



## Formulating Institutional Harmonization of UNNES Legal Entity Organs in The Frame of Check and Balances System

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### Abstract

As a dynamic organization, Universitas Negeri Semarang (UNNES) continues to improve itself towards better public services, namely as a State University Legal Entity. State University Legal Entities have a very positive impact, especially the autonomy of academic and non-academic administration and management. After drafting the statutes and forming the organs of the UNNES, the institutions that need to be prepared are institutional arrangements so that the harmony of the organs of UNNES is maintained as a State University Legal Entity. In order to be organized and harmonious relations occur, in line between the organs of the UNNES as a state university legal entity, a check and balances system needs to be implemented. The application of checks and balances system between organs of State Universities Legal entities, UNNES needs to be covered in a regulation so that there will be no mutual claims and shows of strength. Based on this background, this research is based on the formulation of the problem, what is the format of the check and balances system of relations between organs of State University Legal Entities, UNNES in order to achieve the vision and mission as formulated in the statutes? And what is the appropriate formulation/draft so that there can be harmonization of relations between the organs of UNNES, State Universities Legal Entities? Based on the formulation of the problem, it is intended to produce a harmonious relationship format between organs of State Universities Legal Entities, UNNES, as well as produce appropriate regulations in maintaining harmonization of relations between organs of UNNES as a State Universities Legal Entity. Based on the research objectives, the suitable research method used is qualitative research with a policy approach. The research object is using deep interview and document analysis methods.



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## A. Introduction

UNNES has firmly implemented its status as a legal entity state university. This means UNNES is preparing to become an independent institution. The independent institution referred to here is the ability of UNNES to increase the degree of authority to organize and manage the tridharma of higher education as a foothold for accelerating innovation in the era of disruption. In a more concrete form, UNNES wants to achieve the label of a Legal Entity<sup>1</sup> State University (PTN-Legal Entity)<sup>2</sup>.

PTN-Legal Entity has the authority to independently manage institutions not only in academic autonomy<sup>3</sup> but also in non-academic autonomy, including financial management autonomy.<sup>4</sup>

Currently, UNNES organizes the Financial Management of the Public Service Agency (BLU). The governance is based on the Decree of the Minister of Finance Number: 362/KMK.05/2008 dated December 17, 2008 on the Determination of State University of Semarang at the Ministry of National Education as a Government Agency that implements Public Service Agency Financial Management (PK-BLU). The implementation of Public Service Agency Financial Management (PK-BLU) was effectively implemented in fiscal year 2009. As formulated in the Regulation of the Minister of Education and Culture of the Republic of Indonesia Number 88 of 2014 concerning the Conversion of State Universities into Legal Entity State Universities, universities with BLU Satker can apply for an increase in degree to become Legal Entity State Uni-

versities. To achieve this degree, the mandatory documents that must be prepared are (1) PTN Self Evaluation; (2) PTN Legal Entity Long-Term Development Plan; (3) PTN Legal Entity Statute Draft; and (4) PTN Legal Entity Transition Plan. Thus one of the mandatory documents that must be prepared is the birth of the UNNES statute as a Legal Entity. The Statute of a Legal Entity will not be operational without the birth of the Organization and Work Procedures (OTK). Thus OTK becomes an instrument that must also be made to accompany the statute that has been prepared earlier. In order to obtain the right and steady OTK preparation results, it needs to be preceded by the preparation of appropriate regulations so that the relationship between UNNES organs can run in balance with a synergy pattern of checks and balances.

