


Civil Litigation in Education Contract Disputes in Islamic Boarding Schools: A Comparative Perspective on Thailand's Bromsgrove International School Model

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Abstract

Introduction: This study examines the effectiveness of civil litigation in resolving education contract disputes at the Watampone Biru Islamic Boarding School, South Sulawesi. As an educational institution based on Islamic values, Islamic boarding schools face legal challenges due to the lack of specific regulations governing education contracts.

Purposes of the Research: To identify the causes of disputes, explore alternative settlement methods such as mediation, and propose an up-to-date framework for education contracts that integrates Sharia principles, legal protection, and clarity of rights and obligations in Islamic boarding schools.

Methods of the Research: The research uses a qualitative approach with a case study method, through the analysis of contract documents and in-depth interviews with student guardians, pesantren managers, and legal practitioners.

Results of the Research: The results of the study show that contract disputes in Islamic boarding schools generally stem from an imbalance in bargaining positions, ambiguous clauses, and low legal awareness of student guardians. Civil litigation in practice is not effective in resolving these disputes because the process requires high costs, long time, and limited legal understanding from the guardian of the student, so it is rarely used. On the other hand, mediation based on local wisdom and deliberation is more widely chosen because it is considered faster, cheaper, and in accordance with the culture of the Islamic boarding school. Therefore, this study emphasizes the need to renew education contracts in Islamic boarding schools through clear and participatory legal instruments, while still integrating Sharia principles and ensuring legal certainty and justice for all parties.

Keywords: Education Contracts; Civil Litigation; Islamic Boarding School; Dispute Resolution.s

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INTRODUCTION

Pesantren, as the oldest and most rooted Islamic educational institution in Indonesia, not only serves as a center for religious learning, but also becomes an important agent in character formation and social transformation¹. This strategic role makes pesantren an integral part of the national education system². However, in the midst of the wave of modernization and complexity of contemporary society³, pesantren are now facing various

¹ Didik Himmawan Muhammad Fadli Satrianu, "Mosques, Prayer Rooms, Islamic Boarding Schools and Madrasahs as Centers for Community Empowerment and Preservation of Islamic Culture," *Aslama: Journal of Islamic Studies* 2, no. 1 (2025): 25-33.

² Akhmad Afnan and Akhmad Ihwanul, "Pesantren in the National Education System: An Analysis of the 2019 Islamic Boarding School Law on Formal Diniyyah Education and Mu'là Education in Indonesia," *KITABACA: Journal of Islamic Studies* 1, no. 2 (2024): 114.

³ Ali Ridho and Febri Priyoyudanto, "Arabic Culture and Local Wisdom: Tracing Traditional Values in Modern Society," *Student Research Journal* 2, no. 1 (2024): 204-12, <http://journal-stiayappimakassar.ac.id/index.php/srj/article/view/1027>.

new challenges, including in terms of legal relations arising from their educational activities, especially related to education contracts between pesantren and students or guardians of students.

An education contract is a legal instrument that regulates the relationship between education providers and students⁴. In the context of Islamic boarding schools, this contract usually includes aspects of financing, rules, curriculum, and facilities that are mutually agreed. Along with the growth in the number of Islamic boarding schools and the increase in public legal awareness, there is also a higher potential for disputes⁵. These disputes often arise due to differences in perceptions or violations of the provisions of⁶ the education contract, which ultimately require a proper and fair settlement mechanism

The specific problem that is the focus of this paper is how the mechanism for resolving education contract disputes in Islamic boarding schools can be carried out through civil litigation. Although dispute resolution through the courts is a right guaranteed by law⁷, until now there have not been many studies that have explored in depth how this litigation process is carried out in the context of Islamic boarding schools which have their own characteristics. The absence of comprehensive guidance in this case has the potential to create legal uncertainty for the parties to the dispute.

A number of previous studies have discussed dispute resolution in education, but the majority have emphasized alternative approaches such as mediation or deliberation based on local wisdom values. For example, research conducted at SMKN 15 Bandung City highlights the importance of understanding employment contract agreements for students in preparation for entering the world of work⁸. This study uses the counseling method to explain the rights and obligations in employment contracts, duration, wages, and social security, by referring to Law Number 13 of 2003 concerning Manpower. Although it does not directly address dispute resolution, the study underscores the significance of early contractual education so that parties understand each other's legal positions and avoid potential violations. However, studies of this kind are still rarely conducted in the pesantren context, particularly in addressing the unique contractual relationships between pesantren and students or guardians. More importantly, there remains a gap in examining how the absence of formal contractual clarity and dispute resolution mechanisms in pesantren may generate legal uncertainty and inequality of bargaining power issues that are central to this research but often overlooked in existing literature.

