



ALSA LEGAL REVIEW IV 2024

Public University as an Autonomous Legal Entity: Potential Harm Towards Academic Opportunity



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Legal Review IV 2024**Public University as an Autonomous Legal Entity:****Potential Harm Towards Academic Opportunity****Written by:** Komang Artika Pradnya Paramita, Leah Sharon Anjany Nainggolan,

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ABSTRACT

The transition of selected public universities in Indonesia to autonomous legal entities, known as *Perguruan Tinggi Negeri Berbadan Hukum* (PTN-BH), has sparked significant legal and societal debate. Introduced through Law No. 12 of 2012 on Higher Education, this status provides public universities with significant independence and autonomy, reducing government oversight and financial. As a result, many universities have resorted to increasing tuition fees to sustain their operations. However, this raises critical concerns regarding their contradiction to Article 28C of the 1945 Constitution, which guarantees equal access to education for all citizens, regardless of financial background. ALSA Legal Review IV 2024 critically examines the status quo regarding education accessibility in light of PTN-BH policies compared to society's conditions, exploring the scope of autonomy granted, global perspectives on education privatization, and the potential solutions to address the tensions arising from this policy. Key recommendations discussed in this paper focus on reforming higher education legal frameworks prone to misuse, enhancing government oversight of university financial management, and ensuring that institutional autonomy does not come at the expense of equitable academic opportunities.

Keywords: PTN-BH, autonomy, privatization, state budget, responsibility, accessibility.

ABSTRAK

Perubahan beberapa universitas negeri di Indonesia menjadi Perguruan Tinggi Negeri Berbadan Hukum (PTN-BH) memicu perdebatan hukum dan sosial yang signifikan. Sesuai dengan Undang-Undang No. 12 Tahun 2012 tentang Pendidikan Tinggi, status PTN-BH memberikan independensi dan otonomi lebih besar kepada universitas yang mengurangi pengawasan serta dukungan finansial dari pemerintah. Sayangnya, banyak universitas terpaksa menaikkan biaya pendidikan guna menopang operasional mereka. Kondisi tersebut bertentangan dengan Pasal 28C UUD 1945, yang menjamin hak setiap warga negara untuk memperoleh pendidikan yang setara, tanpa memandang latar belakang ekonomi. Tulisan ini meninjau kondisi aksesibilitas pendidikan dalam konteks kebijakan PTN-BH dengan membandingkannya dengan realitas sosial di masyarakat. Pembahasan dalam tulisan ini mencakup ruang lingkup otonomi yang diberikan, perspektif global mengenai privatisasi pendidikan, serta solusi potensial untuk mengatasi ketegangan yang timbul akibat kebijakan ini. Rekomendasi terhadap kondisi status quo adalah reformasi kerangka hukum pendidikan tinggi yang rentan terhadap penyalahgunaan, peningkatan pengawasan pemerintah terhadap pengelolaan keuangan universitas, serta memastikan bahwa otonomi institusional tidak mengorbankan kesempatan akademik yang setara bagi seluruh lapisan masyarakat.

Kata Kunci: PTN-BH, otonomi, privatisasi, APBN, tanggung jawab, aksesibilitas.

I. Right to Education

Indonesia has undergone a long journey to achieve independence and establish an education system as it exists today. This development was influenced by several factors, one of which was colonialism. The heroes of the past recognized that education was a crucial aspect of national progress, which they pursued through educational movements.¹ Acknowledging the importance of education for Indonesia, the Indonesian founding fathers included it in the preamble of the 1945 Constitution (Indonesian Constitution). That attention is shown specifically in the fourth paragraph, stating, "...to promote the general welfare, to educate the life of the nation....", which implicitly signifies that Indonesia's development is shaped by the education received by its people.² Furthermore, the right to education is explicitly stated in Article 31 of the 1945 Constitution, which guarantees all citizens the right to education, specifically providing for government-funded basic education.³ To achieve this, the government has taken steps to offer educational facilities, showing various efforts such as employing qualified teachers and addressing other essential aspects of education to ensure quality education.⁴ Demonstrating the government's commitment to citizens' educational rights, they have set 20% of the State Revenue and Expenditure Budget (*Anggaran Pendapatan dan Belanja Negara* or APBN) for education as a mandatory spending.⁵ While this action might show a commitment to the equality of education, recent developments have started a controversy on whether the government has only done it to maintain control and appease the public.

National regulations have mainly focused on only primary and secondary education as the mandatory basic education. For example, Article 34 of the National Education System Law mandates the government to provide free primary education as part of compulsory

¹Humaira Dzakiyya Azizah, Bihar Hadil Alam, and Andia Nusyaban, "Sejarah Pendidikan di Indonesia dari Masa Prasejarah Hingga Awal Kemerdekaan," *Gudang Jurnal Multidisplin Ilmu*, Vol. 2, No. 5 (2024), pg. 220 – 221.

²Endah Rantau Itasari, "Indonesia's Role in Fulfilling the Right to Education Elementary and Intermediate in Border Areas," *International Journal of Criminology and Sociology*, Vol. 10 (2021), pg. 984 – 985.

³*The 1945 Constitution of the Republic of Indonesia*, Article 31 Section (1) and (2).

⁴Patilah Rizki Bintang, M. Rafli Firdaus, and Gunawan Santoso, "Perspektif Implementasi Pasal 31 UUD 1945 dalam Sistem Pendidikan Negara Republik Indonesia," *Jupetra: Jurnal Pendidikan Transformatif*, Vol. 01, No. 03 (2022), pg. 196-197.

