex-BHMN to switch status to PTN-BH. With full autonomy, a state university can independently manage its own household according to the purpose of the campus. It is hoped that universities can develop and innovate more quickly. State universities with the status of Legal Entities actually have wider autonomy which means that PTN-BH can take care of their household more independently. For example, a higher level education institution with the status of a PTN-BH can open a new study program or close it when it is deemed no longer needed. Likewise in financial matters, personnel affairs are also regulated by its higher level education institution.

Keywords: *Higher Level Education Institutions, Legal Entity, Material Law*

I. INTRODUCTION

National Education has a function to develop capabilities and shape the character and civilization of a dignified nation in the context of the intellectual life of the nation. Education is a means to solve problems that develop in society, is responsive and accommodating to the wider community, advances the level of thinking and culture of the community, produces new findings that are useful, and serve the interests of the community, nation, and state. Historically, the development of the quality of education for the Indonesian nation has been championed by the founding fathers since the beginning of independence in 1945. In the preamble to the 1945 Constitution of the Republic of Indonesia (UD NKRI), it has been stated that one of the

objectives of the establishment of the Indonesian state government is to promote general welfare, (and) educate the nation's life¹.

Efforts to achieve these educational goals are carried out by the government through the implementation of various policies, including policies in the field of education. Policy is a compass or guideline to achieve predetermined goals (Riant Nugroho, 2008). Policy as a guide consists of two noble values, which are (1) policy must be intelligent which can simply be understood as a way that is able to solve problems according to the problem; thus, a policy must be drawn up after researching the data and formulated in a scientific way, and (2) the policy must be wise, such as solving problems without creating (new) problems. In addition, public policy must give hope to all parties that the policy will lead to changes for the better.

The mandate of the 1945 Constitution of the Republic of Indonesia concerning education is detailed in Article 31 paragraph (1) which states "Every citizen has the right to education"; article 31 paragraph (3) which states "The government shall endeavor and organize a national education system, which increases faith and piety as well as morals in the context of educating the nation's life, which is regulated by law"; and article 31 paragraph (5) which states "The government advances science and technology by upholding religious values and national unity for the advancement of civilization and the welfare of mankind."

The derivative of the mandate of the constitution can be seen from the establishment of Law Number 20 of 2003 concerning the National Education System (referred as the National Education System Law); Article 10 which states "The government and regional governments have the right to direct, guide, assist, and supervise the implementation of the National Education System in accordance with applicable laws and regulations"; and Article 11 which states "The government and local governments are obliged to provide services and facilities, and ensure quality education for their citizens without discrimination".

In view of the fact that globalization has increased competition in various aspects so tightly, the Indonesian government has made a number of strategic plans in order to balance the competition between countries. In order for Indonesia to be prepared to face the challenges of globalization and be able to take advantage of the opportunities that come, in the Long Term Development Plan (RPJP) of 2005-2025, the Government has planned to increase the human capacity of this nation so that they have a balanced competitiveness with other nations in the world. Specifically in the field of education, the entire government plan is prepared in the Strategic Plan of the Ministry of National Education (Kemendikbud) which contains the strategic targets of the Ministry of National Education and Culture (Kemdiknasbud). By 2025, it is expected that the majority of Indonesians are intelligent, comprehensive, and competitive people (termed human beings). The long-term vision is then detailed to be pursued through the Vision of the Ministry of Education and Culture for the period 2010 to 2014, namely the implementation of excellent national education services to form intelligent and comprehensive Indonesian people. This vision is described in the form of five missions of the Ministry of National Education and Culture called "5 (five) K", which are (1) increasing the availability of education services, (2) increasing the affordability of education services, (3) improving the quality and relevance of educational services; (4) increasing the equality of access to education services; and (5) increasing the certainty/guarantee of obtaining educational services.