This gap highlights the urgency of focusing on pesantren as a unique educational institution where contractual relationships are not only influenced by legal norms but also by cultural and religious values. Unlike the more formal contractual practices in vocational schools or international institutions, contracts in pesantren often remain ambiguous,

⁴ Ahmad Fajar, "The Legal Politics of the State Budget in the Field of National Education as a Manifestation of the Mandate of the Constitution of the Republic of Indonesia in 1945 (Study of the State Budget in 2005-2011)" *Journal of Innovation Research and Knowledge* 4, no. 2 (2024): 1-23.

⁵ Dadang Hermawan, "Building Legal Awareness: Counseling on the Adverse Impact of Bank Emok on the Community in North Cikarang Village, Bekasi," *Musyarakah Journal of Sharia Economic Law* 2, No. 2 (2024): 24-33.

⁶ Fhika Maisyarah Mufrizal and Irsyam Risdawati, "The Jurisdiction of Health Mediators in Medical Dispute Resolution through Alternative Dispute Resolution," *Journal of Nurses Widya Husada* 8, no. 2 (2024): 1175-81, <https://journal.universitaspahlawan.ac.id/index.php/Ners/Article/View/27165/19501>.

⁷ Esther Jevon Noitolo Gea, "Juridical Analysis of the Use of Summons in the Settlement of Disputes for the Prosecution of the Right of Reply in the Case of False News in the Media," *Law, Development & Justice Review* 3, no. 2 (2022): 1-9.

⁸ Mia Hadiati et al., "Socialization of Employment Contract Agreements in the World of Work for Students of SMKN 15 Bandung City" *RENATA: Jurnal Pengabdian Masyarakat Kita Semua* 3, no. 1 (2025): 161-66.

unwritten, or dominated by the institution, leaving little room for balanced bargaining or structured dispute resolution. Therefore, this study seeks to fill that gap by examining how education contracts in pesantren are formulated, the factors that trigger disputes, and the extent to which existing legal mechanisms such as civil litigation or alternative methods like mediation are effective in resolving conflicts.

To enrich perspective, this paper also conducts a comparative study of the practice of education agreements in other countries, especially in Thailand. The study took the example of Bromsgrove International School Thailand, which implemented a formal document entitled *Student, Parent and School Agreement*⁹. The document reflects a participatory approach in building understanding between schools, students, and parents regarding the roles and responsibilities of each party in the educational process. In the agreement, the school explicitly emphasizes the importance of parental support for children's academic and social development, and affirms student compliance with internal school policies, including those related to uniforms, behavioral ethics, and mobile phone use. This commitment is formalized through the signing of a joint agreement, which is the basis for resolving potential conflicts and maintaining constructive relations between the parties.

The limitation of previous studies lies in its scope which has not touched the realm of specific educational contract dispute resolution, especially in the context of pesantren. For example, research on employment contract education among vocational school students only highlights the aspect of initial understanding of the content of the contract, without discussing the legal dynamics when a breach or contractual dispute occurs. In addition, most studies still focus on industrial relations or employment contracts, not on the form of education contracts that have their own characteristics¹⁰. In the context of Islamic boarding schools, there has not been much research that examines how the civil litigation process can be used effectively to resolve disputes, including how Islamic values and the typical social structure of Islamic boarding schools can affect the course of legal proceedings. This gap suggests that a more in-depth and contextual analysis is needed to understand the relevance and challenges of civil litigation in the pesantren environment.