⁵Kemenkeu Learning Center, "Implikasi Mandatory Spending terhadap Ruang Fiskal," klc2.kemenkeu.go.id, 20 October 2022, available at <https://klc2.kemenkeu.go.id/kms/knowledge/implikasi-mandatroy-spending-terhadap-ruang-fiskal-5a485658/detail/>, accessed on 4 Desember 2025.

schooling.⁶ Government Regulation Number 47 of 2008 stipulates that compulsory education in Indonesia spans only 9 years, 6 years of primary school and 3 years of secondary school. Only two provinces—which happen to be the most progressive ones—have extended the compulsory education to high school, making the total to 12 years.⁷ There is, however, no similar obligation for higher education, such as those administered by universities. Hence these levels of education are typically not provided free of charge and merely encouraged. The other reason for the comparatively lower demand for higher education stems from its accessibility. Middle and upper class students often have the means to afford supplemental lessons and informal courses, opportunities that remain largely inaccessible to lower-income students. This disparity creates a competitive advantage for wealthier students, leading to a higher education system predominantly attended by those from privileged backgrounds. As universities cater to this demographic, tuition fees naturally align with their purchasing power, often reaching levels unaffordable for lower-income families.⁸ This cycle triggers a trickle down effect, further suppressing demand for higher education among disadvantaged groups, perpetuating inequality. This is where people start to grow a sense of disincentivization of higher education, either thinking that is unnecessary, or becoming unmotivated due to the inaccessibility.

Noticing the problem, the government has tried to encourage people in existing higher education through additional budgeting of higher education, specifically university. But due to the limited budget, they have introduced a new concept, Public Universities as Autonomous Legal Entities (*Perguruan Tinggi Negeri Berbadan Hukum* or PTN-BH). While there is an ongoing debate between the benefits and harms it creates, the issue most highlighted is how it affects the growing trend of educational commercialization, especially at the higher education level. Education is increasingly seen not as a collective social good but as a service focused on profit.⁹ This trend challenges the idea that education is a universal right, instead framing it as a commodity accessible mainly to those who can afford it. In

⁶National Education System Law, Article 34 Section (2).

⁷*DKI Jakarta Regional Regulation on Education System*, DKI Jakarta Province RR No. 8 of 2006, Article 16. *Lampung Regional Regulation on Compulsory Education*, Lampung Province RR No. 18 of 2014, Article 5.

⁸Fitria Arina Suhendar, *et. al.*, “The Impact of Poverty in Indonesia on Education,” *Jurnal Ilmu Sosial dan Pendidikan (JISIP)*, Vol. 8, No. 2 (2024), pg. 1119-1120.

⁹Tinta Media, “Pendidikan Tersier: Bukti Nyata Kapitalisasi Pendidikan,” *tintamedia.web.id*, 23 May 2024, available at <https://www.tintamedia.web.id/2024/05/pendidikan-tersier-bukti-nyata.html>, accessed on 5 November 2024.

Indonesia, this shift is particularly problematic as it limits the accessibility of higher education for many citizens, undermining the goal of educational equality. Moreover, the situation is worsened by the societal perception that higher education is a "tertiary", non-essential need.¹⁰ This perception discourages many from pursuing higher education, as it is viewed as a luxury rather than a necessity. As a result, this shift in perspective poses a barrier to educational equity, limiting access to higher education for many in society. Therefore, even though attempts to improve education quality and accessibility have been taken, a few obstacles remain.

II. The Rationale Behind PTN-BH

Before diving further in the explanation, prior establishment of different types of instances needs to be set. In this paper, university, campuses, institutes, and higher education mean the same thing, namely higher education institutions. The difference is the range of scientific fields, where institutions that bear the name university tend to have a more varied range of majors, while institutes tend to be narrower and more specific.¹¹ A clear example that can be seen is the addition of the word "university" to the Bogor Agricultural Institute (Institut Pertanian Bogor or IPB)¹² and the Sepuluh Nopember Institute of Technology (Institut Teknologi Sepuluh Nopember or ITS)¹³.

The designation of PTN-BH enables selected Indonesian universities to govern independently with academic and financial autonomy.¹⁴ This autonomy grants PTN-BH institutions the authority to manage both academic and non-academic aspects without any intervention from external parties in their decision-making processes, including the

¹⁰Yuliani, "Perceptions of Education Role ..." pg. 143-144.

¹¹Leap Scholar, "Difference Between Universities and Colleges 2024," *leapscholar.com*, 16 February 2024, available at <https://leapscholar.com/blog/difference-between-university-and-college/#:~:text=Ans..concentrated%20in%20a%20specific%20field>, accessed on 5 December 2024.

¹²IPB University, "IPB University Rebranding," *IPB University*, available at <https://www.ipb.ac.id/page/ipb-university-rebranding/>, accessed on 5 November 2024.

¹³Eben Haezer, "Nama Kampus ITS Akan Diubah Jadi ITS University, ini Penjelasan Rektor," *TribunMataram.com*, 23 June 2023, available at <https://mataraman.tribunnews.com/2023/06/23/nama-kampus-its-akan-diubah-jadi-its-university-ini-penjelasan-rektor>, accessed on 5 November 2024

¹⁴*Law on Higher Education*, Law No. 12 of 2012, LN. 2012/No. 158 TLN No. 5336, from here on addressed as Higher Education Law, Article 65 Section (1).

government.¹⁵ By having this legal status, universities are empowered to make decisions that align with their unique missions and the needs of their communities.¹⁶

The authority for independent decision-making is reflected in the privileges of PTN-BH to manage human resources. PTN-BH institutions have the flexibility to manage their teaching and non-teaching staff without needing approval from the central government.¹⁷ This includes hiring new faculty members and dismissing employees if necessary. Academically, PTN-BH institutions can introduce, revise, or discontinue academic programs according to their institutional priorities and the demands of the labor market.¹⁸ Unlike other public universities, PTN-BH institutions can respond promptly to emerging trends and the evolving needs of industries without requiring prior approval from the Ministry of Education.

