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## **Challenges And Strategies in the Legal Drafting Process at State Universities with Legal Entity Status (PTN-BH) for High-Quality Regulation**

Ferisa Nurfalaha\*, Dewi Kania Sugiharti<sup>b</sup>, Amelia Cahyadini<sup>c</sup>

### **ABSTRACT**

State Universities with Legal Entity Status (PTN-BH) are state universities granted legal-entity status under Government Regulation Number 26 of 2015 concerning the Form and Funding Mechanism of PTN-BH. As institutions that play a vital role in advancing knowledge, fostering the nation's intellectual development, and responding to national development challenges, several state universities have been designated as PTN-BH to enhance autonomy and governance. Legal drafting is a crucial foundation in producing high-quality regulations. Within PTN-BH, legal drafting not only concerns the technical formulation of legal norms but also requires an understanding of the hierarchy of laws and regulations, legal principles, and societal needs. This study aims to analyze the fundamental concepts of legal drafting, along with the challenges and strategies involved in the regulatory formation process within PTN-BH institutions. The research employs a normative juridical approach complemented by a qualitative approach. The normative juridical method is used to examine legal products formulated by universities, while the qualitative approach explores the implementation, challenges, and strategies faced by legal drafters, as well as the enforcement of legal products within PTN-BH. The findings indicate that despite its integral role in the legislative system, legal drafting still encounters numerous obstacles, including limited human resource capacity, insufficient technical expertise in drafting, time constraints in regulatory formulation, and a lack of understanding regarding the importance of academic manuscripts. The study recommends regular training, deeper mastery of legislative drafting techniques (Law No. 12 of 2011), and strengthening the role of academic manuscripts to improve the overall quality of legal products.

**Keywords:** academic manuscript; laws and regulations; legal drafting challenges.

### **INTRODUCTION**

State Universities with Legal Entity Status (PTN-BH) are public universities granted legal entity status through Government Regulation Number 26 of 2015 concerning the Form and Funding Mechanism of PTN-BH. Public universities play a crucial role in enhancing national intellectual capacity, advancing

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<sup>a</sup> Master of Laws, Faculty of Law, Universitas Padjadjaran, Bandung, Indonesia. \*Correspondence email: [ferisa@unpad.ac.id](mailto:ferisa@unpad.ac.id).

<sup>b</sup> Faculty of Law, Universitas Padjadjaran, Bandung, Indonesia.

<sup>c</sup> Faculty of Law, Universitas Padjadjaran, Bandung, Indonesia.

scientific knowledge, and addressing the challenges of national development. In response to the growing demand for greater autonomy and improved governance, several public universities have been designated by the government as PTN-BH. This status provides increased flexibility in managing academic activities, financial resources, human resources, and collaborations, while still operating within the framework of national laws<sup>1</sup>.

The transition from a conventional State University (PTN) to a State University with Legal Entity Status (PTN-BH) necessitates the establishment of comprehensive internal legal instruments. These instruments, including the university statute, rectoral regulations, rectoral decrees, senate regulations, senate decrees, and other derivative policies, serve as essential guidelines for university governance. They must align with national laws while simultaneously addressing the operational needs of the institution. Effective legal instruments are not only required to be formally valid but also consistent with higher-level legislation and responsive to the practical demands of campus operations. There is an urgent need for the formulation of such regulatory frameworks based on three primary considerations: first, humanitarian aspects, which encompass implications for human dignity and emotional well-being; second, the establishment of legal certainty, whereby regulations provide a framework of legitimacy that enables the public to adjust their behavior based on predictability; and finally, the provision of protection and fulfillment of public interests<sup>2</sup>.