Higher education levels are believed to be part of the national education system that has a strategic role in educating the nation's life and advancing science and technology by paying

¹ DS Anggraini, "Existence of State State Collections of Law Boards to the Implementation of Higher Education," *Scientific Journal of Law and Justice* 6, no. 2 (2019): 33–52.

attention to and applying humanities values as well as sustainable civilizing and empowerment of the Indonesian nation. Higher education carried out through six types of universities (including community academies) has a strategic meaning to increase the nation's competitiveness in the face of globalization in all fields; thus, it is necessary to strive so that higher education is able to develop science and technology and produce intellectual individuals, scientists, and/ or professionals who are cultured, creative, tolerant, democratic, have strong character, and dare to defend the truth for the benefit of the nation.

PTN-BH is a state university established by government with the status as an autonomous public legal entity. Universities are given full autonomy to manage their resources as government intervention is getting less. Autonomy in this sense is the overall ability of the institution to achieve its mission based on its own choices. Autonomous universities are required to have certainty about good university governance². Accountability in the form of transparency and checks and balances must be the soul of governance³. It must be guaranteed that there is an orderly organization that is able to account for every penny at the university. Accountable finances its relevance to academic activities. This condition has implications for the necessity of universities to manage their own funding, with the hope that the portion of the dependence of universities on the government budget will be reduced.

Research conducted by Aziz (2021)⁴ researching about Universitas Brawijaya enters the initial stage in preparing the financial management design of UB PTN-BH by compiling 5 programs represented by the PTN-BH Transition Team for Finance in 2021. Furthermore, research conducted by Ajik Sujoko⁵ resulted in research that PTN Legal Entities manage funds sourced from the APBN and other than the APBN. The management of funds sourced from the APBN is subject to the scope of State finances, while the management of funds from other than the APBN is subject to independent regulations from PTN Legal Entities. Meanwhile, this research focuses on the urgency of establishing state universities as legal entities by looking at the economic aspects, resources, existence, and goals of the institution in ensuring quality and affordable education.

Based on the background described above, the authors identify problems related to the urgency of establishing a Legal Entity State Higher Education Institutions (PTN-BH) viewed from material law.

II. LITERATURE REVIEW

A. *Legal Entity*

Legal subjects in legal science are legal entities and individuals (person). In the theory of legal entities, bodies (groups of people) called legal entities are given the status of "persons" who have rights and obligations like humans, in addition to individual humans as bearers of rights.⁶ According to Purnadi Purbacarakan, legal subjects are subjects who have the ability to carry out legal actions, have responsibilities and have rights and obligations, such as rights owned by legal

² E. Rachman, *Governance Accountability of the Boalemo College of Management Science (STIM)* (Doctoral Dissertation, Postgraduate), 2018.

³ S. Irianto, *Higher Education Autonomy: A Necessity* (Indonesian Torch Pustaka Foundation, 2012).

⁴ MF Azis, "Transformation of the University of Brawijaya from a State State Collection to a General Services Body to a Legal Entity: Strategies in the Transition Period in Financial Aspects," *Student Scientific Journal* FEB 9, no. 2 (2021).

⁵ A. Sujoko, "Concepts and Practices of Financial Scope of State Universities Legal Entities," *Administrative Law and Governance Journal* 3, no. 3 (2020): 442-463.

⁶ IG Rai Wijaya, "Company Law," *Megapoint* 20 (nd): 127.

persons (individuals), such as having separate assets, having administrators or managers and can act alone as a party to an agreement.⁷

Legal entities are separate legal subjects that have rights and obligations. According to Utrecht, a legal entity is an entity, which according to law, has the power (authority) to support rights,⁸ while R. Subekti explained that a legal entity is basically an entity or association that can have rights and act like a human being, and has its own wealth, can be sued before a judge⁹. In addition, R. Rochmat Soemitro argues that a legal entity (*rechtspersoon*) is an entity that can have assets, rights, and obligations like individuals.¹⁰

The requirements for a legal entity can be identified by using elements or criteria as a condition for determining the existence of a position as a legal entity, such as the existence of separate assets, having a specific purpose, having its own interests and the existence of an organized organization.

