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**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 Blue Islamic Boarding School, South Sulawesi. As an educational institution based on Islamic values, Islamic boarding schools face legal challenges due to the lack of special regulations governing education contracts****Purposes of the Research:*** *o evaluate the effectiveness of civil litigation in resolving education contract disputes at the Watampone Blue Islamic Boarding School. It aims to identify the causes of disputes, explore alternative resolution methods like mediation, and propose an updated 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 / Main Findings / Novelty/Originality of the Research:*** *contract disputes in Islamic boarding schools stem from unequal bargaining, unclear clauses, and low legal awareness. While civil litigation is rarely used, mediation based on local wisdom is more common. The research calls for updating education contracts in these schools to integrate Sharia principles and ensure legal clarity and justice for all parties.****Keywords: Education Contracts, Civil Litigation, Islamic Boarding School, Dispute Resolution, Comparative*** |
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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 transformation[[1]](#footnote-1). This strategic role makes pesantren an integral part of the national education system[[2]](#footnote-2). However, in the midst of the wave of modernization and complexity of contemporary society[[3]](#footnote-3), pesantren are now facing various 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 students[[4]](#footnote-4). 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 disputes[[5]](#footnote-5). These disputes often arise due to differences in perceptions or violations of the provisions of[[6]](#footnote-6) 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 law[[7]](#footnote-7), 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, which emphasizes the importance of understanding employment contract agreements for students in preparation for entering the world of work.[[8]](#footnote-8) The research 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 address dispute resolution directly, this study emphasizes the importance of contractual education early on so that the parties understand each other's legal positions and avoid potential violations. However, studies like this are still rarely carried out in the context of pesantren, especially in responding to potential disputes arising from educational contracts between Islamic boarding schools and students or guardians.

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]](#footnote-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 characteristics[[10]](#footnote-10). 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]](#footnote-11) with the cultural and religious values typical of Islamic boarding[[12]](#footnote-12) schools. With this approach, this paper not only maps the normative aspects of litigation[[13]](#footnote-13), 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 nationally[[14]](#footnote-14). 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 approach [[15]](#footnote-15). 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 Thailand[[16]](#footnote-16). 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 mechanisms[[17]](#footnote-17).

The types of data used include primary data and secondary data[[18]](#footnote-18). 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 resolution[[19]](#footnote-19). 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 systems[[20]](#footnote-20).

Data analysis was carried out using two main approaches: content analysis of contract documents and interviews[[21]](#footnote-21), as well as comparative legal analysis of norms, dispute resolution systems, and institutional practices applicable in Indonesia and Thailand. Data validity is maintained through triangulation of sources and methods, while reliability is maintained through systematic recording, interview transcription, and analysis traceability. The main research location is the Watampone Blue Islamic Boarding School, Bone Regency, South Sulawesi, with comparative sources from Bromsgrove International School Thailand obtained through literature studies and official secondary documentation[[22]](#footnote-22).

**RESULTS AND DISCUSSION**

1. **Education Contract Agreement of Indonesian Pesatren and Bromsgrove International School Thailand**
2. **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 institution[[23]](#footnote-23). 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 Code[[24]](#footnote-24).

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 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 parents[[25]](#footnote-25). 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 education[[26]](#footnote-26). This agreement explicitly contains the rights 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.

1. **Comparison of Education Contracts Agreement of Indonesian Pesatren 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 (*Student, Parent and School Agreement*) |
| **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 |

1. **The Concept of Education Contract Disputes in Islamic Boarding Schools**
2. **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 (KUHPerdata), 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 litigation[[27]](#footnote-27). 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 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**

Law Number 18 of 2019 concerning Islamic Boarding Schools

Regulation of the Minister of Religion Number 31 of 2020 concerning Islamic Boarding School Education

Boarding

Implementation of Islamic Boarding Schools

Curriculum, learning system, and other aspects related to education in Islamic boarding schools

EDUCATION CONTRACT

Concept

**Education Services**

NO RULE OF LAW

**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:
	* 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.
	* 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.
	* 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.
3. 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 research shows that the settlement of education contract disputes in the pesantren environment, such as what happened at the Watampone Blue Islamic Boarding School, still faces a number of legal challenges. Although there is Law Number 18 of 2019 and Regulation of the Minister of Religion Number 31 of 2020 which regulates institutional and educational aspects in Islamic boarding schools, there are no regulations that specifically regulate the education contract between the guardian of the student and the Islamic boarding school. This legal vacuum causes contracts to be drawn up unilaterally by Islamic boarding schools, which has the potential to cause inequality in bargaining positions and trigger disputes. Civil litigation is often considered ineffective due to the high cost, long time, and limited legal understanding from the guardian.

In comparison, the education contract model at Bromsgrove International School Thailand offers a more formal and transparent structure. The school has a written agreement document designed with the principles of contractual fairness, complemented by a *concerns and complaints policy* that provides a participatory space and a more organized non-litigation dispute resolution mechanism. This contrast shows the need to reformulate education contracts in Islamic boarding schools through a participatory and responsive legal approach to local values, for example by developing the concept  *of Education Service* which has legal force. Thus, special regulations are needed that recognize the characteristics of pesantren but still guarantee legal protection for all parties involved

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