This paper offers a new approach by comprehensively examining the civil litigation route as a means of resolving education contract disputes in the pesantren environment. This approach is based on the assumption that although pesantren has a deliberation value system and internal resolution mechanism, not all disputes can be resolved informally, especially when it involves more complex legal aspects or when one of the parties wishes to resolve through formal channels. In this context, civil litigation becomes a legal path that is legal and has binding force through a court decision. This article seeks to establish an analytical framework that combines the principles of civil law (such as *consensualism*, *pacta sunt servanda*, and contractual justice)¹¹ with the cultural and religious values typical of Islamic boarding¹² schools. With this approach, this paper not only maps the normative

⁹ Tristan Bunnell, Aline Courtois, and Michael Donnelly, "British Elite Private Schools and Their Overseas Branches: Unexpected Actors in the Global Education Industry," *British Journal of Educational Studies* 68, no. 6 (2020): 691-712, <https://doi.org/10.1080/00071005.2020.1728227>.

¹⁰ Syahrul, Fatimah, et al., "Peranan Lembaga Arbitrase Dalam Penyelesaian Sengketa Kontrak Bisnis Dan Komersial," *Jarbi: Indonesian Arbitration Journal* 1, no. 1 (2025): 51-68.

¹¹ Noho, Muhammad Dzikirullah H et al., "Pengaktualisasian Itikad Baik Dalam Mencapai Hukum Kontrak Yang Progresif Di Indonesia" *Progressive Law and Society* 1, no. 2 (2023): 1-9.

¹² Jurnal Hukum et al., "Improving the Quality of Education in Islamic Boarding Schools through Curriculum Innovation Rahmad Fuad State Islamic University Sjech M . Djamil Djambek Bukittinggi in this world and the hereafter. The Qur'an also emphasizes the importance of education, especially for people-," *Journal of Law, Politics and Social Sciences (JHPIS)* 3, no. 2 (2024): 3.

aspects of litigation¹³, but also assesses the extent to which the civil justice process can accommodate the institutional characteristics of Islamic boarding schools without ignoring the basic principles of law that apply nationally¹⁴. This approach is expected to bridge two important poles: the need for legal certainty and respect for the local wisdom of Islamic educational institutions.

The purpose of this article is to analyze in depth how the civil litigation pathway can be effectively applied in the settlement of educational contract disputes in Islamic boarding schools. This research will identify the applicable legal framework, examine the implementation challenges in the field, and offer practical recommendations for Islamic boarding schools, guardians of students, and law enforcement officials. It is hoped that this paper can be an important contribution in building a dispute resolution system that upholds justice, legal certainty, and Islamic values in the pesantren education environment.

METHODS OF THE RESEARCH

This study uses a comparative legal research method with a juridical-sociological qualitative approach¹⁵. The comparative legal method was chosen to analyze and compare the settlement of education contract disputes in two different systems, namely the Watampone Blue Islamic Boarding School in Indonesia and Bromsgrove International School in Thailand¹⁶. The main objective of this approach is to evaluate the effectiveness of civil litigation in the resolution of educational contract disputes in religious-based Islamic boarding school settings, and compare it with the approach applied by secular-based international educational institutions. This study examines how legal norms, institutional practices, and social and religious values affect the form of contracts and their settlement mechanisms¹⁷. The types of data used include primary data and secondary data¹⁸. Primary data consists of education contract documents at the Watampone Blue Islamic Boarding School and the results of interviews with parents of students, pesantren administrators, and law enforcement officers involved in dispute resolution¹⁹. Meanwhile, secondary data includes legal literature, laws and regulations, academic journals, as well as documentation related to contracts and dispute resolution practices at Bromsgrove International School Thailand. Data collection techniques are carried out through in-depth interviews, document studies, and comparative legal literature reviews. Interviews were conducted purposively with relevant and experienced informants in both education systems²⁰. The data analysis in this study was carried out through several systematic stages. First, data were collected from contract documents and interview results at the Watampone Blue Islamic Boarding School

¹³ Agung Abdul Rahman Wiyono, "Settlement of Trademark Disputes through Arbitration and Non-Litigation in accordance with Law No. 20 of 2016 concerning Trademarks and the Basis of Enforcement Power on the Results of Arbitration Decisions and Negotiations of Non-Litigation Institutions in Trademark Disputes," *Ius Journal* 7, No. 02 (2024): 163.

¹⁴ Zainudin Hasan et al., "Constitution as a Legal Basis in the Development of the National Legal System Jima: A Student Scientific Journal of the Existence of the Constitution as a Legal Source in the Development of the National Legal System," *Student Scientific Journal* 2, no. 1 (2024): 44–54.