Burgerlijk Wetboek voor Indonesie (BW) divides legal entities into four types, which are¹¹:

- legal entity established by power (state/government),
- a legal entity established by a general authority,
- legal entities that are allowed or permitted, and
- a legal entity established for a specific purpose or purpose.

According to the legal classification, the first and second legal entities above are categorized as public legal entities, while the third and fourth types of legal entities are legal entities with a civil construction.

Based on its nature, legal entities are categorized into 2 objectives, namely the nature of legal entities that aim to seek profit and legal entities that are not for profit (non-profit).¹²

Based on the theory of legal entities, the position of a legal entity as a legal subject refers to the doctrine of *communis opinio doctorum*, which includes institutions or organizations as part of legal subjects that are equated with humans. Legal entities are said to be legal subjects in various theories, namely the fictitious theory¹³, wealth theory, organ theory, propieter selective theory, and juridical reality theory. All of the theoretical views seek to provide scientific justification for the existence of legal entities as legal subjects in legal traffic. Proprieter collective theory¹⁴ or *gezamenlijke vermogens* theory is generally relevant to be applied to corporations or legal entities that have other members. Although the theories about these legal entities differ in understanding the nature of legal entities, all of them agree that legal entities can be involved in legal interactions in society, even though it is limited to the field of property law. In other words, a legal entity is an entity that exists because of the law, and it is necessary to exist so that it is referred to as a legal entity and is said to be an artificial person¹⁵. Legal entities can carry out legal actions as carriers of human rights, such as making agreements, having assets that are

⁷ Subekti, *Covenant Law* (Jakarta: Intermasa, 2002).

⁸ Chidir Ali, *Badall Hukum* (Bandung: Alumni, 1999).

⁹ Subekti, *Law of Covenants*.

¹⁰ R. Soemitro, *Prosecution of PT with the Company Tax Law* (Jakarta: Eresco, 1979).

¹¹ W. Caroline, "The Defect of an Authentic Deed Due to Negligence of a Notary" (Universitas Pelita Harapan, 2019).

¹² R. Subekti, *Principal Principles of Civil Law* (Jakarta: Intermasa, 1979).

¹³ T. Widiyono, "Theoretical Foundation and Philosophy of Group of Companies as Legal Entity" (2020).

¹⁴ A. Ranville, "Mieux Comprendre Les Facteurs de Succès de La Coopérative Avec La Théorie de l'auto-Organisation d'Elinor Ostrom," *RECMA* 347, no. 1 (2018): 92–110.

¹⁵ FRD Miarsa and CA Hazir, "Rechtvacuum on Regulation of the Power of the Foundation" *Muara Journal of Social Sciences, Humanities, and Arts* 5, no. 2 (nd): 377–384.

independent of its members, etc. However, legal entities cannot perform marriages, cannot be given a prison sentence, but legal entities may be dissolved.

B. *Material Law*

Individual legal beliefs or feelings (community members) and legal opinions (legal opinions) can be a source of material law. In addition, material law sources can also be in the form of things that affect the formation of law such as views of life, social and political relations, economic situation, style, civilization (religion and culture) as well as geographical location and international configuration. According to Saut P. Panjaitan, the sources of material law are factors or facts that also determine the content of the law. The content of the law is determined by two factors, namely the ideal factor and the social factor of the community, defined in the following.¹⁶

1. The ideal factor, fixed standards regarding justice that must be obeyed by lawmakers in carrying out their duties.
2. Social factors, aspects that do live in society and are subject to applicable regulations as a guide to life for the community, such as economic structure and community needs, habits in society, applicable laws, legal systems of other countries, religious beliefs and decency, and legal awareness.

Material law is a type of law that regulates the relationship between members of the community which generally applies to things that are prohibited and things that are allowed to be done. Examples are criminal law, civil law, commercial law, etc.