## B. Method

Based on the formulation of the existing problems, this research uses sociological/empirical/non-doctrinal research methods, although it still does not leave the normative realm. This is because perfect legal research always synergizes various disciplines.<sup>5</sup> Empirical legal research / non-doctrinal research is a social reality in contrast to Doctrinal Legal Research (DLR) which is only based on agreed doctrines or concepts (Wignjosebroto, 2010).<sup>6</sup> Empirical methodology offers a new perspective in legal matters. Through empirical studies, legal scholars have the opportunity to know how law works in its social context, and it is also expected that empirical studies will answer legal problems more than doctrinal studies (Davis, 2020).<sup>7</sup>

In relation to the subject matter of this research, empirical/non-doctrinal research is used to obtain/draw academic papers and drafts of the UNNES Organization as a Legal Entity PTN in accordance with the reality

1 Mcmenemy, Lauren. (2022) <https://www.diligent.com/insights/subsidiary-management/meaning-legal-entity/>

2 Masyhar, A., Maskur, M. A., & Widodo, M. (2018). Document Study of UNNES Legality as Legal Entity State University. *Journal of Indonesian Legal Studies*, 3(2), 305-326. <https://doi.org/10.15294/jils.v3i02.27605>

3 Prasajo, E., & Jannah, L. M. (2020). Governance of Autonomous Higher Education Institution toward World-Class University: A Case Study at the Universitas Indonesia. *Journal of Critical Reviews*.

4 Ahmad Darlis, M. Ariandi Lubis, Mazidatul Farha, Rizka Rahmi Putri Laoli, Sri Indah Lestari, "Perguruan Tinggi Berbadan Hukum (PTN-BH)," *Humantech: Jurnal Ilmiah Multidisiplin Indonesia* 2, no. 3 (Januari, 2023): 585, <https://doi.org/10.32670/ht.v2i3.2921>.

5 Barda Nawawi Arief, "Penelitian Hukum Normatif (Suatu Upaya Reorientasi Pemahaman)" (Makalah disajikan pada Penataran Metodologi Penelitian Hukum, Universitas Jenderal Soedirman, Purwokerto, 11 - 15 September 1995), 6.

6 Manotar Tampubolon, Abdul Hamid, Mia Amalia, Herniati, Mahrída, Fahmi Assulthoni, Geofani Milthre, Zuhdi Arman, *Sosiologi Hukum* (Koto Tangah: PT. Global Eksekutif Teknologi, 2023), 1.

7 *Ibid*, 11.

and needs of UNNES' vision as a University of World Reputation and a Pioneer of Educational Excellence with a Conservation Mindset. This research uses two ways of collecting data, namely literature/document studies, and interviews.

Interviews as a qualitative research method have exploratory purposes. So it is necessary to consider the right questions to help achieve the research objectives.<sup>8</sup> While The data that has been collected is still in the form of text. Furthermore, the text is understood with hermeneutics.

Legal hermeneutics is a philosophical teaching about understanding something<sup>9</sup>, or a method of interpretation of texts where methods and techniques of interpreting them are carried out holistically in the frame of the relationship between text, context, and contextualization.<sup>10</sup> Included in this is the interpretation of the meaning of existing laws, PP, Rector Regulations, Rector Decrees and circular letters related to support for UNNES as a Legal Entity. Given that the research to be conducted falls into the category/type of qualitative research, the conclusion drawing will be done in an inductive way. Inductive inference relies on synthetic thinking, which is a way of thinking that starts from specific knowledge or individual facts that are assembled to draw general conclusions.<sup>11</sup> From the study of existing documents and interviews, conclusions will be drawn and formulated in the rector's regulation of the UNNES Organization as a Legal Entity PTN.

## B. Result and Discussion UNNES Legal Entity Organ

Currently, UNNES organizes the Finan-

8 Creswell, J., W., *Research Design: qualitative, quantitative, and mixed methods approaches* – 4th ed. (California: SAGE Publications, Inc).

9 Masyhar, A., Murtadho, A., & Sabri, A. Z. S. A. (2023). The Driving Factors for Recidivism of Former Terrorism Convicts in Socio-Legal Perspective. *Journal of Indonesian Legal Studies*, 8(1), 379-404. <https://doi.org/10.15294/jils.v8i1.69445>

10 Habibul Umam Taqiuddin, "Hermeneutika Hukum Sebagai Teori Penemuan Hukum Baru," *Jurnal Ilmiah Mandala Education (JIME)* 2, no. 2 (Oktober 2016): 326, <http://dx.doi.org/10.58258/jime.v2i2.347>.