Legal drafting constitutes a critical element in the process of developing high-quality and effective regulations. This process involves the systematic formulation of legal texts, taking into account fundamental legal principles, the hierarchy of statutory regulations, and societal needs<sup>3</sup>. Law Number 12 of 2011, as amended by Law Number 15 of 2019 and Law Number 13 of 2022, provides detailed provisions on the procedures for establishing statutory regulations, including the application of standardized drafting techniques to ensure regulatory quality<sup>4</sup>. However, empirical evidence indicates that many regulations are formulated without adhering to these standards, resulting in poor implementability and susceptibility to future legal complications. Consequently, a

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<sup>1</sup> Peraturan Pemerintah Nomor 26 Tahun 2015 tentang Bentuk dan Mekanisme Pendanaan PTN Badan Hukum

<sup>2</sup> Susi Dwi Harijanti, "Permasalahan Dasar Reformasi Regulasi," *Jentera*, September 7, 2023, 3–6.

<sup>3</sup> Maria Farida S. Indrati, *Ilmu Perundang-Undangan: Dasar-Dasar dan Pembentukannya* (Yogyakarta: Kanisius, 1998), 10–15.

<sup>4</sup> Undang-Undang Nomor 12 Tahun 2011 tentang Pembentukan Peraturan Perundang-Undangan, sebagaimana diubah dengan Undang-Undang Nomor 15 Tahun 2019 dan Undang-Undang Nomor 13 Tahun 2022, Pasal 5–6.

comprehensive approach to legal drafting is essential, encompassing conceptual refinement, human resource capacity building, and institutional strengthening<sup>5</sup>.

The optimization of legal drafting has become increasingly urgent to ensure that enacted regulations effectively address societal needs while remaining consistent with established legal principles. A comprehensive understanding of the stages and principles of legal drafting provides a more systematic direction for regulatory formulation, thereby enhancing the quality of regulations in terms of both structure and substance. There is a critical need for improved proficiency in the systematic construction of legal documents among both regulatory drafters and academics. This competency supports efforts to prevent normative conflicts and strengthens legal integration across various sectors of society. This study makes a significant contribution to the understanding of legal drafting as an essential instrument for realizing regulations that are responsive, inclusive, and oriented toward public welfare<sup>6</sup>.

## RESEARCH METHODS

This study employs a normative juridical approach supported by a qualitative method. The normative juridical approach is utilized to analyze the legal instruments formulated by higher education institutions. Meanwhile, the qualitative approach is applied to examine the implementation, challenges, and strategies encountered by legal drafters in enforcing these legal instruments within State Universities with Legal Entity Status (PTN-BH). Furthermore, this research adopts a descriptive design, aiming to describe current phenomena or actual issues as they occur. The primary objective of this study is to evaluate the conformity of both the process and the resulting legal products with the technical provisions for statutory regulation drafting, particularly within the context of legal drafting<sup>7</sup>.

The analysis was conducted using a descriptive-analytical approach, which involved identifying the fundamental principles of legal drafting and the implementation challenges associated with the formulation of legal instruments<sup>8</sup>, as well as strategies for human resource capacity building and institutional strengthening. The theoretical framework employed in this study comprises: (1) Statutory Regulations, specifically Law Number 13 of 2022 concerning the Second Amendment to Law Number 12 of 2011; (2) Legislation Theory, which examines the stages of planning, drafting,

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<sup>5</sup> Akhmad Zaki Yamani, "Tata Cara, Teknis, dan Tahapan Pembuatan Perundang-Undangan," *Journal of Law and Nation* 3, no. 2 (2024): 55–60

<sup>6</sup> Maria Mousmouti, *Designing Effective Legislation* (Cheltenham: Edward Elgar Publishing, 2019), 25–30.

<sup>7</sup> Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana Prenada Media, 2005), 35–40.

<sup>8</sup> Renofadli Rizkisyah and Irwan Triadi, "Politik Hukum dan Legislasi Daerah: Tantangan dan Strategi Meningkatkan Kualitas Peraturan di Indonesia," *Jurnal Contemporary Law Studies* 2, no. 1 (2024): 12–18.

deliberation, enactment, and promulgation; and (3) Good Governance Theory, which emphasizes the principles of transparency, accountability, effectiveness, and participation as critical metrics in the formulation of internal higher education regulations<sup>9</sup>.