III. RESEARCH METHOD

The method used in this research is normative juridical, research that is focused on examining the application of rules or norms in positive law.¹⁷ Therefore, the problems discussed can be explained satisfactorily with the existing and applicable rules. Sources of data used are secondary data and primary data. The analytical method used in this research is qualitative, which is drawing conclusions from a general problem to the concrete problems faced.¹⁸

IV. DISCUSSION

A. *PTN-BH Determination Policy*

Awareness of the importance of education has made the founding parents aware that the state cannot be separated from education issues. However, changes in the global order currently have reversed the notion that education is the responsibility of the state. Through Law Number 12 of 2012 concerning higher education, the government tries to regulate how education is carried out according to the will of the founding parents and the ideals of the nation as stated in the Preamble to the 1945 Constitution and Article 31 of the 1945 Constitution. However, because it has ratified and approved international agreements through the WTO to comply with the agreement,

¹⁶ Saut P. Panjaitan, "Fundamentals of Legal Studies (Principles, Understanding, and Systematics)," Sriwijaya University, Palembang (1998): 145–146.

¹⁷ Johnny Ibrahim, *Normative Legal Research Theory & Methodology* (Malang: Banyumedia Publisher, 2006).

¹⁸ Peter Mahmud, *Legal Research* (Jakarta: Kencana, 2011).

Indonesia must incorporate the principles of neoliberalism in formulating the Law on higher education.

Education is the state's obligation to organize it which should not burden the people. This is based on the philosophy of the founding of this country as an effort to prosper and educate the nation's life. National education is held based on Pancasila and the 1945 Constitution as the basis of the constitution in Indonesia. Both of them become a guide in making other laws, especially for the implementation of national education. In the 1945 Constitution Article 31 paragraphs 1 to 5 and Article 32 paragraphs 1 to 2 regulates the rights of citizens to obtain education and develop culture. The article also emphasizes the position of the government and citizens. Every citizen has the right to education and the government seeks and organizes a national education system in the context of the intellectual life of the nation, which is further regulated separately in a law; in which in this case is Law no. 20 of 2003 concerning the National Education System (UU Sisdiknas).

The constitution above mandates that the person in charge and management of national education is the government, which in this case is the Minister of National Education. The government determines national policies and national standards. In the national education policy as regulated in Law no. 20 of 2003, distinguishes between the management of basic and secondary education and the management of higher education. Briefly, the arrangements for colleges are as follows.

- a. Management of an Education implemented based on the principles of autonomy, accountability, quality assurance, and transparent evaluation (article 51 paragraph 2)
- b. College decides policies and have autonomy in managing educational units in their institutions (article 50 paragraph 6)
- c. Organizer and/or a formal education unit established by the government or the community in the form of an educational legal entity (article 53 paragraph 1)
- d. Education legal entity as referred to in the principle of non-profit and can manage funds independently to advance the education unit (paragraph 53 paragraph 3)
- e. Higher education can take the form of academies, polytechnics, high schools, institutes, or universities (article 20 paragraph 1)
- f. Higher education can organize academic, professional, and/or vocational programs.

The implementation of educational activities at the tertiary level is subject to autonomy as stated in article 24 is: (1) In the implementation of education and the development of science at universities, academic freedom of academic pulpit as well as scientific autonomy apply. From the article, it can be concluded that universities in providing education and scientific development get academic freedom from the academic pulpit and get autonomy in scientific matters; In paragraph (2), universities have the autonomy to manage their own institutions as centers for higher education, scientific research, and community service. This article confirms that universities can manage their own institutions in terms of organizing higher education activities, including to carry out scientific research activities and community service activities. In paragraph (3), universities can obtain sources of funds from the community whose management is carried out based on the principle of public accountability. This article explains that universities can obtain funds for their institutional activities from the community but still based on the principle of public accountability, where funds obtained from the community can be accounted for to the public as well. In the last paragraph, provisions regarding the implementation of higher education as referred to in paragraph (1), paragraph (2), and paragraph

(3) shall be further regulated by a government regulation. High governance arrangements are regulated in government regulations. However, this freedom must still refer to the National Education System Law.