11 Fajar ND, Mukti dan Yulianto Ahmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, (Yogyakarta: Pustaka Pelajar, 2010), 113.

cial Management of Public Service Agency (BLU). The governance is based on the Decree of the Minister of Finance Number: 362/KMK.05/2008 dated December 17, 2008 on the Determination of Universitas Negeri Semarang at the Ministry of National Education as a Government Agency that implements Public Service Agency Financial Management (PK-BLU). The implementation of Public Service Agency Financial Management (PK-BLU) was effectively implemented in fiscal year 2009.

In 2022, UNNES is preparing to become a legal entity university. The draft statute of PTN Legal Entity UNNES has now been finalized and is waiting to be promulgated. While waiting for the enactment, which in this case is in the form of government regulations, it is necessary to prepare the ideal UNNES Legal Entity PTN organ. Definitively, in the future the UNNES organization will be divided into two major domains, namely:

### UNNES Organ; Executive Organ under the Rector

UNNES organs in the future will only consist of 3 main elements, namely the Board of Trustees (MWA), Academic Senate (SA) and Rector.

The Board of Trustees is an organ of UNNES that compiles, formulates, and establishes policies, gives consideration to the implementation of general policies, and carries out supervision in the non-academic field. While the Academic Senate (SA) is an organ of UNNES that carries out the function of determining policies, providing consideration, and supervision in the academic field. The executive is the Rector who is defined as the leader of UNNES who organizes and manages UNNES.

The arrangement and format of UNNES organs on the one hand seems to follow the concept of *tria politica* as offered by Montesquieu. The *Trias Politica* theory, in principle, divides the political power of the state into three State Institutions. In order to realize the three types of State Institutions that are independent of each other and are in the same position (horizontally) from each other. Equality and independence of these

three types of State Institutions are needed so that the three state institutions can or are willing and able to supervise and control each other based on the principle of a system of checks and balances in practice.<sup>12</sup>

Although in general, people generally interpret trias politica as a political concept of separation of powers, but in fact trias politica does not actually mean separation of power, but is more appropriate if it is interpreted as “distribution of power”<sup>13 14</sup>.

The concept of trias politica departs from the idea that a legitimate and democratic state/government divides its power into two or three or more institutions. This is intended to avoid the absolutism of power. The meaning of absolutism of power certainly agrees with Lord Acton’s thesis that “Power tends to corrupt, absolute power corrupts absolutely”.<sup>15</sup> Here, in order to avoid absolutism of power, the UNNES PTN Legal Entity Organ divides into 3 organs, namely MWA, SA and Rector. Although not exactly like the division of legislative, judicial and executive powers as known in the trias politica, the basic idea of the division of power is still taken. This is to maintain balance (Check and Balances) so as not to accumulate in one element.

Besides being colored by the concept of trias politica, the UNNES Legal Entity PTN Organ also accommodates elements in the management of private institutions. In private institutions that are generally directed to business entities, it generally consists of the General Meeting of Shareholders (GMS), the Board of Directors and the Board of Commis-

sioners. GMS is the main institution that determines including appointing and dismissing directors. The Board of Directors is the executing executive in a company. Meanwhile, the Board of Commissioners is the assembly that provides direction and supervision over the running of the board of directors.

### Formulation Harmonization between UNNES Organs Legal Entity

As a follow-up to the statute, the organization and working procedure must be based on the provisions outlined by the statute. Therefore, the “organization and working procedure” that will be drafted must not depart from the limitations outlined in the statute, namely: General Provisions; Identity; Implementation of the Tridharma of Higher Education; Management system and accountability framework; Internal quality assurance system; Forms and procedures for stipulating regulations; Funding and wealth; Transitional provisions; and Closing provisions.

