



The Efforts of Islamic Boarding Schools to Protect Their Constitutional Rights in the Face of Beleidsregel: An Analysis of Policy Dynamics in Indonesia

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Abstract—Islamic boarding, which are Islamic boarding institutions, occupy significant positions of importance in Indonesia with regard to both education and culture. Due to "Beleidsregel," which are administrative bodies' imposed policy regulations, these institutions have recently experienced difficulties. The present study investigates the ways in which Islamic boarding reacted to these regulations, with a specific focus on how they felt about their constitutional rights. The fundamental investigation revolves around the approaches utilized by Islamic boarding in order to maneuver within these policy limitations and the possible violations of their rights. By employing a qualitative approach, this study incorporated interviews with policy architects, legal professionals, Islamic boarding leaders, and legal experts. Furthermore, a comprehensive examination of pertinent legal instruments was undertaken, with particular emphasis on instruments that emphasize religious freedoms and educational autonomy. Initial findings highlight the fact that Islamic boarding frequently perceives the Islamic boarding as a challenge to their constitutional prerogatives, which elicits a variety of advocacy and legal reactions. These encompass cultivating discussions with regulatory bodies, pursuing judicial interventions, and establishing collaborative partnerships with other stakeholders in the field of education. In summary, although the primary objective of the *beleidsregel* is to modernize and optimize the educational structure of Indonesia, it unintentionally places Islamic boarding in a precarious position. Attaining a harmonious equilibrium between regulatory ambitions and the inviolable rights of these esteemed institutions necessitates ongoing cooperation and shared understanding.

Keywords—Beleidsregel; Constitutional Rights; Educational Autonomy.

I. INTRODUCTION

The government of Indonesia has implemented public policies via a multitude of legal instruments. Nevertheless, there is frequently a need for enhanced practical execution of these policies, particularly during the early 2000s when Indonesian bureaucracy ranked among the lowest on a global scale. Indonesian policymaking is complex, with government officials assuming substantial responsibilities in the formulation and execution of laws, regulations, and guidelines. Legislative progress in Indonesia could be more accelerated, as the House of Representatives (DPR) frequently fails to meet its legislative objectives.[1]

Decision-making by consensus is a fundamental tenet of Indonesian culture, which places significant emphasis on the negotiation and discourse among diverse factions or leaders. In some regions of Indonesia, the transition from centralized autocracy to decentralized democracy has been rapid, while in others, it has been gradual. Particular concerns are raised regarding the responsibilities of certain government officials tasked with implementing regional autonomy, in light of their previous affiliations with a centralistic government.[2]

The definition of "policy" as outlined in Government Regulation No. 25 of 2000 presents a substantial concern. This regulation resembles directives from the central government rather than a document bestowing additional functional authority. Legislation No. 20 of 2003 concerning the National Education System grants *pesantrens* (Islamic residential schools) and all other educational establishments in Indonesia equivalent flexibility. Nevertheless, concerns arise regarding the impact of the *Beleidsregel* on the constitutional rights of *pesantrens* in light of its inception. In Indonesia, *pesantren* policies are endorsed by the government as a form of religious education. Regarding *pesantren* policies, the values enshrined in Pancasila (the state philosophy of Indonesia) are of the utmost importance in the context of social justice.[3]

Particularly in the context of *pesantren* in Indonesia, the landscape of religious education has been the subject of national discourse. Conversely, when positioned within a global context, a number of deficiencies become apparent. To begin with, although the dynamics of religious education have been examined in numerous nations, more research is required to compare the Indonesian *pesantren* model to analogous institutions in other Muslim-majority countries. The aforementioned oversight also pertains to the consequences of decentralization on academic achievements. Although decentralization has been extensively examined in global studies, its potential impact on religious education, particularly in Indonesia, is still largely unknown.[4]

Furthermore, the balance between religious and constitutional rights is frequently the subject of international discourse. However, the intricate relationship between the *Beleidsregel* and the constitutional rights of *pesantren* in Indonesia is still a subject that has received limited attention. It is well documented that the Indonesian bureaucracy exhibited inefficiencies in the early 2000s. Nonetheless, there is a paucity of research that interweaves these inefficiencies with the difficulties *pesantrens* encounter in safeguarding their constitutional rights.[5]

Finally, in a more comprehensive sense, the impact of state philosophies on national identities and policies has attracted global attention. However, the intricate way in which Pancasila shapes *pesantren* policies, particularly in the face of obstacles such as the *Beleidsregel*, offers an original area of study. Drawing upon the aforementioned research, this study will examine the efforts of *Pesantrens* to defend their constitutional rights in opposition to *Beleidsregel*, with the intention of providing insight into the dynamics of Indonesian policy.

