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# RECONSTRUCTION OF THE PESANTREN LAW IN THE FRAME

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**RECONSTRUCTION OF THE PESANTREN LAW IN THE FRAME  
OF PESANTREN INDEPENDENCE**

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**Abstract**

*Pesantren, in the annals of history, plays a vital role in the world of education, economics, and politics. The economy of pesantren has prepared itself as organizational independence in maintaining its existence—the MORA regulation hints at the independence of pesantren with a roadmap of independence as the main guideline. Meanwhile, the Pesantren Law has not explicitly mentioned this. This paper seeks to explain the implementation of the independence of pesantren and the need for reconstruction of the Pesantren Law from the perspective of the pesantren m andirian. This research uses a literature approach. The results of the study show the need for a discourse on the reconstruction of articles in the Pesantren Law in line with the pesantren independence program and the programs or technical implementations under it, starting from the funding of pesantren, the roadmap for pesantren independence, to technical guidelines for pesantren business assistance.*

**Keywords:** Reconstruction, Pesantren, Kemandirian

**Abstrak**

Pesantren dalam catatan sejarah memainkan peran penting dalam dunia pendidikan, ekonomi dan politik. Ekonomi pesantren pada dasarnya telah mempersiapkan diri sebagai independensi organisasi dalam mempertahankan eksistensinya. Peraturan Kemenag mengisyaratkan independensi pesantren dengan roadmap kemerdekaan sebagai pedoman utama. Sementara itu, UU Pesantren belum secara spesifik menyebutkan hal tersebut. Tulisan ini berupaya menjelaskan pelaksanaan independensi pesantren dan perlunya rekonstruksi UU Pesantren dalam perspektif pesantren m andirian. Penelitian ini menggunakan pendekatan kepustakaan. Hasil penelitian menunjukkan perlunya wacana rekonstruksi pasal-pasal dalam UU Pesantren sejalan dengan program kemandirian pesantren dan program atau teknis pelaksanaan di bawahnya, mulai dari pendanaan pesantren, roadmap kemandirian pesantren, hingga petunjuk teknis bantuan usaha pesantren.

**Kata kunci:** Rekonstruksi, Pesantren, Kemandirian

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## INTRODUCTION

Seeking knowledge for a Muslim is obligatory 'Law. It is no wonder, then, that God's command on the revelation of the first person came down about "Iqra." So important is the command to read that God repeats twice. Reading is one of the main ways to gain knowledge. God gives the power to read to all human beings to learn and seek knowledge. By reading, humans will gain broad insights to be wise and distinguish between good and evil. As the saying goes, seek wisdom from the cradle to the grave. This means that during life, human beings continue to learn endlessly. In addition to the direct commands of God, seeking knowledge has many virtues. Pesantren is one of the places to gain and deepen knowledge and tabulate morals (Sabil & Diantoro, 2021).

Since 1945, precisely December 27, Workers of the Central National Committee (BPKNP) said that pesantren is an Islamic educational institution that is a tool to eradicate ignorance in the poor (Darwinsyah & Nugroho, 2021). Pesantren contributes to the progress of the Indonesian nation. Pesantren is one of the old educational institutions in Indonesia that participates in educating the nation's children. Many national figures and scholars were born from pesantren. The values taught in the Pesantren environment inspired the establishment of the basic foundation of the Indonesian nation, "Pancasila." Like the founding father of the State drafting thread, education in pesantren is included in the state substance (Erfandi, 2020).

Pesantren must have minimal elements. Namely, there is a kyai, a student who lives in a pesantren, dormitory, or cottage for a place to live, a mosque, or a prayer room. The curriculum applied is the yellow book or Islamic dirosah with a nasealimin education pattern. The establishment of a pesantren must be registered to be incorporated because pesantren is a provider of formal and non-formal education, which is used as a proselytizing institution and social institution (Rufaidah Salam, 2021).

The presence of Islamic boarding schools significantly influences the formation of an Islamic social and economic environment (Herningrum et al., 2021). There is no doubt about Indonesia's skyrocketing growth and development of Islamic boarding schools. The Ministry of Religious Affairs recorded tens of millions of students with almost 30,000 Islamic boarding schools throughout Indonesia. One of the Ministers of Religious Affairs, Mr. Fachrul Razi, stated that until 2020, there were 28,194 Islamic boarding schools with 5 million students spread throughout Indonesia (Panut et al., 2021).

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To boost independent Islamic boarding schools, the government has again poured out the Pesantren Law number 18 of 2019. The ratification of the Law on October 16, 2019, concerning Islamic boarding schools is a breath of fresh air in implementing education in Islamic boarding schools (Wiranata, 2019). With the entrepreneurship program, pesantren empowers all existing stakeholders. They are starting from students, ustad-ustadzah, and the surrounding community. The impact of this program is tremendous. By working together, students can stand on their own feet because they have good economic, creative, and social independence skills. Meanwhile, Islamic boarding schools can increase independence in terms of financing because they have income that can be used to support their operations (Atta Putra Harjanto, Ain Hajawiyah, et al., 2021).