## DISCUSSION

### Key Actors in the Statutory Regulation-Making Process

Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia mandates that "Indonesia is a State based on Law" (Rechtsstaat). As a constitutional state grounded in Pancasila and the 1945 Constitution, all aspects of social, national, and state life must consistently adhere to the rule of law. Statutory regulations constitute in abstracto laws or general norms that are universally binding and serve to regulate matters of a general nature. As a State based on Law, Indonesia is inherently engaged in the formation of statutory regulations, which constitute the prevailing positive law<sup>10</sup>.

The actors involved in the statutory regulation-making process extend beyond merely the government or legislative bodies; they also include the individuals or institutions targeted by or established under such regulations, as well as specific social environments acting as stakeholders. Logically, the substantive content formulated into legal provisions within a regulation possesses binding legal force that must be adhered to by all individuals, community groups, and targeted institutions. In the context of State Universities with Legal Entity Status (PTN-BH), the role of the legal drafter is crucial. The drafter functions to formulate clear and systematic provisions in accordance with the principles of statutory regulation formation; maintain regulatory harmonization between internal PTN-BH rules and national legal provisions; ensure legal certainty for the entire academic community; and translate both academic and non-academic policies into implementable legal instruments.

### Dimensions and Fundamental Principles of Statutory Regulation Formation

In the process of forming statutory regulations, three critical dimensions must be considered. First, the historical dimension, which relates to the nation's struggle and legal heritage. Second, the contemporary dimension, which addresses current objective conditions and the strategic environment. Third, the prospective dimension, which focuses on future aspirations and goals. These three dimensions serve as essential guidelines for drafters and policymakers in formulating and structuring regulatory

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<sup>9</sup> UU Pembentukan Peraturan Perundang-Undangan

<sup>10</sup> Jimly Asshiddiqie, *Konstitusi dan Konstitusionalisme Indonesia*, Edisi Revisi (Jakarta: Sinar Grafika, 2010), 57-62.

drafts. Furthermore, the drafting process must account for legal heterogeneity, encompassing customary law (adat law), Islamic law, other religious laws, and prevailing social norms that are actively practiced within society

There are three fundamental principles that must be observed in the formation of statutory regulations: (1) commitment and fidelity to the values of Pancasila and the constitutional provisions of the 1945 Constitution of the Republic of Indonesia; (2) the realization of a democratic, just, prosperous, and peaceful Indonesian state based on the rule of law; and (3) the development of new legal norms and institutions aimed at providing legal certainty, protecting society, fostering peace and order, and promoting public welfare. Impact analysis, specifically the mapping of a regulatory draft's effects on addressing urgent issues (intended consequences) and its potential side effects (unintended consequences), constitutes an essential component that must be included in every regulatory impact assessment document<sup>11</sup>.

### **The Concept and Overview of Legal Drafting in Indonesia**

Legal drafting constitutes the activity of designing legal norms, which are formalized in the form of statutory regulations and other legal instruments. According to Maria Farida Indrati, legal drafting is the systematic and clear formulation of statutory regulation drafts that adhere to the fundamental principles of regulatory formation. Legal drafters are required to possess analytical and juridical competencies, proficiency in legal language techniques, and a comprehensive understanding of policy substance<sup>12</sup>. Literally, legal drafting can be loosely interpreted as the formulation or design of statutory regulations. From a legal perspective, however, legal drafting is a practical legal activity that results in the creation of binding rules. Examples include the government enacting statutory regulations, judges issuing court decisions that are binding on the public, and private entities establishing private provisions, such as agreements or contracts.