The emergence of the term legal entity universities began with the enactment of Law Number 9 of 2009 concerning Educational Legal Entities, named PTN-BHMN. In the end, the BHP Law was annulled by the Constitutional Court, with the Constitutional Court Decision Number 11-14-21-126-136/PUU-VII-2009 dated March 10, 2010. The BHP Law was declared contrary to the 1945 Constitution of the Republic of Indonesia, so it had no legally binding power. In the Constitutional Court's Decision which annuls the existence of the BHP Law, there are several points related to the reasons for the cancellation of the BHP Law submitted by the Petitioner for the Judicial Review of the BHP Law, one of which is related to the existence of the BHP which will have an impact on the commercialization of education, this is not in line with the constitutional mandate because it is interpreted as being able to seek funds or financial sources from other parties that can be charged to students so that it is contrary to the non-profit concept of BHMN. It is said to be contradictory because the money or fees charged to students are based on the condition of the Education Agency which can be expected to seek profit from the process.

After the decision of the Constitutional Court (MK) which annulled all articles in Law (UU) No 9/2009 concerning Educational Legal Entities (BHP), the Constitutional Court considered that all contents of the BHP Law are contrary to the 1945 Constitution. The Assembly stated that Law No. 9 of 2009 concerning BHP, State Gazette of the Republic of Indonesia of 2009 No. 10, Supplement to the State Gazette of the Republic of Indonesia No. 4965 had no binding legal force. One of the basis for the Constitutional Court's decision is the provision of uniform education regulated in this law in the form of BHP. The Constitutional Court stated that it did not find a basic reason for the need for uniformity of education organized by the community in the form of BHP. The Constitutional Court's decision does not cancel Article 53 (1) of Law no. 20 of 2003 concerning National Education System. The Constitutional Court only interprets that what is meant by an educational legal entity is a function of education providers and not as a specific form of legal entity. The purpose of the Constitutional Court is that educational legal entities cannot be uniform but in their respective forms. It means that the organization of education must be in the form of a legal entity but not a uniform legal entity in the form of a BHP.

However, because Law Number 9 of 2009 concerning Educational Legal Entities has been annulled by the Constitutional Court, the mandate of Article 53 paragraph 3 is further accommodated in paragraphs 65 and 66 of the Law of the Republic of Indonesia Number 12 of 2012 which states that "Implementation of Higher Education autonomy as referred to in Article 64 can be given selectively based on performance evaluation by the Minister to PTN by applying the Financial Management Pattern of Public Service Agency or by establishing a Legal Entity PTN to produce quality Higher Education" (article 65). While article 66 paragraph 2 states "Statutes of PTN Legal Entities are stipulated by Government Regulation".

There are requirements that must be met by a PTN to become a PTN-BH, regulated in Article 2 paragraph (1) of the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 88 of 2014 concerning Changes in State Universities to State Universities Legal Entities, define in the following.

- (1) The requirements for a PTN to become a legal entity PTN include the level and degree of ability of the PTN to:
 - a. organizing the Tridharma of Higher Education with quality;

- b. manage the PTN organization based on the principles of good governance;
- c. meet the minimum standards of financial feasibility;
- d. carry out social responsibility; and
- e. play a role in economic development.

In addition to these requirements, PTN-BH must have four strong foundations such as a strong legal framework, a block-funding mechanism, quality assurance, buildings must have International Organization for Standardization (ISO) standards, and professional administration. Furthermore, there is also a requirement that a PTN that wants to change its status to become a PTN-BH must enter nine national rankings in international publications and patents, has been accredited by BAN-PT institution with A level achieved, Unqualified Financial Opinion (WTP) for 2 consecutive years, and achievement of student activities at the international level. This situation makes scientists more and more aware of and voice demands for the importance of higher education autonomy.