Another key aspect of this autonomy includes the freedom to manage finances independently.¹⁹ To support its operational needs, PTN-BH receives funds from the government through the State Revenue and Expenditure Budget (*Anggaran Pendapatan dan Belanja Negara* or APBN) and/or Regional Revenue and Expenditure Budget (*Anggaran Pendapatan dan Belanja Daerah* or APBD) as a separate state asset.²⁰ However, PTN-BH institutions can build financial reserves through endowment funds, which are donations or investments that generate a steady income over time. In the early days of its implementation, the World Bank provided an injection of funds amounting to US\$ 141.54 million.²¹ This financial independence is further strengthened by their authority to invest funds strategically, allowing them to earn returns that can support educational initiatives, infrastructure, and research without relying entirely on government funding. Additionally, PTN-BH institutions can generate revenue through various business ventures, such as consulting services, training programs, and partnerships with private industries. This autonomy diversifies their income sources, bolstering sustainability.

¹⁵Higher Education Law, Article 3 letter b.

¹⁶Higher Education Law, Article 65 Section (1).

¹⁷Higher Education Law, Article 3 letter e.

¹⁸Higher Education Law, Article 3 letter g

¹⁹Higher Education Law, Article 3 letter f.

²⁰Ryan Surya Pradhana, "Autonomy Of Financial Management At State College With Legal Entity (PTN-BH)," *Jurnal Hukum Peratun*, Vol. 4, No. 2 (2021), pg. 184

²¹Sriwiyata Ismail Zainuddin and A. Mappatunru, "Critical View On Autonomy Higher Education In Indonesia," *Jurnal Penelitian Administrasi Publik*, Vol, 1, No. 1 (2021), pg. 49

Historically, the PTN-BH model began with four public universities in Indonesia, which consist of Universitas Indonesia, Universitas Gadjah Mada, Institut Teknologi Bandung, and Institut Pertanian Bogor, enacted by the government into State-Owned Legal Entities (*Badan Hukum Milik Negara* or BHMN), and replaced with the term Educational Legal Entities (*Badan Hukum Pendidikan* or BHP).²² This status was ruled as unconstitutional by the Constitutional Court and thus was revoked by Constitutional Court Decision 11-14-21-126-136/PUU-VII/2009.²³ The Court found that the BHP status reduced the constitutional obligations and responsibilities of the state as mandated by the 1945 Constitution due to the reduction of the state's role in PTN-BHP management, mainly in form, governance, assets, funding, merger, and dissolution.²⁴ PTN-BH also supported the privatization of education which contradicts the educational paradigm according to the 1945 Constitution.²⁵ However, the status was brought back with Law No. 12 of 2012 on Higher Education (Higher Education Law) under the name of PTN-BH. This law also determines the validity of PTN-BLU (*Perguruan Tinggi Badan Layanan Umum* or PTN-BLU) of which technicalities are written in Government Regulation No. 17 of 2012 on Amendments to Government Regulation No. 23 of 2005 on the Financial Management of Public Service Agencies. Public Service Agency or *Badan Layanan Umum* (BLU), generally, is a government institution which is formed to serve the public based on efficiency and productivity principle without prioritizing profit. PTN-BLU is another model of education autonomy which extends public universities' autonomy without removing the government's authority over its governance.²⁶ One more form of higher education is PTN *Satuan Kerja* (PTN-Satker) which operates directly under a Ministry with its revenue single-handedly

²²Muhammad Azil Maskur, *et al*, "Legal Review on State University with Legal Entity Status in Indonesia (PTN-BH): History, Cause, Effect, and Risks," *International Journal of Business, Economics, and Law*, Vol. 32, No. 1 (2024), pg. 146.

²³Constitutional Court, Ruling No. 11-14-21-126-136/PUU-VII/2009, *Aep Saepudin et. al (Applicant)*, (2009), pg. 401.

²⁴*Ibid*, pg. 102.

²⁵*Ibid*.

²⁶*Government Regulation on the Financial Management of Public Service Agencies*, GR No. 23 of 2005 as amended by GR No. 17 of 2012, LN of 2005 No. 48, Article 1.

deposited into the state's account.²⁷ Its difference with PTN-BH could be elaborated briefly as below:

Feature	PTN-BH	PTN-BLU	PTN-Satker
Legal Framework	Law No. 12 of 2012 on Higher Education	Government Regulation No. 23 of 2005	Ministry Regulations through internal mechanisms
Autonomy	Highest	Moderate	Lowest
Funding	Primarily independent	Mixed (government and independent)	Government
Tuition Fees	Flexible in setting fees	Some flexibility with government oversight	Limited flexibility
Decision-Making	Absolute independence	Some level of independence	Largely determined by the Ministry

The Indonesian government established PTN-BH with the rationale of enhancing the quality and competitiveness of higher education, granting universities greater autonomy to respond to the rapid and time sensitive globalization.²⁸ This aligns with the national agenda set forth in the Long Term Development Plan (RPJP) 2025-2045, which underscores the need for citizens equipped with skills for a globalized world.²⁹ The preceding factors encouraged the transformation of public universities into PTN-BH through government regulations, including those who already had the PTN-BLU status. Through the flexibility of academic autonomy, the concept of PTN-BH allows public universities to freely develop educational curricula that are both relevant and responsive to the evolving demands of thriving human resources. The thesis for this is that bureaucratic oversight in higher education was viewed as overly rigid and stifling, potentially leading to institutional stagnation in terms of innovation and responsiveness. This centralized control often resulted in a lack of adaptability, as bureaucratic processes can be slow and inefficient, making it difficult for universities to

²⁷Inspektorat Jenderal Kementerian Pendidikan, Kebudayaan, Riset, dan Teknologi, “Mengenal Lebih Lanjut Status Perguruan Tinggi Negeri: PTN-BH, PTN-BLU, dan PTN-Satker, *Itjen.kemdikbud.go.id*, September 2023, available at <https://itjen.kemdikbud.go.id/web/mengenal-lebih-lanjut-status-perguruan-tinggi-negeri-ptn-bh-ptn-blu-dan-ptn-satker/>, accessed on 4 January 2025.

