

Strengthening Positive Legal Insight for Salafi Students to Improve Competence Related to the Principle of Legal Fiction

Tanti Kirana Utami

Faculty of Law, Universitas Suryakencana
Corresponding author. Email: kireinatanti78@gmail.com

ABSTRACT

The Law on Islamic Boarding Schools was not born to standardize pesantren or regulate pesantren to follow the government's will but exists to maintain the uniqueness and distinctiveness of Islamic boarding schools. One type of education organized by pesantren is salafiyah boarding school. Salafi students who have graduated will become religious experts (dai, ustad to Kyai), teachers, artists, entrepreneurs, workers, politicians, etcetera. Students as citizens must be subject to the law. For this reason, it is necessary to be equipped with religious knowledge and life skills by providing empowerment programs during Islamic boarding school studies through increasing positive legal insight in the face of the era of globalization. This study aims to describe the objective conditions of the skills that have been given to Salafi students and the formulation of strengthening positive legal insights for Salafi students in facing the era of globalization. Furthermore, the research was conducted using a normative juridical method with descriptive-analytical research specifications. The results of this study indicate that most Islamic boarding schools have empowered Salafi students to improve their skills and expertise. To enhance students' competence, it is necessary to provide legal insight to Islamic boarding schools regarding the laws and regulations required by each Islamic boarding school, informing competent students ready to face the era of globalization.

Keywords: Empowerment, Positive Law, Salafi Student.

1. INTRODUCTION

Indonesia is a state of law. This statement indicates that all actions must be based on law [1]. Affirmation of the adoption of the rule of law principle as stated in Article 1 paragraph (3) of the 1945 Constitution One of the fundamental changes after the amendments to the 1945 Constitution in a series consisting of four stages from 1999 to 2002 was the affirmation of the adoption of the rule of law principle as stated in Article 1 paragraph (3) of the 1945 Constitution.

This statement implies that the law has the highest and most honorable place in implementing social, national, and state life. In the sense that law is the normative basis for life's affairs and activities, both in social affairs, nationality, and state affairs, which are recognized formally and materially, thus anyone in the territory of the Unitary State of the Republic of Indonesia must comply with the law.

Efforts to educate the life of the nation, which is a national responsibility as stated in the 1945 Constitution, is one of the ideals of independence to improve human resources so that they can achieve prosperity for all Indonesian people [2].

The pattern of pesantren education has a tradition and academic culture that simultaneously emphasizes strengthening the professional field and enhancing Islamic areas and moral education [3].

Based on the description above, the authors will research including a) What is the objective condition of the skills that have been given to Salafi students? b) How is the formulation of strengthening positive legal insight for Salafi students to increase competence related to the principle of legal fiction?

2. METHOD

The research method used is a normative juridical method with descriptive-analytical research

specifications. The main types and data sources used are secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials accompanied by interviews. Furthermore, both preliminary and secondary data were analyzed using qualitative methods from the data collected in this study.

3. RESULT AND DISCUSSION

Scalar *variables* and *physical constants* should be italicized, and a bold (non-italics) font should be used for **vectors** and **matrices**. Do not italicize subscripts unless they are variables. Equations should be either display (with a number in parentheses) or inline. Use the built-in Equation Editor or MathType to insert complex equations.

Various Skills Given to Salafi Students The term Islamic boarding school is two terms that show one meaning. According to its basic understanding, Pesantren is a place of learning for the students, while the cottage means a house or a simple residence made of bamboo. In addition, the word Pondok may come from the Arabic Funduq, which means hostel or hotel. In Java, including Sunda and Madura, the term Pondok and Pesantren is generally used. At the same time, in Aceh, it is known as data or framework or menuasa, while in Minangkabau, it is called surau [4]. Islamic boarding schools in Indonesia have a huge role in advancing Islamic education itself and the Indonesian nation [5]. The typology of pesantren can be divided into at least three types, although it is rather difficult to distinguish extreme between these types, namely salafiyah (traditional), khalafiyah (modern), and integrated [6].

Islamic boarding schools generally own several characteristics as educational institutions and social institutions that are informally seen in the development of society in general. The main features or elements in question are Kiai, mosques, santri, huts, and classical Islamic books [7]. The government provides various services to the potential development of Islamic boarding schools considering the uniqueness of each, both in terms of programs, regions. So on. the government continues to develop entrepreneurial-based pesantren, animal husbandry, agriculture, to Islamic boarding schools located in border areas. This is actualized by sending and lecturing the students and returning them to their original place. Islamic boarding schools have a social responsibility in community empowerment. Max Weber's theory states that social change as an impact of modernization must pay attention to humans shaped by the cultural values around them, especially religious values that cannot be separated from human life [8]. Therefore, the educational model at the Salafi Islamic Boarding School is equipped with empowerment. To achieve the quality of human resources [9]. Islamic boarding schools are synonymous with a solid religious education. However, facing the industrial revolution 4.0,

students who graduate from Islamic boarding schools need to be equipped with skills to further strengthen their role and competitiveness to compete in society. Deputy for Education and Religion Coordination Agus Sartono added that Islamic boarding schools could improve human resources. In addition to strengthening the religious foundation, skills must also be balanced.