There are ordinary people who understand the autonomy of higher education erroneously as privatization, commercialization, and the release of the government's obligation to fund universities. The word "Autonomy" is often misunderstood as "privatization or commercialization" of education, and this is where the chaos begins. Autonomy as a terminology in science is confused in the layman's sense so that misunderstandings arise. The word "autonomy" has nothing to do with the funding that universities have to look for on their own as widely as this has been misunderstood with various implications. This kind of presumption is reasonable considering the bad picture of university administration that has been going on so far, higher education systems and policies are not clearly directed, the absence of governance, even the abuse of authority and corruption in the education bureaucracy as a whole, has become an open secret

The bad practice of providing education must be ended, at least based on the Law on Higher Education. The university's autonomy will be carried out with the right principles so that universities can develop themselves to the fullest in fulfilling the Tri Dharma of Higher Education, and align themselves with the demands of modern science. What is meant by higher education autonomy in PTN-BH is explained in Article 64 paragraph (1) of the Higher Education Law, namely the autonomy of higher education management which includes academic and non-academic fields.

The purpose of this legal entity PTN refers to Article 1 point 3 of Government Regulation Number 26 of 2015 concerning Forms and Funding Mechanisms for Legal Entity State Universities (PP 26/2015) amended by Government Regulation Number 8 of 2020 concerning Amendments to Government Regulation Number 26 of 2015 concerning Forms and Funding Mechanisms for PTN-BH (PP 8/2020) explains that PTN-BH (Legal Entity State Higher Education Institutions) is a state university established by the government with the status of an autonomous public legal entity. PTN-BH has governance and authority such as (Article 65 paragraph (3) of Law 12/2012).

- a. Initial wealth in the form of separated state assets except land;
- b. Independent governance and decision making;
- c. Units that carry out the functions of accountability and transparency;
- d. The right to manage funds independently, transparently and accountably;
- e. Authority to appoint and dismiss lecturers and education staff themselves;
- f. Authority to establish business entities and develop endowment funds; and
- g. Authority to open, organize, and close study programs.

Although a PTN-BH is given the autonomy to administer higher education, the essential status of ownership remains fully owned by the State, and the administration of higher education cannot be separated from the responsibility of the State. The state's responsibility can be seen in Article 76, stated in the following.

- I. The Government, Regional Government, and/or Tertiary Education Institutions are obliged to fulfill the rights of students who are economically disadvantaged to be able to complete their studies in accordance with academic regulations.
- II. The fulfillment of student rights as referred to in paragraph (1) is carried out by providing:
 - a. scholarships for outstanding students,
 - b. assistance or waive tuition fees, and/or
 - c. interest-free loans that must be repaid after graduation and/or getting a job.
- III. The higher education institution or education provider receives payments that are borne by the student to finance his studies according to the ability of the student, the student's parents, or the party who finances it.
- IV. Further provisions regarding the fulfillment of student rights as referred to in paragraph (1) to paragraph (3) shall be regulated in a Ministerial Regulation.

On this basis, it can be said that the government still has an obligation to fulfill the right to higher education for people with weak economies. The form of fulfillment is provided in the form of the State Revenue and Expenditure Budget (APBN) and the Regional Revenue and Expenditure Budget (APBD), this provision is regulated in Article 83 paragraphs (1) and (2) of the Law on Higher Education. Then, the high education funds obtained from the APBN and APBD are allocated for certain interests as regulated in Article 89 of the Higher Education Law. Thus, the public's concern that higher education autonomy will cause higher tuition fees and the lack of access for low-income people to pursue higher education is unwarranted.

The meaning of PTN-BH is distinguished by the source of funding for PTN-BH. PTN-BH funding is a provider of financial resources for the implementation and management of Higher Education by PTN-BH; it is written in Article 1 point 4 PP 26/2015. Based on Article 2 of PP 26/2015 that the source of funds for PTN-BH comes from the state revenue and expenditure budget and in addition to the state revenue and expenditure budget. Furthermore, Article 5 explains that the PTN-BH funding assistance used includes operational costs, lecturer fees, education staff costs, investment costs and development costs. Article 4 paragraph (2) of PP 8/2020 states that PTN-BH funding assistance allocated from the state revenue budget is part of 20% of the budget allocation for the education function.