²⁸Isra Nurhanifa and Eny Kusdarini, “The Policy of Legal-Entity State Higher Education Institutions (PTN-BH) Determination Viewed from Material Law,” *IDJ*, Vol. No. 3, No. 1 (2022), pg. 78.

²⁹*Law on Long Term Development Plan for 2025-2045*, Law No. 59 of 2024, LN 2024/No. 194, Article 5 Section (1) letter d.

implement new ideas and remain competitive. By reducing bureaucratic constraints, institutions are better positioned to foster creativity, adopt flexible policies, and respond more effectively to the demands of a changing global landscape.

The other following rationale is due to the tight budget allocation towards the Ministry of Education, only amounting to 20% of the APBN.³⁰ Due to higher cost, funding for higher education has historically been more significant in contrast to primary education.³¹ In light of a reassessment, the government has shifted its financial focus, increasing budgets for elementary and secondary education to 56% while decreasing higher education funding to 26%.³² This reduction necessitates higher education institutions to seek alternative revenue sources to maintain their operations, which were previously reliant on government support. Therefore, the government implemented this policy as a means to reduce the burden on the state budget, promoting financial independence and sustainability among public universities.

The ground of the APBN reduction is also due to government initiatives to transform private universities (*Perguruan Tinggi Swasta* or PTS) and co-opt them into public universities (*Perguruan Tinggi Negeri* or PTN) that aims to fulfill the noble constitutional mandate attributed to them.³³ However, this policy overlooks a critical reality where the government lacks the capacity to effectively manage such ambitious dreams. The Indonesian of Private University (*Asosiasi Perguruan Tinggi Swasta Indonesia* or APTISI) rightly criticize this policy as unwise as it leads to potential chaos.³⁴ The reasoning is clear because state budgets are already insufficient to adequately support existing PTN, shown by the emergence of PTN-BH to offset funding shortages. From the practical perspective, education

³⁰Ministry of Education, Culture, Research, and Technology, "Naskah Akademik Rancangan Undang-Undang Badan Hukum Pendidikan," *Ministry of Education, Culture, Research, and Technology*, published in 2022, available at <https://luk.staff.ugm.ac.id/atur/ruu/2208NaskahAkademikRUUSisdiknas.pdf>, accessed on 2 October 2024.

³¹Muhammad Azil Maskur, *et al*, "Legal Review on State University with Legal Entity Status in Indonesia (PTN-BH): History, Cause, Effect, and Risks," *International Journal of Business, Economics, and Law*, Vol. 32, No. 1 (2024), pg. 147.

³²Ministry of Education, Culture, Research, and Technology, "Naskah Akademik Rancangan Undang-Undang Badan Hukum Pendidikan," *Ministry of Education, Culture, Research, and Technology*, published in 2022, available at <https://luk.staff.ugm.ac.id/atur/ruu/2208NaskahAkademikRUUSisdiknas.pdf>, accessed on 2 October 2024.

³³Indra Akuntono, "Mendikbud: Kenapa Kampus Swasta Dinegerikan?" *Kompas.com*. 30 June 2012, available at <https://edukasi.kompas.com/read/2012/06/30/06094687/~Edukasi~News>, accessed on 4 January 2025.

³⁴Kompas, "Ambil Alih PTS jadi PTN, Aptisi Ingatkan Pemerintah," *Kompas.com*, July 2012, Available at <https://nasional.kompas.com/read/2012/07/06/09590747/ambil-alih-pts-jadi-ptn-aptisi-ingatkan-pemerintah>, accessed on 4 January 2025.

operates hierarchically, the higher the level, the fewer the demand. If the government's goal is to expand educational access, the logical starting point prior to the addition of universities would be to increase the number of high schools, ensuring a broader base of students eligible for higher education. Without sufficient highschools, the market for the expanded education shrinks, rendering the policy a misallocation of APBN. Although the government's intentions are commendable, the execution might lack a pragmatic understanding of systemic limitations and priorities.

III. Requirements in Order to Gain PTN-BH Status

To gain PTN-BH status, public universities must fulfil five requirements determined by Minister of Education and Culture Regulation No. 4 of 2020 on the Amendment to Minister of Education and Culture Regulation No. 88 of 2014 on the Transformation of Public Universities into PTN-BH (Permendikbud 4/2020), as follows:³⁵

1. Implementation of *Tridharma* Principles

Institutions must maintain a high standard in activities comprising the three pillars of higher education institutions (more widely known as the *Tridharma* Principles) as defined by the Higher Education Law, being education, research, and community service, fulfilling the following criterias:

- a) Universities are required to have at least 60% (sixty percent) of their programs with distinguished accreditation.
- b) Universities' vision, mission, and goals must align with the Higher Education Standards, which include both the National Standard and the University Standard.
- c) Other criterias, such as international publications and intellectual properties, student academic achievements, participation in government initiatives, as well as collaborations with industry, non-governmental organizations, and community partners.³⁶

2. Good University Governance

University Governance refers to the structure, management, and review processes within higher education institutions at both national and international levels to ensure

³⁵*Education and Culture on the Amendment to the Regulation of the Minister of Education and Culture No. 88 of 2014 Concerning the Change of Public Universities into Public Legal Entity Universities*, from here on addressed as Permendikbud 4/2020, Article 2 Section (1).