The fundamental principles of legal drafting encompass: (1) Readability and Accessibility, ensuring that legal language is comprehensible to all segments of society; (2) Terminological Consistency, requiring the uniform use of legal terms throughout the entire regulation; (3) Systematic and Logical Structure, mandating that the regulatory framework be designed to facilitate the clear tracking of normative flows; and (4) Hierarchical Conformity, ensuring that every regulation adheres to the hierarchy of higher-level statutory laws. Consequently, legal drafting is not merely a technical skill

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<sup>11</sup> Susi Dwi Harijanti. *Op.Cit.*, p. 8–12.

<sup>12</sup> Maria Farida S. Indrati. *Op.Cit.*, p. 20–27.

but also a distinct discipline within legal science that must be mastered by regulatory drafters<sup>13</sup>.

The statutory regulation-making process consists of five main stages, as mandated by Law Number 12 of 2011 and its amendments<sup>14</sup>: (1) Planning, conducted through the National Legislation Program (Prolegnas); (2) Drafting, which involves the preparation of an Academic Paper (\*Naskah Akademik\*) serving as the philosophical, sociological, and juridical foundation for the proposed regulation; (3) Deliberation, involving two levels of discussion between the House of Representatives (DPR) and the President; (4) Enactment; and (5) Promulgation in the State Gazette of the Republic of Indonesia (Lembaran Negara). The promulgation stage is critical to ensure public awareness of the regulation and to establish its binding legal force. Hidayat and Yasin argue that the quality of the Academic Paper significantly determines the overall quality of the resulting draft statutory regulation.

### **The Autonomy of PTN-BH within the Constitutional Framework and Legal Theory**

The autonomy of State Universities with Legal Entity Status (PTN-BH) does not stem merely from the discretionary will of the legislature; rather, it is deeply rooted in the Constitution. Article 31 paragraph (3) of the 1945 Constitution of the Republic of Indonesia mandates the state to establish and manage a national education system<sup>15</sup>. Law Number 12 of 2012 concerning Higher Education subsequently operationalizes this constitutional mandate by constructing PTN-BH as an entity endowed with autonomy in the management of academic affairs, finances, assets, and human resources<sup>16</sup>. This autonomy constitutes a constitutional recognition of the inherent nature of higher education institutions as the locus of academic freedom. Bagir Manan distinguishes between territorial decentralization and functional decentralization<sup>17</sup>. Within this framework, PTN-BH can be understood as a form of functional decentralization in the higher education sector, wherein the state delegates a portion of its regulatory authority to functional institutions possessing specialized expertise and competence in their respective fields.

According to Hans Kelsen's theory of the hierarchy of norms (Stufentheorie), every legal norm derives its validity from a higher-level norm<sup>18</sup>. Internal regulations of PTN-

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<sup>13</sup> Ega Ananda, "Teknik Pembuatan Perundang-Undangan: Prinsip, Metode, dan Implementasi dalam Sistem Hukum," *Jurnal Ilmiah Nusantara* 2, no. 2 (2025): 30-36.

<sup>14</sup> Akhmad Zaki Yamani, "Tata Cara, Teknis, dan Tahapan Pembuatan Perundang-Undangan," *Journal of Law and Nation* 3, no. 2 (2024): 55-60.

<sup>15</sup> Undang-Undang Dasar Negara Republik Indonesia Tahun 1945, Pasal 31 ayat (3).

<sup>16</sup> Undang-Undang Nomor 12 Tahun 2012 tentang Pendidikan Tinggi, Pasal 65-70.

<sup>17</sup> Bagir Manan, *Menyongsong Fajar Otonomi Daerah* (Yogyakarta: PSH FH UII, 2001), 22-28.

<sup>18</sup> Hans Kelsen, *Pure Theory of Law* (Berkeley: University of California Press, 1967), 221-226.

BH, including Rectoral Regulations, can be conceptualized as private norms within Kelsen's terminology: norms emerging from institutional autonomy that remain valid within the broader hierarchy of norms, provided they do not conflict with higher-level norms. PTN-BH emerges as a unique legal entity within the Indonesian administrative law order, situated at the intersection of two distinct legal traditions. On one hand, it functions as a state organ subject to public law principles; on the other, it is endowed with substantial autonomy to manage its own affairs<sup>19</sup>.