¹⁵ Irwansyah, "Legal Research on the Choice of Article Writing Methods & Practices" (Yogyakarta: Mirra Buana Media, 2022), p. 172.

¹⁶ Methodius Kossay et al., "The Effectiveness of Mediation in Civil Dispute Resolution in the Digital Age: An Empirical Approach to the Indonesian Judicial System," *Journal of Law and Politics* 2, no. 4 (2024): 543, <https://doi.org/10.51903/Perkara.V2i4.2226>.

¹⁷ April Year et al., "An Analysis of the Role of Advocates in Designing Dispute Resolution Strategies: A Case Study at the Law Offices of Josant and Friends" 2, no. 2 (2025).

¹⁸ Mega Suteki Et Al., "A Content Analysis Of The Vision Statements Of Top 10 Leading Universities In Indonesia," *Thawalib | Journal of Islamic Education* 4, no. 1 (2022): 45–60.

¹⁹ Sabran, Sandi Nur Azizah, and Ervina Rachmawati, "Journal of Management and Administration of Indonesian Hospitals," (*Marsi*) 8, no. 1 (2024): 54–70.

²⁰ Ahmad Rosidi, M Zainuddin, and Ismi Arifiana, "Methods in Normative and Sociological Law Research (Field Research)," *Journal Law And Government* 2, no. 1 (2024): 46–58.

as well as from literature studies and official documentation of Bromsgrove International School Thailand as a comparative source²¹. Furthermore, data reduction was carried out by sorting out relevant information related to contract clauses, legal norms, dispute resolution mechanisms, and institutional practices. The analysis of the content of the document is carried out by examining the structure, substance, and legal provisions in the contract²², then comparing the results of the transcribed interviews to find suitability and differences. Comparative legal analysis is applied by comparing norms, institutional practices, and dispute resolution systems in Indonesia and Thailand to find similarities, differences, and potential adoption of best practices²³. To maintain validity, triangulation of sources (documents, interviews, literature) and methods (content analysis and comparative analysis) are used, while reliability is ensured through systematic recording, complete transcription, and traceability of the analysis²⁴. The end result of this process is the drawing of conclusions explaining the effectiveness, advantages, and weaknesses of contractual practices and dispute resolution in both countries.

RESULTS AND DISCUSSION

A. Education Contract Agreement of Indonesian Pesantren and Bromsgrove International School Thailand

Education at the Watampone Blue Islamic Boarding School

An education contract in the context of Islamic boarding schools in Indonesia is a form of legal agreement between Islamic boarding schools as education providers and students or guardians of students as recipients of educational services. These agreements are generally not made in a strict formal legal format like contracts in the commercial sector, but are more administrative and normative. The content of the education contract at the pesantren generally contains provisions on the obligation to pay tuition fees, the internal rules of the pesantren, the rights and obligations of students, as well as rules that reflect the Islamic values upheld by the institution²⁵. Even so, this contract still has civil legal force, because it fulfills the elements of agreement, clear object, and halal cause as stipulated in Article 1320 of the Civil Code²⁶.

However, the weakness in the implementation of education contracts in Islamic boarding schools often lies in the unclear clauses, the absence of an explicitly formulated dispute resolution mechanism, and the lack of written documentation that can be used as evidence in the litigation process. In many cases, the legal relationship between the pesantren and the guardian of the students is framed in cultural or religious relations, not in a legalistic approach. This causes when there is a breach of contract or dispute, the resolution relies more on deliberation or the wisdom of the pesantren leader. In the context of increasing

²¹ Towards Administration et al., "Helping to Fill in Data on Labuhan Haji Village Residents: Steps Towards More Efficient Administration by Kkn Ummat 2024," *Journal of Collaborative Service and Innovation of Science and Technology* 2, no. 6 (2024): 1716–23.

²² Noviyanti Tue et al., "Public Service System at The Monano Sub-District Office in North Gorontalo as an Implementation of Good Governance in The Pandemic Era," *Ideas: Jurnal Pendidikan, Sosial, Dan Budaya* 9, no. 4 (2023): 1241, <https://doi.org/10.32884/ideas.v9i4.1459>.

²³ M Nafisatur, "Research Data Collection Methods," *Research Data Collection Methods* 3, no. 5 (2024): 5423–43.