³⁶Permendikbud 4/2020, Article 2 Section (2).

that universities operate effectively and follow established standards.³⁷ Good University Governance is implemented according to these five principles:

- a) accountability;
- b) transparency;
- c) effectivity, and efficiency;
- d) non-profitability;
- e) compliance with laws and regulations; and
- f) periodization, accuracy, and punctuality.³⁸

These criteria will make sure that higher university governance is implemented according to autonomy, accountability, quality guarantee, and transparent evaluation, aligning with National Education System Law.³⁹

3. Financial Capability

Institutions must manage and submit accurate financial reports for at least two years without major issues.⁴⁰ Moreover, institutions must show the capability to raise funds from sources other than student fees, such as from research grants and partnerships.⁴¹

4. Social Responsibility

To become a PTN-BH institution, admittance of students from economically disadvantaged backgrounds and rural areas must comprise a minimum of 20% (twenty percent) of the total student body.⁴²

IV. Financial Autonomy of PTN-BH

It has been established that in managing their governance, PTN-BH institutions have a high level of discretion due to their autonomy, including in managing their finances. In light of the low APBN allocations, PTN-BH institutions must seek alternate funding sources to cover operational costs, which may include: (a) community contributions; (b) tuition fees (*Uang Kuliah Tunggal* or UKT); (c) endowment fund payments; (d) income from enterprises;

³⁷Althof Endawansa, and Vishnu Juwono, "Analysis of the Principles of Good University Governance at the University of Indonesia as a State University with Legal Entity (PTN-BH) in 2014-2019", *Jurnal Borneo Administrator*, Vol. 20, No. 1, pg. 61.

³⁸Minister of Education and Culture on the Amendment to the Regulation of the Minister of Education and Culture No. 88 of 2014 Concerning the Change of Public Universities into Public Legal Entity Universities, Permendikbud 4/2020, Article 2 Section (3).

³⁹National Education System Law, Article 51.

⁴⁰National Education System Law, Article 2 Section (4).

⁴¹National Education System Law, Article 2 Section (4).

⁴²National Education System Law, Article 2 Section (4).

(e) *Tridharma* partnerships; (f) asset management; (g) Regional Revenue and Expenditure Budget (APBD) allocations; and (h) loans.⁴³ It has been widely assumed that this autonomy has been the root cause of skyrocketing UKT within PTN-BH.

In principle, PTN-BH's UKT are calibrated according to students' income levels, subject to consultation with the Minister.⁴⁴ UKT represents the financial contributions required from students to support their education journey.⁴⁵ For the assignment of a UKT to commence, an assessment is necessary to compare the student's financial status to their supposed UKT tier. UKT assessment is a critical process in which a university will determine a price of tuition burdened upon a student with a procedure that is up to the university's discretion.⁴⁶ The tiers established in the ministerial regulation are categorized as follows: Category I, with a fee of Rp.500,000.00 (five hundred thousand rupiahs), and Category II, with a fee of Rp.1,000,000.00 (one million rupiahs).⁴⁷ Further tiers aside of the preceding categories do not have any concrete limitations except that they shall not exceed *Biaya Kuliah Tunggal* (BKT). This gives universities an absolute discretion in setting and evaluating UKT tiers, and thus leads to concerns about fairness and transparency in establishing UKT necessary for students to pay.

Under Ministerial Regulation, the basis used to set UKT considers the actual cost of educational operations per student, known as BKT. Generally, UKT shall not surpass the amount of BKT, except when a student fulfill one of the following conditions:⁴⁸

1. Admission through an international program;
2. Admission through collaboration with a partnering institution;
3. Recognition of past studies to continue formal university education; and
4. The student is a foreign national.

Even then, students of the preceding categories shall not get assigned a UKT exceeding twice the amount of BKT.

⁴³*Government Regulation on the Form and Mechanism of Funding for State Legal Entity Universities*. GR No. 26 of 2015 as amended by GR No. 8 of 2020, LN of 2015 No. 110 TLN No. 5699, Article 11.

⁴⁴*Government Regulation on the Amendment to Government Regulation on the Form and Mechanism of Funding for State Legal Entity Universities*, GR No. 9 of 2020 LN of 2020 No. 29, TLN NO.6462, Article 9.

⁴⁵*Minister of Education, Culture, Research, and Technology on Standard Unit Costs for Higher Education Operational Expenses at Public Universities under the Ministry of Education, Culture, Research, and Technology*, from here on addressed as *Permendikbudristek 2/2024*, Article 1 Point 5.

⁴⁶*Permendikbudristek 2/2024*, Article 1 Point 5.

⁴⁷*Permendikbudristek 2/2024*, Article 6.

⁴⁸*Permendikbudristek 2/2024*, Article 7.

Despite the limitations, PTN-BH institutions retained the autonomy to set UKT independently, without the requirement of approval from the Ministry.⁴⁹ Thus far, there is no limit of how much institutions could raise the price of UKT as long as the maximum amount does not exceed the BKT.⁵⁰ As UKT continues to skyrocket throughout the years, the existence of PTN-BH's financial autonomy brings a question of how exactly the management of PTN-BH's finances could be done with good faith.

V. Educational Accessibility and the Commercialization of PTN-BH

PTN-BH model is intended to improve higher education by giving universities freedom to fund their activity. They could have various sources of funding, as explained above, but one funding source that unfortunately leads to problems is funding that is taken from UKT. Unfortunately, the implementation of this mechanism has led to a shift towards the commercialization of education. In this commercialized approach, education becomes a commodity that can be bought and sold.⁵¹ Ideally, like essential goods in a balanced market economy, education should be accessible and affordably priced to meet societal needs. However, education has increasingly strayed from this model. Instead, as demand for quality education rises, it is increasingly treated as a scarce commodity, causing UKT and program costs to surge. This shift has turned education from a publicly accessible resource into a private domain oriented towards profit, raising an important question: is it fair to allow educational rights to be restricted by profit motives that undermine equitable access?⁵²

With hundreds of higher education institutions to cater millions of Indonesians, only a small fraction end up with educational degrees.⁵³ The government's decision to develop PTN-BH institutions can be seen as a misstep in fulfilling its constitutional obligations in ensuring accessible education. In practice, the financial independence granted to PTN-BH institutions often shifts the financial burden on students and their families, turning students

⁴⁹Permendikbudristek 2/2024, Article 8.

⁵⁰Adam, and Muryanto Lanontji, "Kebijakan Otonomi perguruan Tinggi sebagai Dampak Reformasi Keuangan dalam Bidang pendidikan di Indonesia." *JET: Journal of Education and Teacher*, Vol. 2, No. 1 (2021), pg. 62.