Therefore, it can be seen that autonomy is not a goal, but a procedure to achieve the fulfillment of the human rights of citizens to education. The state remains obliged to fund, regulate, and supervise PTN-BH. Autonomy and academic freedom are priorities in higher education governance in the era of globalization. The increasing public demand for the quality of education causes the need for the application of autonomy to expand the space to develop potential optimally. The change in PTN status from BLU to PTN-BH is one of the efforts to improve quality research and develop service quality, is recognized by the world and guides changes that are able to improve the welfare of the Indonesian and global people.

B. College Autonomy

Higher education autonomy has provided a valuable opportunity for PTN-BH to carry out long lessons learned in carrying out transformations in the academic and non-academic fields. In academic administration, autonomy has provided flexibility for the academic community of PTN-BH to carry out academic freedom and the freedom of the academic pulpit responsibly. Autonomy also provides flexibility in the development of educational curricula that are relevant and responsive to the dynamics of changing strategic environments. The flexibility to open and close study programs in accordance with the needs of the community is a driving factor for universities to be more creative to be able to develop themselves so that they can compete globally. Thus, the establishment of PTN-BH is not without reason, the needs of our developing country are always increasing, while the available sources of funds are still very limited. This has prompted the government to take steps to reform state finances by changing the budgeting system from traditional to performance-based budgeting, so that the use of government funds becomes output-oriented.

Educational autonomy is closely related to the decentralization of education. According to Alisjahbana, decentralization of education is conceptually divided into two types; first, decentralization of authority in the education sector related to funding aspects; and second, decentralization of education with a focus on granting greater authority at the school level to improve the quality of education. Educational autonomy is carried out by referring to four main arguments in making education policies, namely (1) quality improvement, (2) financial efficiency, (3) efficient administration, and (4) expansion of opportunity/equity.

Based on the National Education System Law, education in Indonesia is divided into several levels of education, namely basic education, secondary education, and higher education. Tertiary Education Institutions are domiciled as providers of higher education, pillars of education, and components of the national formal education system. On a macro level, universities face four crucial challenges, namely (1) increasing added value, (2) comprehensive and in-depth study and research, (3) increasingly fierce global competition, and (4) the emergence of new colonialism in the field of science and information technology, and economics, replaced political colonialism. These four things require higher education intellectuals to broaden their knowledge, insight into excellence, professional expertise, and the quality of their managerial skills.

Scientists realized that only with autonomy and decentralization would modern universities be created, and innovations could be carried out more effectively than if they are carried out in government bureaucracies. Thus, it can be concluded that the existence of PTN-BH in the perspective of higher education autonomy in terms of Law Number 12 of 2012 concerning Higher Education currently has its own position, its presence is a necessity and the need for knowledge that can strengthen the position of PTN-BH in implementing its autonomy. The National Education System Law mandates educational autonomy for universities. The dimensions of educational autonomy for universities are based on the National Education System Law, which is (1) academic freedom and scientific autonomy, (2) having autonomy to manage their own institutions, (3) being able to obtain funding sources from the community and being managed based on the principle of public accountability, (4) determining policies and have autonomy in managing education in their institutions, and (5) management of higher education units is carried out based on the principles of autonomy, accountability, quality assurance, and transparent evaluation.

Autonomy is absolutely necessary so that universities can achieve and provide high-quality education. Higher education autonomy does not mean that universities become profit-

oriented commercial organizations that abandon the principle of humanism and can create social inequality. Autonomy must be defined as scientific autonomy and "academic freedom" not autonomy to manage and seek funds. Soedijarto also expressed a similar opinion. According to Soedijarto, the development of science does require independence and autonomy without interference from interests that are outside the interests of discovering scientific truths and developing new technologies, but to provide support for the continuity of the educational and scientific process, financial support is needed.