²⁴ Andi Azizah Hastia, "Dari Klik Ke Kontrak : Pertimbangan Hukum Dalam Perjanjian Jual Beli Online," *Indonesian Civil Law Review (ICLR)* 1, no. 1 (2025): 37–52.

²⁵ Melia Putri Purnama Sari, "The Urgency of Making Postnuptial Agreements in the Form of a Deed of the Party as a Probationis Causa Based on Formal Truth" 9, no. 3 (2023): 24–32.

²⁶ Muhammad Romli, "The Concept of Valid Conditions of Contracts in Islamic Law and Valid Conditions of Agreements in Article 1320 of the Civil Code," *São Paulo* 17, no. 2 (2021).

public legal awareness and the complexity of education problems, the concept of education contracts in Islamic boarding schools needs to be strengthened with more systematic legal instruments in order to protect the rights and obligations of all parties fairly.

The results of the field findings show that education contract disputes at the Watampone Blue Islamic Boarding School are generally triggered by various factors, which are not only formal legal but also related to socio-cultural aspects. One of the main causes is the ambiguous and multi-interpreted redaction of the contract. Clauses in education contracts are often formulated in language that is too general or legalistic, without adjusting to the background of the legal understanding of the guardians of the students, most of whom come from the general public. The inaccuracy in drafting this clause opens up a space for double interpretation which then triggers disputes when there is a difference in perception of the implementation of the rights and obligations of each party.

In addition, there is a tendency on the part of parents or guardians of students to immediately approve and sign the contract without reading it carefully. The lack of legal literacy, full trust in the authority of the Islamic boarding school, and a culture of submissiveness in social relations with religious institutions cause the guardians of the students to not feel the need to critically examine the content of the contract. This causes them to be unaware of important provisions related to children's rights, discipline, educational sanctions, and dispute resolution procedures included in the contract.

Furthermore, in some of the cases studied, it was found that some of the contents of the contract contained unilateral elements, where the pesantren had more dominant authority in interpreting the implementation of the contract without any control mechanism or objection from the guardian of the students. For example, the clause regarding the expulsion of students from the pesantren environment for violations of discipline is often not accompanied by a defense mechanism or objection from parents. This situation creates an imbalance in bargaining positions between the two parties and opens up the potential for lawsuits, especially if parents feel that their children's rights are being ignored or treated unfairly.

Most of the disputes that arise revolve around the mismatch between the expectations of the guardians of the students for educational services and the reality on the ground. Parents often have high expectations of their child's coaching system, facilities, and treatment, but when those expectations are not met, that dissatisfaction turns into conflict. Some cases also show complaints about disciplinary actions that are considered excessive or inhumane, which worsens the relationship between the guardian of the student and the management of the Islamic boarding school.

Bromsgrove International School Thailand

Bromsgrove International School Thailand adopts a more formal and structured contractual approach in building relationships between the school, students, and parents²⁷. This is realized through an official document known as the *Student, Parent and School Agreement*, which serves as a mutual agreement to ensure the orderly, effective, and responsible implementation of education²⁸. This agreement explicitly contains the rights

²⁷ Bromsgrove International School Thailand. *Student, Parent and School Agreement*. Accessed February 3, 2025. <https://www.bromsgrove.ac.th/student-parent-school-agreement/>.

²⁸ Bromsgrove International School Thailand. *Concerns and Complaints Policy 2019*. Accessed February 3, 2025. <https://www.bromsgrove.ac.th/wp-content/uploads/2019/08/BIST-Concerns-and-Complaints-Policy.pdf>.

and obligations of each party, covering the academic, social, and behavioral aspects of the student, as well as the role of parents in supporting the educational process. This contract not only acts as an administrative tool, but also as a legal document that has binding power and becomes the basis for resolving disputes in the event of a violation of the agreed terms.

The concept applied by Bromsgrove reflects a participatory and preventive approach, in which all parties are expected to understand from the outset their legal position in educational relationships. The agreement also sets high standards of conduct, including adherence to uniform rules, ethics of interacting in the school environment, and responsible use of technology. With a written and co-signed format, the agreement not only encourages transparency, but also provides a clear framework in the event of conflicts or complaints. This approach shows how schools can combine the principles of contractual law with professional education management practices, while providing legal protection to all parties involved in the educational process.