⁵¹Khanan Saputra, "Dampak Kebijakan Perguruan Tinggi Negeri Badan Hukum (PTN BH) yang Mengakibatkan Munculnya Komersialisasi Pendidikan," *Journal on Education*, Vol. 5, No. 4 (2023), pg. 11945.

⁵²*Ibid.*

⁵³Ihsan Fadhil and Amra Sabic EL Rayess, "Providing Equity of Access to Higher Education in indonesia: A Policy Evaluation," *IJOLAE: Indonesia Journal on Learning and Advanced Education*, Vol. 3, No. 1 (2021), pg. 58-61.

into “investors” in the business of higher education.⁵⁴ This makes students from economically disadvantaged backgrounds a real vulnerable actor, where they may feel excluded from opportunities, which runs counter to the constitutional mandate of educating the nation.⁵⁵ This approach has led to concerns that PTN-BH institutions will operate with a profit-oriented mindset, potentially compromising their mission of societal welfare.

Instead of fostering true independence, the financial autonomy granted to the PTN-BH institutions creates new issues within society.⁵⁶ For example, a prominent public university partnered with a private company to offer online loans for tuition.⁵⁷ Given the significance of tuition payment mechanisms, as they determine the continuity of a student’s education, such arrangements have raised serious concerns about the impact on students who struggle to meet these financial demands. Recently, this same university has attempted to obligate students to work part-time for the campus in order to compensate for the decrease in UKT.⁵⁸ Although the decision was ultimately cancelled, this was not the only time PTN-BH failed to open education access for each economy class. Another prominent public university faced backlash due a lack of transparency in its UKT assessment process. This opacity fosters skepticism among students, as improvements to facilities and infrastructure remain unclear. Moreover, PTN-BH institutions are mandated by the government to ensure affordable UKT.⁵⁹

⁵⁴*Ibid.*, pg. 11946.

⁵⁵In the preamble of the Constitution of the Republic of Indonesia, one of the fundamental objectives of the establishment of the Indonesian government is to educate the nation. Accordingly, education should be regarded as a right that can be broadly accessed by all members of Indonesian society as part of the nation. This principle is explicitly stated in the Constitution, “...untuk memajukan kesejahteraan umum, mencerdaskan kehidupan bangsa dan ikut melaksanakan ketertiban dunia yang berdasarkan kemerdekaan..” which translated freely as “...to promote the general welfare, to educate the life of the nation, and to participate in establishing a world order based on freedom,..”. See: *The 1945 Constitution of the Republic of Indonesia*, preamble.

⁵⁶Muhamad Ma’rup, “DPR Desak Pemerintah Evaluasi Status Otonomi PTN-BH Jemaah,” *koran-jakarta.com*, 8 May 2024, available at <https://koran-jakarta.com/dpr-desak-pemerintah-evaluasi-status-otonomi-ptn-bh-jemaah?page=all>, accessed on 4 November 2024.

⁵⁷Raja Eben Lumbanrau, and Quin Pasaribu, “ITB Tawarkan Bayar Kuliah Pakai Pinjol - Kenapa Dikritik dan Apa Akibatnya?” *bbc.com*, 27 January 2024, available at <https://www.bbc.com/indonesia/articles/cqedln6qr0mo>, accessed on 4 November 2024.

⁵⁸Yuli Saputra, “Polemik kerja paruh waktu ITB bagi penerima beasiswa keringanan UKT – ‘Kami masih waswas, kami akan mengawal kebijakan ini sampai tuntas,’ *bbc.com*, 29 September 2024, available at <https://www.bbc.com/indonesia/articles/c5y52ekpd37o>, accessed on 4 November 2024.

⁵⁹Titin F. Nur, Arie Widodo, and Rianti Mutiara, “State University with Legal Entity the Impact to the Rights and Obligations of the Tax Transaction: Case of the University of Indonesia” in The 2nd International Conference on Vocational Higher Education (ICVHE) 2017 “The Importance on Advancing Vocational Education to Meet Contemporary Labor Demands,” *KnE Social Sciences*, Vol. 2018, pg. 1396.

By failing to uphold these responsibilities, the university has directly violated its obligations, highlighting the urgency to create an accessible education.

Unfortunately, this issue is not isolated, many other PTN-BH institutions face similar tuition-related challenges.⁶⁰ A common practice in PTN-BH institutions is classifying students into different UKT categories. Often, this process lacks transparency, leaving students unaware of the factors that influence their tuition classification.⁶¹

Additionally, PTN-BH UKT frequently increases with each new intake of students. In response, a counter-mechanism known as an appeal process allows students to contest their assigned UKT in hopes of securing a reduction. However, the process is typically ineffective, resulting in minimal adjustments and even rejection. In extreme cases, students who are unable to pay may be forced to discontinue their studies, sacrificing their chance at higher education. A 2006 study by the International Labour Organization (ILO) on child labour and educational opportunities found that 67% of students in Indonesia who do not continue or complete their basic education are hindered by the lack of school fees.⁶² Through this statistics, we can analyze that financial inability is the primary factor behind the high dropout rates. With the rising barriers to entry and the limited educational options available, there is a concern that this will drive dropout rates even higher.

Even more significant concern is that the primary institutions under scrutiny for the commercialization of education are two of Indonesia's most prestigious and celebrated universities.⁶³ These universities, which are traditionally seen as pillars of national pride and symbols of academic excellence, now face criticism for prioritizing revenue generation, often at the cost of access and affordability for students from less privileged backgrounds. These two renowned campuses have historically been viewed as standard-bearers for Indonesia's

⁶⁰DetikEdu, "Nestapa Mahasiswa RI, dari Pinjol hingga UKT Mahal," *detik.com*, 23 May 2024, available at <https://www.detik.com/edu/perguruan-tinggi/d-7354382/nestapa-mahasiswa-ri-dari-pinjol-hingga-ukt-mahal>, accessed on 4 November 2024.