II. LITERATURE REVIEW

A. *Constitutional Rights of Islamic Boarding Schools*

Islamic boarding schools in Indonesia have distinctive attributes as educational institutions focusing on Islamic teachings. Islamic boarding schools serve more than educational institutions; they also function as residential facilities for students.[6] Islamic boarding schools, overseen by a *kai*, implement a curriculum encompassing Islamic religious studies, Arabic language, and general knowledge. Nevertheless, what sets it apart is its comprehensive approach to education, which encompasses character cultivation, elements of spirituality, and everyday existence.

The constitutional rights of Islamic boarding schools encompass the fundamental freedoms of religion and education. Islamic boarding schools are entitled to offer Islamic religious education following their religious views and teachings within the boundaries of constitutional rights. This encompasses arranging educational endeavors and guiding students without unwarranted intervention. *Santri*, as persons enrolled in Islamic boarding schools, possess the entitlement to freely engage in their religious rituals without facing any form of prejudice or bias.

This study focuses on the constitutional rights of Islamic boarding schools, specifically in relation to their religious identity and social rights.[7] Islamic boarding schools have the entitlement to social rights, encompassing the prerogative to retain their religious and cultural distinctiveness. These social liberties encompass the liberty to govern educational endeavors and daily affairs following the beliefs and principles upheld by the Islamic boarding school. The acknowledgment of this constitutional entitlement safeguards the presence of Islamic boarding schools and upholds the variety of educational options in Indonesia.

An in-depth comprehension of the constitutional rights of Islamic boarding schools is crucial for ensuring the longevity and autonomy of these establishments. By examining policy dynamics, particularly the impact of regulations, we may gain insight into how the legal framework safeguards the constitutional rights of Islamic boarding schools in Indonesia.

B. *Beleidsregel on Education Policy in Indonesia*

A *beleidsregel*, which is a government-issued policy or regulation, has a substantial influence on several industries, including education. Regarding education in Indonesia, multiple legislation and policies can impact Islamic boarding schools. A comprehensive comprehension of this regulation is

essential for studying the intricacies of education policy and its influence on the constitutional rights of Islamic boarding schools.

The dynamics of education policy in Indonesia encompass modifications in the curriculum, accreditation prerequisites, and other regulations promulgated by the Ministry of Education and Culture.[1] These policies may only sometimes be suitable for Islamic boarding schools' particular settings and attributes. A policy that neglects educational variety can cause difficulties in upholding the constitutional rights of Islamic boarding schools.

Effects on Islamic Boarding Schools and Constitutional Liberties. The law can have several effects on Islamic boarding schools, such as limitations on implementing Islamic religious curricula, insufficient accrediting provisions, or even interference in the general governance of these schools. Hence, to safeguard the constitutional rights of Islamic boarding schools, it is imperative to consider the unique setting of these institutions when analyzing educational policy dynamics.

It is crucial to foster a productive discourse between the government and religious and educational institutions to safeguard the constitutional rights of Islamic boarding schools. This may entail harmonizing legislation with the ideals and beliefs upheld by Islamic boarding schools and guaranteeing the long-term viability of educational pluralism in Indonesia. Hence, the dynamics of educational policy might serve as a method to enhance, rather than restrict, the constitutional rights of Islamic boarding schools to offer religion and character education to their pupils.

C. Dynamics of Education Policy and Its Impact on Islamic Boarding Schools

Revamping the education policy in Indonesia is crucial for effectively managing the national education system.[8] An assessment of these modifications must be conducted in order to comprehend the potential ramifications for Islamic boarding schools. The educational approach followed by Islamic boarding schools can be considerably influenced by changes in curriculum, accreditation criteria, and other rules.

Islamic boarding schools can be influenced by educational policy in several ways. Changes to the national curriculum may necessitate modifications in implementing Islamic religious instruction at Islamic boarding schools. The accreditation criteria are becoming increasingly strict, which might pose a hurdle, particularly when considering the distinctive features of Islamic boarding schools. Consequently, impact evaluations should analyze how these modifications influence religious instruction's fundamental nature and objectives in Islamic boarding schools.