By comparing the findings in Indonesia and Thailand, it can be seen that there are fundamental differences in the construction of education contracts. Contracts in Indonesian Islamic boarding schools tend to be administrative, normative, and based on cultural and religious beliefs, thus causing weaknesses in terms of legal certainty and dispute resolution mechanisms. Meanwhile, Bromsgrove International School Thailand implements a formal, written, and participatory contract model, which emphasizes transparency and legal protection for all parties. These findings confirm the literature that highlights the weak legal-formal aspects of the practice of pesantren-based education contracts in Indonesia (e.g., studies on socio-religious contracts that emphasize morality rather than legal certainty), while also extending the results of previous research by showing that more systematic contractual models such as those in Thailand are able to minimize clause ambiguity, increase parental legal awareness, and create a balance Bargaining position. Thus, this study not only strengthens the argument regarding the need to strengthen legal instruments in education contracts in Indonesia, but also provides a relevant comparative perspective for the future development of contract-based education regulations.

B. Comparison of Education Contracts Agreement of Indonesian Pesantren and Bromsgrove International School Thailand

The concept of education contracts applied in Indonesian Islamic boarding schools and at Bromsgrove International School Thailand shows fundamental differences in terms of formalization, substance, and approach to dispute resolution. In the pesantren environment, education contracts are generally normative and cultural-religious in nature. The agreement between the guardian of the student and the pesantren is more often stated in the form of registration documents or regulations, which, although they have a contractual content, are not always prepared with a systematic legal structure. Many Islamic boarding schools still rely on a family approach and deliberation values in managing educational relationships, without explicitly detailing the rights and obligations of each party in a form that can be used as a basis for formal legal proceedings.

In contrast, Bromsgrove International School Thailand implements a more structured and legalistic approach to education contracts through the *Student, Parent and School Agreement* document. This document is professionally designed and reflects a strong understanding of the principles of modern contract law. All parties—schools, students, and parents—consciously signed an agreement that contained a shared commitment to academic

standards, behavior, and involvement in the educational process. This agreement not only serves as a tool for managing educational relationships, but also provides a clear legal basis for dealing with conflicts or violations that may occur. This difference reflects the contrast between the values-based approach of local wisdom in pesantren and the approach based on professional management and legal protection in international schools such as Bromsgrove. The following is a comparison table between the concept of education contracts at Indonesian Islamic Boarding Schools and Bromsgrove International School Thailand:

Table 1. Comparison

Aspects	Indonesian Islamic Boarding Schools	Bromsgrove International School Thailand
Form of Contract	It is not always formal; often in the form of registration or rules of procedure	Official written document (<i>Student, Parent and School Agreement</i>)
Nature of the Agreement	Cultural, based on religious values and beliefs	Legal-formal, legally binding
Contents of the Agreement	Generally includes rules, fees, and general rules	Contains the rights and obligations of students, parents, and schools in detail
Purpose of the Contract	Maintaining order and Islamic values in education	Building shared responsibility and preventing conflict from the start
The Role of Parents/Guardians	Seen as a moral and financing supporter	Considered an active partner in the process of education and character building
Dispute Resolution Approach	Deliberation, family, very rarely through formal legal channels	Formal settlement pathway is available based on the terms in the agreement
Legal Strength	Weak if not explicitly and detailed	Legally strong, can be used as a basis in the litigation process
Documentation and Evidence	Limited, often incomplete or unsystematic	Well documented and available in official written form
Value Orientation	Religious and based on local wisdom	Professional, management-based education and modern contract law

C. The Concept of Education Contract Disputes in Islamic Boarding Schools

Litigation pathway

In the context of Indonesian civil law, an education contract between a pesantren and a guardian of a student is a valid agreement if it meets the conditions as stipulated in Article 1320 of the Civil Code, namely: agreement of the parties, the ability to make an engagement, a certain thing, and a halal cause. In the event of a breach of the contract, the aggrieved party can file a lawsuit with the court to demand the fulfillment of its rights or compensation. However, this litigation process often requires a lot of time and money, and can cause tension between the parties to the dispute.