However, the existence of higher education autonomy raises concerns among students and the general public that higher education will be increasingly expensive in this country because PTN-BH has broad autonomy so that PTN-BH is free to determine the amount of tuition fees under the pretext of financing its operational costs, and can result in the state not responsible for the fulfillment of the right to higher education. This assumption is unreasonable, because in accordance with Article 64 paragraph (1) of the Higher Education Law, that "in the autonomy of education in PTN-BH only covers the academic and non-academic fields," then Article 88 paragraph (1), that "the government which set cost standards for higher education. "The establishment of PTN-BH so that universities in Indonesia can carry out a transformation process in various aspects of the implementation of higher education to achieve quality standards with the principles of higher education autonomy so that with the autonomy of higher education institutions in Indonesia there is flexibility in the development of relevant educational curricula, and responsive to the changing dynamics of the strategic environment. The flexibility to open and close study programs in accordance with the needs of the community is a driving factor for universities to be more creative to be able to develop themselves so that they can compete globally. The autonomy carried out by PTN-BH does not necessarily eliminate the role of the government; the government still has the responsibility to fulfill the right to higher education for people with weak economies and to set cost standards for higher education.

The importance of university autonomy has also been expressed by several people, such as by the President of the University of California who said "the basic reality for the university is the widespread recognition that new knowledge is the most important factor in economic and social growth. We are just perceiving that the university is invisible product knowledge may be the most powerful single element in our culture, affecting the rise and fall of professions and even social classes, regions and even nations." This view is strengthened based on the results of a study by the Economist magazine in 2005 which said "universities are among the most important engines of the knowledge economy. Not only do they produce the brain workers, they also provide much of its backbone from laboratories to libraries to computer networks. To realize educational autonomy, a process is needed. The process towards educational autonomy related to the development of a culture of professionalism are the characteristics of having expertise, responsibility, and corporations. The autonomy principle of higher education is related to 5 (five) main principles, which are (1) regional autonomy parallelism, (2) uniqueness as a core competence, (3) national cohesiveness, (4) market oriented, and (5) managed professionally.

In addition to these five principles, academic freedom and university autonomy refer to the five declaration on academic freedom and autonomy of higher education, declared on October 10, 1988, higher education autonomy includes academic freedom, academic community, and autonomy. The principles and substance contained in the Declaration of Academic Freedom and Autonomy of Higher Education for higher education institutions consist of (1) independence, (2) without discrimination and fear, (3) research rights without intervention, (4) mandatory to fulfill the economic, social, cultural, and political rights of the community and prevent the misuse

of knowledge/knowledge, (5) actively participate in solving the problems of society and the nation and be critical of actual conditions, (6) must strengthen solidarity with other institutions,

With full autonomy, a state university can independently manage its own household according to the purpose of the campus. It is hoped that universities can develop and innovate more quickly. State universities with the status of Legal Entities actually have wider autonomy. Which means that PTN-BH can take care of their household more independently. For example, a PTN with the status of a PTN-BH can open a new Study Program or close it when it is deemed no longer needed. Likewise in financial matters, personnel affairs are also regulated by the PTN itself. Then, other benefits are openness and the ability to present relevant information in a timely manner in accordance with the laws and regulations, and the applicable reporting standards to stakeholders. Changing the status of a PTN to a PTN-BH requires an increasing change in the state university in terms of reputation and quality. Both in terms of institutions and resources as well as graduate because the initial purpose of state universities changing their status to legal entities is to improve quality.

V. CONCLUSION

The emergence of the term legal entity began with the enactment of Law Number 9 of 2009 concerning Educational Legal Entities, named PTN-BHMN. In the end, the BHP Law was annulled by the Constitutional Court, with the Constitutional Court Decision Number II-14-21-126-136/PUU-VII-2009 dated March 10, 2010. BHP Law was declared contrary to the 1945 Constitution of the Republic of Indonesia, so it had no legally binding power. The enactment of Law Number 12 of 2012 concerning Higher Education became the basic foundation for State Universities Ex-BHMN to switch status to legal entities. With full autonomy, a state university can independently manage its own household according to the purpose of the campus. It is hoped that universities can develop and innovate more quickly. State universities with the status of legal entities actually have wider autonomy; which means that PTN-BH can take care of their household more independently. For example, a higher education institution with the status of PTN-BH can open a new study program or close it when it is deemed no longer needed. Likewise in financial matters, personnel affairs are also regulated by its higher education institutions.

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