So far, most of the pesantren in West Java have not been economically independent of financing the operations and development of pesantren facilities and infrastructure. The problem was overcome by the Office of Cooperatives and Small Businesses of West Java Province to initiate the One Pesantren One Product (OPOP) innovation. All Islamic boarding schools selected through the selection will be given an integrated coaching program. Their economic competitiveness will also be improved and assisted in the business development process, synergizing in potential business networks until they become an independent Islamic boarding school. The following is an example of the life skills possessed by students after participating in entrepreneurship-based learning at the Pandeglang Islamic boarding school, including a) academic skills, b) social skills, c) personal skills, and d) vocational skills. The academic skills obtained by students in Islamic boarding schools are the ability of students to understand the yellow book, the power of students to speak Arabic & English as a means of communication. While the social skills possessed by students in Pandeglang Regency include the ability to communicate verbally, communicate in writing [10]. In facing the challenges of modernization, the Roudlatul Marifat Islamic boarding school carries out the following: 1) Acceleration and synergy with formal educational institutions; 2) Maintaining Traditional Values; 3) Charismatic Leadership Style; 4) Schedule of Activities Not Too Busy [11].

Formulation of Strengthening Positive Legal Insights for Salafi Santri to Improve Competence Indonesia as a democratic country provides guarantees for every citizen to freely embrace religion and worship according to their religion, as well as choose education and teaching in a national education system that increases faith and piety and noble character in the intellectual life of the nation as mandated in the Constitution of the Republic of Indonesia in 1945.

The participation of the students who have colored the legal world in Indonesia is evident, as evidenced by many legal practitioners from Islamic boarding schools, which used to be students. The students who are studying at Islamic boarding schools at this time should be given more motivation, that students must have aspirations of implementing law enforcement in Indonesia in the future because this is the essential capital, studying religious knowledge seriously, on the one hand, students must also be educated and educated to understand the law that develops in society [12]. Even though as a tafaqqah fi al-

Islamic institution, pesantren are required to make methodological breakthroughs. The impression of being left behind and all limitations can be overcome by Pesantren [12]. The implementation of Islamic boarding schools is based on: a. Belief in the one and only God; b. nationality; c. independence; d. empowerment e. benefit; f. multicultural; g. professionalism; h. accountability; i. continuity; and j. legal certainty.

The principle is something that is the foundation of thinking or opinion. Principles can also mean basic laws. The principle is a general proposition stated in general terms without requiring special conditions regarding its implementation. These are applied to a series of actions as the fitting instructions for that action. Public law principles are basic norms derived from positive direction and which legal science does not ascribe to more general rules. The principle of law is the deposition of positive law in society. Legal principles should not be considered concrete legal norms but should be viewed as general principles or guidelines for applicable law [13].

Informing laws and regulations in Indonesia, it is still encountered applying the theory of legal fiction. Everyone is considered to know the law if it has been promulgated in an official sheet, and someone's ignorance of the law or legislation in force does not exempt a person from lawsuits (*ignorantia iuris neminem excusat*) [14].

The application of legal fiction theory in Indonesia can be seen in all levels of legislation. This is regulated in Article 81 of Law Number 12 of 2011 concerning the Establishment of Legislation which states: For everyone to know about it, laws and regulations must be promulgated by placing them in 1) State Gazette of the Republic of Indonesia; 2) Supplement to the State Gazette of the Republic of Indonesia; 3) State Gazette of the Republic of Indonesia; 4) Supplement to the State Gazette of the Republic of Indonesia; 5) Regional Gazette; 6) Additional Regional Gazette, or 7) Regional News. This means that with the promulgation of laws and regulations in the official sheet as referred to in this provision, everyone is deemed to have known it.

The formulation of positive legal insight legal strengthening for Salafi students can be done by

1. Identifying the form of skill empowerment given to students,
2. Identify the ideals or desires of the profession chosen by the santri,
3. Cooperation between universities and pesantren in legal counseling activities,
4. Students must take formal legal education if they aspire to become legal practitioners.