⁶¹Ichsan Emrals Alamsyah, "Pengamat: Mahalnya UKT Jelas Akibat Kebijakan PTN-BH Alias Komersialisasi Kampus," *news.republika.co.id*, 3 July 2024, available at <https://news.republika.co.id/berita/rx83kc349/pengamat-mahalnya-ukt-jelas-akibat-kebijakan-ptnbh-alias-komersialisasi-kampus>, accessed on 5 November 2024.

⁶²Aprilia T. Rania, "A Study About Drop Out Phenomena Among Young Generation In Poso Regency," (Hasanuddin University Faculty of Sociology Master's Thesis, Jakarta, 2011), pg. 40.

⁶³QS World Ranking University Rankings, "QS World University Rankings 2024," *universityrankings.ch*, 2024, available at <https://www.universityrankings.ch/results?ranking=QS®ion=Wo&q=Indonesia>, accessed on 5 December 2024.

educational values and intellectual growth. Yet, their involvement in commercial practices highlights a complex tension between financial autonomy and the mission of serving a diverse student population.

University responses to these issues vary. While PTN-BH institutions claim to strive for affordable education, the trend towards commercialization persists and even worsens over time.⁶⁴ This outcome suggests that the administrative execution of PTN-BH autonomy lacks a robust framework, resulting in unintended consequences. For instance, when a university implements an online loan system for tuition, it may do so based on legal provisions, being Article 76, Section 2, Letter C of the Higher Education Law, which allows for student loans to ensure their right to education.⁶⁵ In theory, the law requires these loans to be interest-free and to be repaid after graduation, ensuring that students can pursue education despite financial difficulties. In turn, the government aims to ease the financial burden on students who opt for loans. However, administrative complexities and misinterpretations have often led to partnerships with private lenders who impose interest, which can further burden students financially.⁶⁶

If we draw the analysis back to the autonomy granted to PTN-BH institutions, there is a condition in the practical field where this autonomy is prone to be misused due to lack of checks and balances. These circumstances highlight a significant problem: the combination of limited government involvement in overseeing equitable tuition practices and an ineffective appeals mechanism, which fails to address student concerns adequately.⁶⁷ A policy's effectiveness, particularly in the context of PTN-BH, should be evaluated not merely based on procedural legality or lawful execution, but on the outcomes it generates. True success lies in achieving tangible benefits, especially regarding educational accessibility and quality. As such, a clean and efficient administrative system is crucial to resolving the pressing issues

⁶⁴Muhamad Ma'rup, "DPR Desak Pemerintah Evaluasi Status Otonomi PTN-BH Jemaah," *Koran-jakarta.com*, 8 May 2024, available at <https://koran-jakarta.com/dpr-desak-pemerintah-evaluasi-status-otonomi-ptn-bh-jemaah?page=al>, accessed on 4 November 2024.

⁶⁵Higher Education Law, Article 76 Section (2) letter c.

⁶⁶Consumer Financial Protection Bureau, "CFPB Report Finds College Tuition Payment Plans Can Put Student Borrowers at Risk," *consumerfinance.gov*, 14 September 2023, available at <https://www.consumerfinance.gov/about-us/newsroom/cfpb-report-finds-college-tuition-payment-plans-can-put-student-borrowers-at-risk/>, accessed on 5 Desember 2024.

⁶⁷Viriya Singgih, "Pemerintah dan PTN Disebut 'Saling Lempar Tanggung Jawab' Soal Kenaikan UKT - 'Tahun ini Ada Uang, Tahun Depan Belum Tahu'," *bbc.com*, 11 May 2024, available at <https://www.bbc.com/indonesia/articles/cd1w870ez0yo>, accessed on 5 November 2024.

surrounding PTN-BH. For PTN-BH institutions to achieve true independence while remaining committed to the public good, they must prioritize transparency in their operations and ensure fair implementation of policies.⁶⁸ Therefore, establishing a more robust public administrative environment is imperative to stop the ongoing domino effect.

VI. Comparison with Other Nations

One leading reason for the massive privatization trend that happened globally might be due to the neoliberalism doctrine injected by the international trade market regime.⁶⁹ The prevailing idea is that individuals and businesses can thrive only by competing effectively with others and profiting as much as possible.⁷⁰ With WTO—the most influential trade organization—serving as an agent to spread this doctrine amongst the global market, this puts quite an impact of “force” towards Indonesia and a lot of countries who want to be part of the organization.⁷¹ As a result, some countries’ higher education policies have shifted toward autonomy and increased private sector involvement, aligning with neoliberal frameworks that emphasize reduced government intervention and increased market-based dynamics in public sectors.

Learning from past phenomenons, privatization of education brings an extensive harm than good. Experiences from other countries such as the United States picture the major impact of it. One of the most concerning issues relates to the implementation of student loans as an alternative to the fulfilment of the students’ operational funds, burdening students with additional interests that need to be paid. Student loans are encouraged by the United States’ federal policy through the Federal Credit Reform Act, factoring significantly to its implementation throughout 1990 – 2010 with direct government lending.⁷² In 1980, when the government saw that banks were hesitant to provide huge numbers of student loans, the Student Loan Marketing Association (Sallie Mae) was established to provide loans to support education accessibility.⁷³ While Sallie Mae was intended to be a genuine financial assistance,

⁶⁸Chafid Diyanto, *et. al.*, “Kebijakan Otonomi Perguruan Tinggi Indonesia: Antara Privatisasi dan Komersialisasi,” *Ijtima'iyya: Jurnal Pengembangan Masyarakat Islam*, Vol. 14, No. 1 (2021), pg. 3.