The results of research with various parties show that the settlement of education contract disputes in Indonesian Islamic boarding schools reflects the complexity of the relationship between formal legal norms and socio-religious values. Parents generally support the existence of an education contract as a form of protection for children's rights and

affirmation of institutional responsibility, but such acceptance is conditional on the content of the contract that guarantees non-violent and non-discriminatory treatment. On the other hand, there are still limitations in parents' understanding of legal terms in contracts, as well as a reliance on social beliefs towards pesantren which often cause potential hidden conflicts. From the pesantren side, dispute resolution is preferred through non-litigation channels such as internal mediation and deliberation, on the grounds of maintaining institutional image and social cohesion, although this approach is often not supported by an objective and accountable mediation system. Meanwhile, from the perspective of law enforcement, the education contract at the pesantren is qualified as a service agreement based on Article 1601c of the Civil Code, but with recognition of the religious context, so that in the litigation process the judge will balance the principles of justice and child protection with the institutional autonomy of the pesantren. Lawyers who accompany guardians generally encourage a mediation approach as a first step before litigation, but still prepare a legal strategy if contractual violations are found that have an impact on the child's rights and educational integrity.

Until now, there are no regulations that specifically regulate education contracts in Islamic boarding schools, so the preparation of contracts between the guardians of students and the pesantren is often unilateral and depends on the interpretation of each party, without clear legal references. This creates information inequality and bargaining positions, where pesantren often have greater control in formulating contracts, while guardians of students who generally have limited educational backgrounds, are forced to accept the contract without a deep understanding. The tension between positive legal values and the religious values of pesantren also often raises dilemmas in dispute resolution, especially related to disciplinary practices that conflict with child protection in state law. In addition, social barriers and close community relations in Islamic boarding schools make many disputes not reach the realm of litigation, because of the negative stigma against guardians of students who sue the Islamic boarding school, even though it is legally possible. This legal uncertainty shows the need for more comprehensive regulations to regulate rights and obligations in education contracts in Islamic boarding schools, as well as clarify dispute resolution mechanisms that are fair and accommodate local values.