In his seminal work *The Morality of Law*, Lon L. Fuller articulates eight internal requirements of the morality of law that must be satisfied for a normative system to be considered valid "law": generality, promulgation, non-retroactivity, clarity, consistency, possibility of compliance, stability, and congruence between official action and declared rule<sup>20</sup>. Fuller's framework provides more substantive and operational criteria. A well-designed Urgency Paper (*Naskah Urgensi*) can, in fact, satisfy Fuller's standards of the morality of law more effectively than an Academic Paper (*Naskah Akademik*) that is produced merely as a procedural formality. Furthermore, Robert Alexy's principles theory posits that every norm must be applied proportionally according to its specific context<sup>21</sup>. The mandatory requirement for an Academic Paper, which is designed for statutes and regional regulations, becomes disproportionate if applied mechanically to Rectoral Regulations, given their significantly more limited regulatory scope.

### Challenges Faced by Legal Drafters in PTN-BH

One of the most significant challenges in implementing legal drafting within state universities is the scarcity of human resources possessing specialized technical expertise in regulatory formulation. Although many university staff members have educational backgrounds in law, few possess professional mastery of legal drafting techniques. The pool of skilled regulatory drafters remains limited, particularly at the university level. A lack of comprehensive understanding of legal drafting techniques and principles among certain policy makers constitutes a major obstacle. Furthermore, the use of unclear or ambiguous legal language creates potential for misinterpretation and subsequent legal disputes<sup>22</sup>.

In addition to human resource constraints, the time allocated for drafting regulations is often severely limited, while the workload remains substantial. This

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<sup>19</sup> Mirza Satria Buana, *Perbandingan Hukum Tata Negara* (Jakarta: Sinar Grafika, 2023), 110–115.

<sup>20</sup> Lon L. Fuller, *The Morality of Law* (New Haven: Yale University Press, 1969), 33–94.

<sup>21</sup> Robert Alexy, *A Theory of Constitutional Rights* (Oxford: Oxford University Press, 2002), 47–66.

<sup>22</sup> Nadya Laili Rizqiyah, "Tantangan Penerapan Undang-Undang Ibu Kota Negara," *Jurnal Demokrasi dan Ketahanan Nasional* 2, no. 2 (2023): 8–13.

directly impacts the quality and substantive accuracy of the legal documents produced. Other challenges include: (1) regulatory complexity, characterized by the multitude of reference regulations ranging from Laws and Government Regulations to Ministerial Decrees, often resulting in overlapping rules; (2) the dual character of PTN-BH as both an academic institution and a public legal entity, which requires legal drafters to balance academic interests with administrative demands; (3) the need to manage conflicts of interest while maintaining neutrality; and (4) the rapidly changing dynamics of higher education policy, which frequently necessitates swift revisions of internal legal instruments to align with new regulations.

The essential competencies required of legal drafters in PTN-BH include: a profound understanding of legislative drafting techniques as mandated by Law Number 12 of 2011; multidisciplinary knowledge encompassing state administrative law, education law, financial law, and contract law; analytical and problem-solving skills to accommodate academic, managerial, and legal interests; effective communication with diverse stakeholders; and integrity and independence to ensure that legal instruments remain free from bias toward specific group interests. Furthermore, comprehensive training programs for regulatory drafters at the university level need to be implemented, with a focus on legal drafting techniques, principles of good regulation, and comparative law.

### **The Role of Academic Papers and Urgency Papers in the Legal Drafting Process of PTN-BH**

The Academic Paper (Naskah Akademik) serves as a foundational document providing scientific basis and justification for the formulation of statutory regulations. It typically encompasses the background, problem statement, objectives, scope, and regulatory impact analysis of the proposed regulation. Pursuant to Law Number 12 of 2011, an Academic Paper is defined as a document resulting from legal research or study on a specific issue, offering scientifically accountable insights regarding its regulation. This document is considered crucial because it establishes the philosophical, sociological, and juridical foundations necessary for robust regulatory development<sup>23</sup>.