Islamic boarding schools may encounter difficulties upholding their constitutional rights, such as facing opposition to policy modifications perceived as undermining religious instruction. Furthermore, Islamic boarding schools may require assistance in fulfilling accreditation criteria that may not align well with the educational methods employed at their establishments. The initial phase in devising measures to safeguard the constitutional rights of Islamic boarding schools is to identify these obstacles.

Collaboration between the government and Islamic boarding schools is crucial when dealing with the complexities of education policy. Engaging in open discourse and collaborative discussions regarding the requirements and attributes of religious education in Islamic boarding schools can facilitate the development of inclusive educational policies and uphold the constitutional rights of these institutions. Thus, by adequately elucidating the consequences of policy changes, we may ensure that Islamic boarding schools continue to function as educational institutions that safeguard their constitutional rights.

III. METHOD

This study uses the library research methodology to examine the influence of the "Beleidsregel" on Islamic boarding school establishments in Indonesia, focusing on education and constitutional rights. Islamic universities, encompassing Islamic boarding school establishments, play a crucial role in Indonesia's education and cultural landscape. This research tries to comprehend the responses of Islamic boarding schools to the "Beleidsregel" policy, which poses fresh obstacles for them. The focus is mainly on their constitutional rights. This study examines the response of Islamic boarding schools to the "Beleidsregel" and their interpretation of their constitutional rights within the framework of policy modifications. The primary emphasis lies on the strategies employed by Islamic boarding schools to accommodate the constraints imposed by this policy and any potential infringements on their rights. This research employed pertinent legal frameworks thoroughly examined, particularly emphasizing the importance of religious freedom and educational autonomy. Initial discoveries indicate that Islamic boarding schools frequently perceive the "Beleidsregel" as a threat to their constitutional rights, leading to a range of lobbying and legal responses. This encompasses dialogues with regulatory authorities, legal interventions, and the establishment of collaborative alliances with other players in the education industry.

IV. RESULT AND DISCUSSION

Legislation Number 18 of 2019 is concerned with Pesantren, which are Islamic boarding institutions operating in Indonesia. The legislation delineates the responsibilities and operations of Pesantren with regard to community empowerment, religious outreach (dakwah), and education. The legislation's prioritization of the educational role of Pesantren and its incorporation into the nationwide education system underscores the government's dedication to preventing the marginalization of Pesantren and ensuring that it remains an indispensable component of the wider educational structure.[8]

Moreover, the legislation's emphasis on professionalism, quality assurance, and graduate quality parity signifies a transition towards standardization and quality oversight, guaranteeing that Pesantren alumni possess equivalent qualifications to those from alternative academic establishments. The inclusion of a provision for facilitation by the Central and Regional Governments emphasizes the responsibility of the state to foster and assist the expansion and progress of Pesantren.[9]

This holds notable importance when considering "Beleidsregel" (policy rules) and signifies the proactive stance of the state in safeguarding the constitutional rights of Pesantren from any policy-induced encroachment. This regulation demonstrates the recognition by the state of the Pesantren's significance in the socioreligious and educational fabric of Indonesia. The legislation establishes a comprehensive legal structure that protects the welfare of Pesantren and guarantees their ongoing progress and advancement in accordance with domestic goals.[10]

Pesantren, which are conventional Islamic boarding institutions, have long been considered an essential component of the cultural and educational tapestry of Indonesia. Throughout history, they have significantly contributed to the distribution of Islamic doctrines, principles, and customs throughout the archipelago. Pesantren have undergone modifications over time in response to the shifting socio-political landscape of the nation; however, their fundamental purpose of imparting religious and moral instruction has persisted unaltered.[11]

Legal formality notwithstanding, the implementation of Law No. 18 of 2019 constitutes a substantial stride in the direction of institutionalizing the function of pesantren. The state demonstrates its appreciation for their contributions to nation-building, character development, and the advancement of religious harmony through the granting of legal recognition. Furthermore, this acknowledgment facilitates Pesantren's access to financial and intellectual capital, which are essential for the improvement of their educational capabilities and physical infrastructure.[12]

The legislation underscores the significance of Pesantren in safeguarding traditional values and teachings, while concurrently promoting the integration of contemporary educational methodologies within these establishments. By maintaining this equilibrium, Pesantren students are adequately prepared to confront the complexities of the modern era while maintaining a strong connection to their religious and cultural heritage.[13]