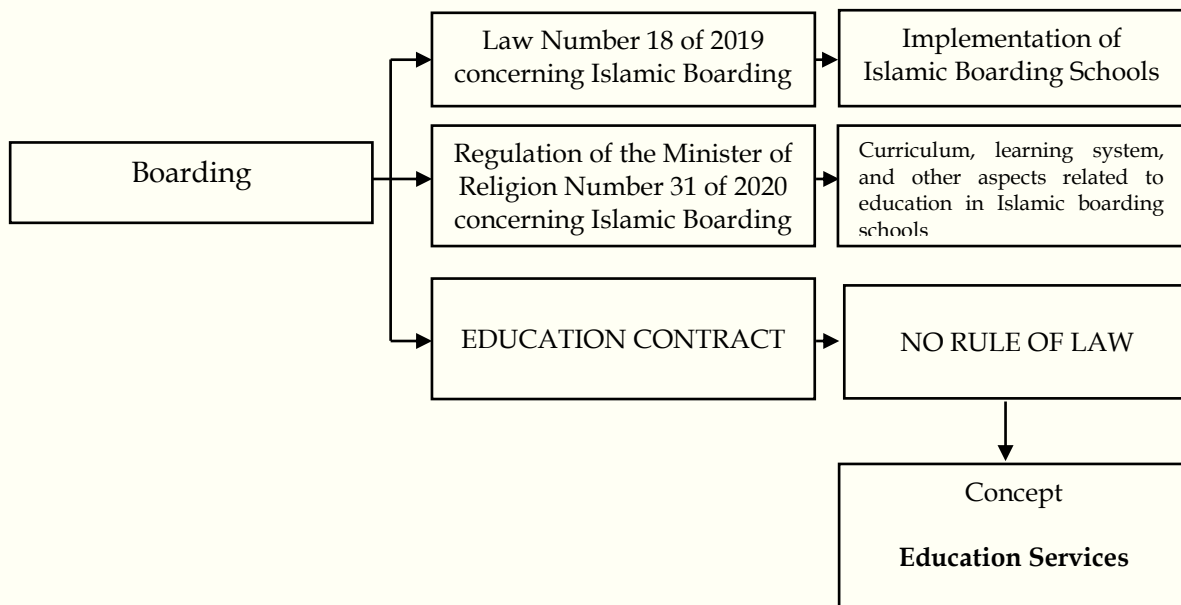
Non-litigation pathway

Alternative Dispute Resolution (APS) offers a more flexible and efficient approach to resolving disputes compared to formal litigation²⁹. The APS method, which includes mediation, negotiation, conciliation, and arbitration, allows the parties to resolve disputes amicably with the help of a neutral third party. In the context of pesantren, dispute resolution is often carried out through deliberation or mediation involving pesantren, such as kyai or pesantren leaders, who are respected and trusted by all parties. This approach is very much in line with the values of local wisdom and sharia principles that are the basis for the operation of Islamic boarding schools. However, while this approach prioritizes peace, it is important to ensure that the outcome of dispute resolution through the APS has binding and enforceable legal force by the parties, in order to avoid the legal uncertainty that often arises in practice. On the other hand, until now, there is no regulation that specifically regulates education contracts in Islamic boarding schools, which leads to the

²⁹ Nasrudin Nasrudin Azis, Pahrudin, Muhamad Kholid, "Comparison of Dispute Resolution Institutions: Litigation and Non-Litigation," *Qanuniya : Journal of Law* 1, no. 2 (2024): 11-21, <https://doi.org/10.15575/Qanuniya.V1i2.896>.

drafting of contracts between the guardians of students and the pesantren that are unilateral and depend on the interpretation of each party, without a clear legal reference. This creates information inequality and bargaining positions, where pesantren have greater control in formulating contracts, while guardians of students who generally come from limited educational backgrounds, are forced to accept the contract without a deep understanding. Thus, although APS can offer solutions that are more suitable for the character of the Islamic boarding school, there is a need to make efforts to regulate more clearly in the legal framework so that the dispute resolution process remains fair and does not cause legal uncertainty.

The Concept of an Islamic Boarding School Education Contract



Explanation

This diagram illustrates the regulatory framework and legal void that covers educational practices in Islamic boarding schools, especially related to educational contracts between guardians of students and Islamic boarding schools: 1) Pesantren as a core institution has three main regulatory and practice paths: a) The first line refers to Law Number 18 of 2019 concerning Islamic Boarding Schools, which regulates the general aspects of the implementation of Islamic boarding schools; b) The second path is based on the Regulation of the Minister of Religion Number 31 of 2020, which regulates technically the curriculum, learning system, and other aspects related to education in Islamic boarding schools; c) The third path is related to the practice of Education Contracts between Islamic boarding schools and guardians of students. 2) However, this education contract does not yet have a specific legal basis. There are no laws and regulations that explicitly regulate the form, substance, or procedures for the preparation and implementation of education contracts in the pesantren environment. This creates a legal vacuum (there is no rule of law), so contracts are one-sided and prone to disputes. In this legal vacuum, pesantren tend to develop an approach based on local and spiritual values, which is then formulated as the Concept of Educational Services. This concept describes the participatory relationship between students and pesantren as a form of devotion and spiritual learning, not merely a legal-formal contractual relationship.

CONCLUSION

This study found that disputes over education contracts in Islamic boarding schools, especially in the Watampone Blue Islamic Boarding School, are generally caused by ambiguous clauses, the tendency to unilaterally formulate contracts by the Islamic boarding schools, and the low level of legal literacy of student guardians. This condition causes an imbalance in the bargaining position which has the potential to give birth to disputes when there are differences in interpretations of rights and obligations. The litigation route is considered less effective because the process is long, the cost is high, and there is a lack of legal understanding from the guardians of the students. Therefore, alternative dispute resolution through deliberation-based mediation is more in accordance with the pesantren culture, but it still needs to be strengthened with legal instruments to provide balanced protection for all parties. The results of the comparison with Bromsgrove International School Thailand show that a written, participatory, and transparent education contract, as well as a structured non-litigation mechanism, is able to minimize the potential for disputes. These findings broaden the perspective that education contracts in Islamic boarding schools need to be reformulated through a new framework that integrates Sharia principles, legal protection, and clarity of the rights and obligations of students, guardians, and managers. For this reason, special regulations are needed that recognize the peculiarities of Islamic boarding schools, but at the same time ensure legal certainty, balance of bargaining positions, and fair and efficient dispute resolution in the practice of education contracts in Indonesia.

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