⁶⁹Isra Nurhanifa and Eny Kusdarini, “The Policy of Legal-Entity State Higher Education Institutions (PTN-BH) Determination Viewed from Material Law,” *IDJ*, Vol No. 3, No. 1 (2022), pg. 82

⁷⁰Arfin Sudirman, “The World Trade Organization (WTO) Rules And Regulation: A Threat Or Promise To Indonesia’s Agricultural Policy?” *Intermestic Journal of International Studies*, Vol. 2 No. 1 (2017), pg. 8.

⁷¹*Ibid.*, pg. 10.

⁷²Elizabeth Popp Berman and Abby Stivers, “Student Loans As a Pressure on U.S. Higher Education,” *Research in the Sociology of Organization*, Vol. 46, pg. 133.

⁷³*Ibid.*, pg. 136.

its intensive extension caused it to be a financial market for money. Most for-profit universities struggle to justify their costs, largely because they cater to students who have been unable to gain admission to other institutions, often positioning themselves as a last resort in the education system.⁷⁴

A balance of public and private systems in the higher education sector could be seen on post-communist European countries such as Poland. Poland has implemented a de-privatization of higher education with the decreasing role of private sector and private funding since 2006.⁷⁵ This improves the access to higher education due to the reduction of student fees as the institution's income and thus reducing the financial barriers for low-income families. Public sources have been the primary funding of higher education in Poland which covers 80% of the higher education and early education necessities.⁷⁶ However, in discussing Poland's greater subsidization of higher education, two things we must consider are the tax to Gross Domestic Products (**GDP**) ratio and the state revenue necessary to implement a de-privatization. Indonesia, despite its robust economic growth and a GDP of \$1,381.1 billion—significantly higher than Poland's \$811.23 billion—faces challenges.⁷⁷ Its GDP growth rate and GDP per capita are comparatively lower, limiting its fiscal capacity. While integrating public sector support into higher education aligns with Indonesia's constitutional commitment to ensuring citizens' educational rights, the country's economic constraints make such an initiative difficult to realize in practice.

Education is a sector that shall be divided from commercial needs. Neoliberal policies might have been promoted by WTO and have a huge influence over Indonesia's education systems. This leads to a greater autonomy to higher education which is hoped to give a sustainable education. However, experiences from countries such as the United States demonstrates the negative consequences of such privatization. Even if it works in some

⁷⁴Felix von Wendorff, "The Rise of Private Universities in the US," *QS Top Universities*, 14 August 2024, available at <https://www.topuniversities.com/blog/rise-private-universities-us>, accessed on 25 November 2024.

⁷⁵Marek Kwiek, "De-privatization in higher education: a conceptual approach," *High Educ* Vol. 74 (2017), pg. 269.

⁷⁶European Commission, "Funding in Education," *eurydice.eacea.ec*, 17 October 2024, available at <https://eurydice.eacea.ec.europa.eu/national-education-systems/poland/funding-education>, accessed on 9 December 2024.

⁷⁷Trading Economics, "Poland GDP," December 2023, available at <https://tradingeconomics.com/poland/gdp>, accessed on 9 December 2024; Trading Economics, "Indonesian GDP per Capita," December 2023, available at <https://tradingeconomics.com/indonesia/gdp-per-capita>, accessed on 9 December 2024

universities in the United States,⁷⁸ the applicability of privatization revolves around the fact that societies' purchasing power in the United States is significantly higher in comparison to Indonesia.⁷⁹ Privatization of education institutions may work in wealthier countries with a high purchasing power, however, its implementation in developing nations such as Indonesia causes challenges in ensuring equal access to education. On the other hand, putting the burden of educational costs on the Indonesian government requires a significant amount of additional state-budget. With the current government revenue, the concept of “re-publicizing” education is under twists and turns with the insufficient amount of APBN allocation, supported by the dependence of student fees as the primary source of educational funds.

VII. Conclusion and Recommendation

In light of the concerns raised, the government must implement effective measures to ensure equitable access to education. Several improvements are needed to address the challenges in the implementation of PTN-BH. First and foremost, the recommendation is to reevaluate or reassess the foundational objectives behind the establishment and implementation of PTN-BH. Further research and reassessment is apriori to make PTN-BH much more applicable to the context of Indonesia. Education, as a fundamental right and governmental duty, should not be profit-driven, nor should university autonomy hinder the fulfillment of the *Tridharma* due to financial pressures. Instead, this autonomy should empower these institutions to advance their educational mission, enabling them to fully realize the essence of *Tridharma* while supporting the government's responsibility to provide accessible education for all citizens.

After reassessing PTN-BH foundational objectives, there are systematic changes that are supposed to be done by the government in terms of legal substances and legal structure. The lack of enforcement on both fronts creates a domino effect, hindering the effective regulation of PTN-BH in Indonesia. A key pressing issue in legal substance is the absence of clear parameters that limit PTN-BH autonomy in determining UKT. This has led to significant increases in tuition costs over the years, placing a heavier financial burden on students. Therefore, comprehensive regulations are needed to categorize and evaluate UKT.

⁷⁸Adam Kissel, “Putting Public Colleges on a Path to Privatization,” *The Heritage Foundation*, 16 July 2024, available at <https://www.heritage.org/education/commentary/putting-public-colleges-path-privatization>, accessed on 25 November 2024.

⁷⁹International Monetary Fund, “GDP, Current Prices,” *imf.org*, 2024, available at <https://www.imf.org/external/datamapper/NGDPD@WEQ/IDN>, accessed on 25 November 2024.

Furthermore, the establishment of these policies should include continuous monitoring, periodic evaluations of tuition caps, and necessary intervention to ensure they strike an effective balance between institutional financial sustainability and student affordability.

Additionally, from the perspective of legal structure, there remains a lack of oversight from Indonesia's education authorities, particularly the government. The excessive autonomy granted to PTN-BH institutions has led to insufficient supervision from the government. As a state owned legal entity, effective oversight is still necessary and can be achieved through various measures, such as actively engaging in a consultative role when PTN-BH institutions deliberate on UKT structures. This approach would help maintain UKT ranges that are more manageable and inclusive for the broader population.

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