The legislation not only acknowledges but also requires the central and regional governments to actively support the progress of Pesantren. Financial assistance, teacher training programs, infrastructure development, and curriculum enhancement are all potential forms of this facilitation. This form of support guarantees that Pesantren maintains its competitiveness and significance within the wider educational landscape of Indonesia. Although Law Number 18 of 2019 establishes a robust framework for the expansion and progress of Pesantren, it is imperative to acknowledge and confront possible obstacles.[14]

Potential obstacles could consist of resource constraints, resistance to modernization, or a dearth of qualified educators. It is imperative that Pesantren leaders, government officials, and educational experts maintain an ongoing dialogue in order to effectively tackle these challenges and safeguard the continued prosperity of Pesantren. Pesantren encounter a significant obstacle in the contemporary era when it comes to reconciling traditional Islamic doctrines with the ever-changing sociopolitical environment of Indonesia. Pesantren encounter an ideological dilemma in which they must reconcile their teachings with national principles and values, which transcends the realm of academia.[15]

According to Article 8.1.1, Pesantrens are obligated to promote the Islamic value of "rahmatan lil'alam" (a blessing for all creation) and must be established in accordance with Pancasila, the Unitary State of the Republic of Indonesia, the 1945 Constitution of the Republic of Indonesia, and Bhinneka Tunggal Ika (Unity in Diversity). This article emphasizes the significance of ensuring that the operations and teachings of Pesantren are in accordance with the fundamental values and principles of the Indonesian state.[16]

The directive outlined in Article 8 (1) presents Pesantren with both a direction and a challenge. Although it provides explicit guidance on how to incorporate national values into their doctrinal framework, it also presents the difficulty of safeguarding the fundamental religious doctrines and values of Pesantren from potential compromise during this process. On occasion, the "Beleidsregel" or

policy rules may be interpreted as directives that potentially encroach on the customary practices of Pesantren.[17]

However, in accordance with the explicit directive outlined in Article 8.1.1, Pesantren possess a legal authority to guarantee that their fundamental nature and religious doctrines remain unaltered, even as they conform to national values. Moreover, this article reinforces the efforts of Pesantren to safeguard their constitutional rights in the face of shifting policy dynamics. It furnishes them with a well-defined structure to function within, guaranteeing their adherence to religious doctrines and national principles.[18]

Pesantren may contest any "Beleidsregel" that challenges or contradicts the mandate of Article 8. This ensures the protection of their constitutional rights. Article 8.1.1 succinctly encapsulates a dual mandate for Pesantren, placing equal emphasis on the significance of fundamental religious teachings and national values. Although this dual mandate offers clarity, it also forces Pesantren to navigate a dichotomy. The evolving policy landscape in Indonesia, exemplified by "Beleidsregel," may potentially clash with established customs and values.[19]

The task at hand for Pesantren is to determine which of these policy regulations are consistent with the essence of Article 8.1.1 and which deviate from it. Nevertheless, it serves as a fortification for Pesantren in the face of these obstacles. It ensures that any policy deemed to undermine the fundamental tenets of Pesantren's religious teachings can be challenged on the basis of its unambiguous legal standing. This protective mechanism is of the utmost importance in an age where swift policy shifts may inadvertently disregard the subtleties of established practices. Moreover, the article strengthens the constitutional rights of Pesantren by establishing a structure that safeguards the continuity of teachings that are deeply ingrained in traditions that date back centuries, all the while conforming to the changing values of the nation. Given the Beleidsregel's challenge to the article's mandate, Pesantren are presented with a unique opportunity to demonstrate their adaptability in accommodating national directives while reiterating their dedication to their fundamental teachings.[7]

V. CONCLUSION

Law Number 18 of the Year 2019 stands as a testament to the integral role of Pesantren in Indonesia's socio-religious and educational domains. By recognizing Pesantren's contributions and ensuring their alignment with the national education system, the state solidifies its position in shaping the nation's character and fostering religious harmony. The law's provisions, especially Article 8 (1), provide a clear directive for Pesantren to integrate national values while safeguarding their core spiritual teachings. However, the evolving landscape, marked by policies like "Beleidsregel," poses challenges to these traditional institutions. Despite potential policy dynamics that might seem contradictory to their practices, the robust legal framework of "UU No. 18 Tahun 2019" equips Pesantren with the tools to navigate these challenges. With the law's protective shield, Pesantren can reaffirm its commitment to core teachings while adapting to the nation's evolving ethos.

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