However, as a legal entity university, it has autonomy and freedom in formulating its organization and working procedure. UNNES’s organization and working procedure as a Legal Entity University is formulated in 18 chapters, 136 articles, with details of the main arrangements starting with General Provisions, and continuing with Position, Duties, and Functions. The next chapter regulates the Organizational Structure under the Rector, which is separated between the Leadership and Academic Executives. In this academic executive, the arrangements for Faculties, Postgraduate Schools and Institutions are outlined. The next chapter regulates Academic and Non-Academic Support, Quality Assurance Implementing Elements, Development and Strategic Task Implementers, Administrative Executives, Internal Supervisory Elements, Business and Business Managers and ends by opening the faucets of Other Necessary Elements. As a continuation of the regulation, it also regulates Functional Position Groups, Work Procedures and Echelozation.

The UNNES organization and working procedure, as in the formulation of regulations in general, also contains 3 final provi-

12 Odang Suparman, “Konsep Lembaga Negara Indonesia dalam Perspektif Teori Trias Politica Berdasarkan Prinsip Checks and Balances System,” *AHKAM: Jurnal Hukum Islam dan Humaniora* 2, no. 1 (Maret, 2023): 59-75, <https://doi.org/10.58578/ahkam.v2i1>.

13 Bratakusumah, Deddy Supriady, *Actualization of Checks and Balances between Executive, Legislative and Judicial in Indonesia*, *Jurnal Perencanaan Pembangunan: The Indonesian Journal of Development Planning*, Vol. 2 No. 3 (2018): December 2018 <https://doi.org/10.36574/jpp.v2i3.47>

14 Powell, R. (1996). Stability and the Distribution of Power. *World Politics*, 48(2), 239–267. <http://www.jstor.org/stable/25053962>

15 Aqil Irfham, “Demokrasi Tanpa Korupsi, Mungkinkah?,” *Jurnal TAPs* 14, no. 1 (Januari-Juni, 2017): 99, <https://doi.org/10.24042/tps.v13i1.1936>.

sions, namely Other Provisions, Transitional Provisions and Closing Provisions.

To obtain an implementing organization that is able to translate the vision and mission of UNNES, the elements under the Rector are arranged to include the following elements:

Vice Rector, Academic Executive, including: Faculty, Graduate School; and Institute for Research and Community Service; Academic and Non-Academic Support, including: Education and Professional Development Institute; Business Management Agency; and Technical Implementation Unit.

Quality Assurance Executive; Strategic Task Developer and Implementer in the form of Directorate; Administrative Implementers, including: Bureau; Section; and Subdivision.

Internal Supervisory Unit in the form of Internal Supervisory Unit; Other elements required in the form of Offices.

In carrying out his duties, the Rector is assisted by 4 Vice Rectors, namely: The Vice Rector for Academic and Student Affairs has the task of assisting the Rector in leading the implementation of promotion and admissions, education and learning, education quality assurance, accreditation of study programs and institutions, fostering academicians, student affairs and careers;

The Vice Rector for General Affairs, Human Resources, and Finance has the task of assisting the Rector in leading the implementation of governance in the fields of general affairs, human resources, and finance;

The Vice Chancellor for Innovation, Cooperation and International Relations has the task of assisting the Chancellor in leading the implementation of activities in the fields of Innovation, Cooperation and International Relations; and

The Vice Rector for Planning, Business and Information Technology has the task of assisting the Rector in leading the implementation of activities in the fields of Planning, Business and Information Technology.

#### D. Conclusion

Organ UNNES PTN Legal Entity in two major domains, namely: UNNES Organ; Organ under the Rector UNNES organs in the

future only consist of 3 main elements, namely the Board of Trustees (MWA), Academic Senate (SA) and Rector. The organs of UNNES PTN Legal Entity combine the trias politica in government institutions and the organization of business entities<sup>16</sup>.

Formulation of organization and working procedure UNNES as a Legal Entity PTN is formulated in 18 chapters, 136 articles. It regulates organs and implementing elements under the rector including: Vice Rector, Academic Executive, Academic and Non Academic Support, Quality Assurance Executive, Developer and Strategic Task Executor in the form of Directorate, Administrative Executive, Internal Supervisory Unit in the form of Internal Supervisory Unit and other elements needed in the form of Office.

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