Unfortunately, in practice, many Rectoral Regulations, Academic Senate Regulations, and even statutes are formulated without being preceded by an adequate Academic Paper. Consequently, the resulting regulations tend to lack analytical depth and fail to respond effectively to societal needs. The Academic Paper, which should serve as the foundation for sound legislation, is often weak or treated merely as a

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<sup>23</sup> Deus Levolt Sihombing et al., "Peran Naskah Akademik dalam Pembentukan Peraturan Perundang-Undangan," *Locus: Jurnal Konsep Ilmu Hukum* 3, no. 1 (2023): 25–31.

procedural formality, thereby undermining the scientific approach to lawmaking. Inadequate Academic Papers are generally attributed to superficial research, insufficient drafter expertise, political influence, or inappropriate methodology.

A practical issue arises regarding whether the formulation of a Rectoral Regulation mandates the attachment of an Academic Paper. The process of forming Rectoral Regulations often bypasses the preparation of an Academic Paper, proceeding directly to the drafting stage or utilizing an alternative document known as a Policy Brief. A Policy Brief is a concise written study containing the background, objectives, analysis, and key substantive elements of the policy, as regulated by Rectoral Regulation Number 2 of 2023 concerning Guidelines for the Formation of Rectoral Regulations at Padjadjaran University<sup>24</sup>.

The Academic Paper is not employed as the initial stage because its preparation entails a lengthy and time-consuming process. Consequently, to expedite the regulatory formation process, an Urgency Paper (Naskah Urgensi) is drafted first to serve as the preliminary basis for consideration. In principle, the Urgency Paper serves a similar function to the Academic Paper but is more streamlined, depending on the type of regulation. For implementing regulations derived from delegation, legal considerations alone suffice as the sole justification. Conversely, for regulations based on inherent authority, comprehensive considerations—philosophical, sociological, and juridical—are required, justified through either an Academic Paper or an Urgency Paper. The legitimacy of the Urgency Paper as a supporting document for the formation of Rectoral Regulations in PTN-BH can be established upon four pillars: constitutional autonomy, functional decentralization, normative proportionality, and substantive legal morality.

### **Analysis of Normative Conflicts: The Legal Drafter's Stance on Contradictions between PTN-BH Statutes and Ministerial Regulations**

The regulatory dynamics within State Universities with Legal Entity Status (PTN-BH) reflect the inherent tension between institutional autonomy and the supremacy of national law. PTN-BHs produce a substantial volume of internal legal instruments, ranging from University Statutes and Board of Trustees Regulations to Rectoral Regulations and Dean's Decrees. Issues arise when norms contained in the PTN-BH Statute conflict with those established in Ministerial Regulations. Such conflicts are not merely technical drafting issues; The fundamental questions regarding the legal status of PTN-BHs within the Indonesian constitutional system: Is the autonomy of PTN-BH

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<sup>24</sup> Peraturan Rektor Universitas Padjadjaran Nomor 2 Tahun 2023 tentang Pedoman Pembentukan Peraturan Rektor Universitas Padjadjaran.

absolute, thereby allowing the Statute to override Ministerial Regulations, or must this autonomy always remain subordinate to the policy framework set by the Minister?

The typology of normative conflicts between PTN-BH Statutes and Ministerial Regulations can be categorized into four types: (1) Hierarchical Conflict, resolved through the principle of *lex superior derogat legi inferiori*, wherein provisions of the Statute (derived from Government Regulations) take precedence over conflicting Ministerial Regulations; (2) Competence Conflict, addressed using the principle of *lex specialis derogat legi generali*, which requires substantial analysis to determine which regulation is "special" in nature; (3) Temporal Conflict, resolved via the principle of *lex posterior derogat legi priori*, albeit modified to account for hierarchical considerations; and (4) Substantive Conflict, the most complex type, where the contradiction lies not merely at the formal normative level but at the level of underlying values and principles. Hierarchically, PTN-BH Statutes, established through Government Regulations, hold a higher position than Ministerial Regulations.