The juridical provisions regarding legal counseling are regulated in the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number: M-01.PR.08.10 of 2007 concerning Amendments to the Regulation of the Minister of Law and Human Rights of the Republic of Indonesia Number: M01.PR.08.10 of 2006 about Patterns of Legal Counseling. The

background of the issuance of the ministerial regulation is to develop a legal culture in all levels of society to create awareness and legal compliance for the sake of upholding the rule of law in the Unitary State of the Republic of Indonesia; it is necessary to conduct legal counseling nationally and so that the implementation of legal counseling nationally can run in an orderly manner. Directed and integrated need to be based on the pattern of legal counseling [15]. The natural step to develop the potential of individual students and Islamic boarding schools for law enforcement efforts in Indonesia is to understand and convince students by strengthening positive legal materials in Islamic boarding schools, one of which is to include a curriculum on the basics of positive law in Indonesia, as well as provide legal counseling to students, as well as build a network between pesantren in strengthening legal materials. In addition, efforts are made to increase legal awareness of the community and government so that the enforcement of the principles of the rule of law can run well [1].

4. CONCLUSION

Islamic boarding schools have empowered Salafi students to improve skills and expertise to improve students' competence in the economic, social, and cultural fields. Still, they need to be accompanied by providing legal insight to students regarding laws and regulations. Raising awareness should be done through regular legal counseling based on careful planning. Legal counseling by academics and practitioners must be adjusted to the legal problems that exist in society and the needs of Islamic boarding school legal insight in producing students who are ready to face the era of globalization.

REFERENCES

- [1] A. H. Usman, "Kesadaran Hukum Masyarakat dan Pemerintah Sebagai Faktor Tegaknya Negara Hukum di Indonesia," *Jurnal Wawasan Hukum*, vol. 30, no. 1, pp. 26 Februari 2014.
- [2] Sekretariat Jenderal MPR RI, *Undang-Undang Dasar Negera Republik Indonesia Tahun 1945*. Jakarta: Setjen MPR RI, 2014.
- [3] M. Rizal., M. Iqbal., & Najmudin, "Model Pendidikan Akhlaq Santri di Pesantren dalam Meningkatkan Akhlaq Siswa Di Kabupaten Bireuen," *Nadwa: Jurnal Pendidikan Islam*, vol. 12, no. 1, pp. 89 2018.
- [4] B. Adhim, "Santri Dan Penguatan Praktek Bela Negara: Studi Kasus Ponpes SPMAA," vol. 2, no. 1, pp. 6 Desember 2016.
- [5] Yasmadi, *Modernisasi Pesantren: Kritik Nurcholish Majid Terhadap Pendidikan Islam Tradisional*. Jakarta: Quantum Teaching, 2005, pp. 61.
- [6] M. S. Zuhriy, "Budaya Pesantren Dan Pendidikan Karakter Pada Pondok Pesantren Salaf," *Walisongo*, vol. 19, no. 2, pp. 291 November 2011.

- [7] K. Thohir, "Kurikulum dan Sistem Pembelajaran Pondok Pesantren Salafi di Kecamatan Kresek Kabupaten Tangerang Provinsi Banten", *ANALYTICA ISLAMICA*, vol. 6, no. 1, pp. 14 Januri-Juni 2017.
- [8] F. Nasution, "Pemberdayaan Santri," *INTIQAD*, vol. 11, no. 1, pp. 23-51 2019.
- [9] A. Wahid, *Menggeraikan Esai Esai Pesantren*. Yogyakarta: LKIs, 2001.
- [10] I. R. Meilya, "Kecakapan Hidup Santri Setelah Mengikuti Pembelajaran Berbasis Wirausaha Di Pondok Pesantren Kabupaten Pandeglang", vol. 3, no. 2, pp. 205-217 Agustus 2018.
- [11] M. Fawaid., & H. Farisi, "Eksistensi Pondok Pesantren Salafiyah Roudlotul Ma'rifat Desa Boreng Lumajang Di Era Modern", *Tarbiyatuna: Jurnal Pendidikan Islam*, vol. 11, no 2, pp. 175 Agustus 2018.
- [12] A. Wahid, *Islam Kosmopolitan: Nilai-Nilai Indonesia dan Transformatif Kebudayaan*. Jakarta: The Wahid Institute, 2007, pp. 1.
- [13] T. Wijayanta, "Asas Kepastian Hukum, Keadilan dan Kemanfaatan dalam kaitannya dengan Keputusan Kepailitan Pengadilan Niaga", *Jurnal dinamika Hukum*, pp. 216-226 2014.
- [14] HSB, A. M, "Mengkritisi Pemberlakuan Teori Fiksi Hukum", *Jurnal Penelitian Hukum DE JURE*, pp. 251-264 2016.
- [15] Azhar., KMS Novyar Sariawan Fikri., & M. Apriyanto, "Pendampingan Santri untuk Penurunan Tingkat Pelanggaran Lalu Lintas", *Magistrorum Et Scholarium: Jurnal Pengabdian Masyarakat*, vol. 01, no. 2, pp. 238-247 Desember 2020.