The operational steps that legal drafters must undertake to address normative conflicts are as follows: First, identify and map the conflict, preferably documented in a legal memorandum. Second, conduct a meticulous analysis of hierarchy and competence. Third, engage in consultation and preventive harmonization with the Ministry's Legal Bureau before the regulation is enacted. Fourth, apply conflict resolution principles sequentially: *lex superior*, *lex specialis*, and *lex posterior*. Fifth, ensure documentation and accountability through legal opinions, official memos, or legal memoranda. PTN-BH legal drafters must adhere to the principle of dual fidelity: loyalty to legitimate institutional autonomy alongside loyalty to the national legal system.

### **Comparative Legal Drafting: Practices of International Autonomous Institutions**

A comparative study of statutory bodies in Common Law jurisdictions and autonomous universities in Europe offers valuable insights for the development of legal drafting systems within Indonesian State Universities with Legal Entity Status (PTN-BH). In the United Kingdom, higher education institutions operate as independent higher education providers, regulated by the Higher Education and Research Act 2017 and overseen by the Office for Students (OfS). The hierarchy of internal university regulations in the UK is structured into three tiers: Charters and Statutes (equivalent to a constitution), Ordinances (established by the Governing Body), and Regulations (enacted by various committees). This three-tier model reflects the principle of proportionality: the more fundamental a rule is, the more rigorous its formulation procedure becomes.

In Australia, the Office of Parliamentary Counsel (OPC) publishes Drafting Directions as a comprehensive guideline. Australia implements a Regulatory Impact Statement (RIS) framework that is proportional to the regulatory impact: low-impact regulations require only concise documentation, whereas significant regulations necessitate comprehensive analysis, including cost-benefit analysis<sup>25</sup>. This tiered approach parallels the proposed distinction between Academic Papers and Urgency Papers within the PTN-BH context. In the Netherlands, any regulatory amendment must be accompanied by a beleidsnotitie (policy note) that outlines the objectives, background, and anticipated impacts, which is conceptually equivalent to the Urgency Paper proposed for PTN-BHs.

Furthermore, the European University Association (EUA) has found that a high degree of autonomy does not automatically correlate with superior quality of internal regulations. Rather, universities with strong governance traditions tend to develop more sophisticated and effective internal legal drafting systems, regardless of their level of formal autonomy<sup>26</sup>. These findings are significant: PTN-BHs in Indonesia, having relatively recently acquired autonomy, require serious investment in legal drafting capacity building rather than relying solely on the formal autonomy granted. The comparative study reveals four patterns of convergence: (1) the importance of a clear hierarchy of internal norms; (2) proportionality between the procedural process and the substance of the regulation; (3) inclusivity in consultation mechanisms; and (4) digitalization as an enabler of legislative quality.

The transferability of these models to the Indonesian PTN-BH context must be guided by the principle of adaptation rather than transplantation. Indonesia's hybrid legal system, the constitutional framework of Pancasila, and the varying institutional capacities of PTN-BHs necessitate a context-sensitive approach<sup>27</sup>. What should be adopted are the general principles—such as the hierarchy of norms, proportionality, participation, and transparency—rather than the technical details, which stem from distinct historical and juridical contexts. Specific strategies for PTN-BHs include: the establishment of a dedicated legal drafting unit; the development of an internal legislation manual; the implementation of an integrated e-legislation system; routine simulation-based training programs; and the formalization of peer review mechanisms for internal regulations.

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<sup>25</sup> OECD, *Regulatory Quality and Public Governance: Policy Brief* (Paris: OECD Publishing, 2021), 15–20.

<sup>26</sup> European University Association (EUA), *Autonomy Scorecard 2023: University Autonomy in Europe* (Brussels: EUA, 2023), 12–18.

<sup>27</sup> Satjipto Rahardjo, *Ilmu Hukum* (Bandung: Citra Aditya Bakti, 2006), 88–93.

## CONCLUSION

Legal drafting constitutes a fundamental foundation in the process of developing high-quality and effective regulations. Based on the preceding discussion, several key conclusions can be drawn: The primary challenges faced by legal drafters in PTN-BHs include limited human resources with specialized technical expertise in regulatory formulation, insufficient understanding of legal drafting techniques and principles, time constraints coupled with heavy workloads, and regulatory complexity. Greater investment in legal drafting education and training programs is an urgent necessity. The implementation of routine training that prioritizes simulations and active discussions will enhance the practical comprehension of legal professionals within PTN-BHs.

The legitimacy of the Urgency Paper (Naskah Urgensi) as a supporting document for the formation of Rectoral Regulations in PTN-BHs requires a robust theoretical foundation, which is provided by Kelsen's hierarchy of norms theory, the theory of autonomy within the rule of law framework, and Fuller's substantive morality of law. At the PTN-BH level, the use of an Urgency Paper for drafting Rectoral Regulations is deemed sufficient and proportional, whereas Academic Papers are mandated for Laws and Regional Regulations. The Urgency Paper can transform from a mere "bureaucratic shortcut" into a high-quality, targeted, measurable, and legally and academically accountable legal drafting instrument.

Normative conflicts between PTN-BH Statutes and Ministerial Regulations can be classified into four typologies – hierarchical, competence, temporal, and substantive – each requiring distinct resolution approaches. PTN-BH legal drafters must adhere to the principle of dual fidelity: upholding legitimate institutional autonomy while maintaining alignment with national law. The establishment of a regulatory harmonization unit and the development of inter-institutional dialogue mechanisms are essential institutional investments to prevent and resolve normative conflicts.

Comparative studies indicate that legal drafting challenges in autonomous institutions, including PTN-BHs, are universal in nature. The proposed distinction between Academic Papers and Urgency Papers aligns with the practice of proportionate regulatory impact assessment prevalent in Australia, New Zealand, and the Netherlands. Good university governance, underpinned by transparency and accountability, remains the ultimate objective guiding all efforts to strengthen legal drafting in Indonesian PTN-BHs.

## RECOMMENDATIONS

The government should establish uniform national guidelines on legal drafting techniques and the preparation of Academic Papers. This would ensure that all regulatory drafting institutions adhere to standardized references. Legal drafting training must be conducted routinely and target all levels of government, with a particular focus on the university level. Training methods should prioritize simulations and active discussions to enhance practical understanding. Capacity-building programs for legal drafters need to be designed comprehensively and sustainably, covering relevant and up-to-date training on national and international legal developments, the utilization of information technology, and effective regulatory drafting methodologies. At the university level, the use of an Urgency Paper in the formulation of Rectoral Regulations in PTN-BHs is deemed sufficient and proportional. Academic Papers should remain mandatory for Laws and Regional Regulations. PTN-BHs need to issue internal regulations that explicitly recognize and regulate the Urgency Paper as a legitimate instrument in the formation of Rectoral Regulations, while also developing adequate quality standards for such documents.

It is recommended that PTN-BHs: (1) establish a regulatory harmonization unit with adequate legal drafting capacity; (2) develop an internal guide (legal drafting manual); (3) build an integrated regulatory database; and (4) conduct regular training for all units involved in the legal drafting process. It is suggested that the Ministry: (1) open formal consultation channels before issuing Ministerial Regulations that may impact PTN-BH autonomy; (2) publish guidelines clarifying the relationship between Ministerial Regulations and PTN-BH autonomy to provide legal certainty; and (3) facilitate periodic regulatory forums involving PTN-BHs as dialogue partners. Synergy among the government, higher education institutions, and independent research bodies needs to be strengthened to provide a solid scientific basis for regulatory formulation.

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