Since the early 80s, pesantren has been running and developing the Pesantren and Community Development Bureau (BPPM). With this BBPM, pesantren held community training related to appropriate industries, assisting small business units of tofu industry, tempeh industry, batik crafts, convection, fisheries, and agriculture. In 2005 the Islamic boarding school, maslakul Huda, kajen, pati central java, had already developed the pati community and the surrounding kajen. Da'wah bil things done with the community in 2005 have reached Rp 22.5 billion. In the form of a people's credit bank (BPR), Artha Huda Abadi, which has assets of tens of billions, a sharia savings and loans unit (USPS), fostered by non-governmental groups (KSM), and animal feed production utilizing waste from tapioca. Sharia principle efforts that are fair in transactions do not use interest to obtain profits and prioritize togetherness and brotherhood according to Islamic boarding schools' values. Pesantren is an Islamic religious education that comes from, by, and for the community. It is supposed that community-based educational institutions should have an impact on the social and economic conditions of the community (Rahmawati, 2018).

Historically, regulations that are directly related to Pesantren can be mentioned: Law 18/2019 on Pesantren; PMA 31/2020 on Islamic Boarding School Education; Presidential Regulation 82/2021 concerning Funding for The Budgeting of Islamic Boarding Schools; KMA 749/2021 concerning the Pesantren Independence Program; KMA 1252/2021 concerning the Roadmap for Pesantren Independence; and Kepdirendis 123/2021 concerning Technical Guidelines for Business Incubation Assistance for Pesantren for the fiscal year 2022. All of the above regulations directly or indirectly discuss the direction of pesantren as a financially independent institution. Based

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on this description, this paper seeks to identify and explain the urgency of reconstructing the Pesantren Law in line with the pesantren independence program.

## METHODS

Research is a type of normative or literature research. Data collection through literature review is related to the focus of research in the form of literature review, theory, and government regulatory documents. The source of primary material in this study is various literature that directly discusses the Pesantren Law and the independence of pesantren. Triangulation data analysis is used in collecting data, data reduction process, presentation, and concluding.

## RESULTS AND DISCUSSION

Science became the center of human civilization. Without the science of life, it would be in the jahiliyyah era where humans experience stupidity that causes damage everywhere. Science becomes the key to man, paving the way to achieving worldly happiness and the hereafter. One of the sciences that a Muslim must learn is tawhid. If it is not known, he will sin. The science of tawhid is concerned with the faith of a god that is one or one. As a Muslim, tawhid is the foundation for carrying out commands and staying away from the prohibitions of Allah. Tawhid and religious knowledge can be obtained intensively and comprehensively at Islamic boarding schools or what we know as pesantren. Pesantren will be taught, guided and directed by a leader, kyai. Kyai is the name of a society that is an expert in religion. A kyai will become a suri tauladan in the life of pesantren and society (Arifin, 2021).

Pesantren is an Islamic institution that is obliged to have 3 (three) fats, are: *first*, Contextual, pesantren must experience changes in responding to the dynamics of the times; *secondly*, Progressive, the progress of pesantren as a process to respond to changes intensely and creatively; and thirdly, Liberatively, pesantren can face problems that exist universally without differentiating religion and ethnicity (Aep Tata Suryana, Tatang Ibrahim, Muslim Daud, Hery Saparudin, 2020). That way, the pesantren can be flexible, not rigid to all changes. Pesantren has the same vision and mission of education as Law No. 20 of 2003, article 1 paragraph 1, which reads that education is to develop the potential of students to have religious, spiritual strength, self-control, personality,

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intelligence, noble character, and skills needed in the life of society, nation and State (Azhar, 2003). The curriculum applied combines the pesantren curriculum and general education determined by the minister of education (Azzahra, 2020).

Until now, pesantren has become the oldest educational institution that creates knowledgeable human resources, character, and character. This is in line with Government Regulation No.5 of 2007. Pesantren has the purpose of education to instill faith and devotion to Allah SWT, noble character, and pesantren traditions as a development of the potential, knowledge, and skills of students to become experts in Islamic religious science (mutafaqqih finding) who have the skills to create Islamic community life. The contribution of pesantren is by the objectives of PP No.5 of 2007, as follows:

*First*, the role of pesantren in shaping faith in Allah Swt and the personality of noble morals. Pesantren is a place of learning to deepen religious knowledge for the community. In pesantren, students will be given lessons related to religion and practice it in daily activities so that faith can increase over time. Start the habituation of orderly worship such as compulsory prayers, sunnah prayers, fasting sunnah, behaving politely, and other sunnah Rosul habits—the beginning of being forced to become a habit and become a character gradually. The pesantren environment becomes fertile land for a person to strengthen his faith. Strong faith and piety will make it easier for humans to form other good attitudes (Sadali, 2020).

*Second*, role pesantren give birth to religious experts, as an old educational institution in Indonesia. Pesantren has gained the community's trust in giving birth to Muslim clerics, religious leaders, and scholars. Pesantren has long been the budding of the formation of scholars in Indonesia. We are preserving the legacy of the pesantren leader because a kyai is required to graduate from the pesantren (Shodiq, 2011).

*The third* is the role of pesantren in forming an Islamic environment. The establishment of a pesantren has a remarkable impact on the broader community. Including the surrounding environment. Such as the results of a case study of one of Indonesia's famous Islamic boarding schools. Pesantren tebu ireng jombang. The villagers strongly opposed the beginning of standing in a rural environment. The life of the people, which at that time was supported by the existence of a sugar factory of dutch colonizers, made the pattern of life oriented towards worldliness and toxicity.

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Establishing a pesantren in the famously dark environment is a form of resistance to the long-standing stupidity, toxicity, and colonization—the founder of KH. Hashim Asy'ari did not accept the increasingly rampant intimidation and intimidation. Then he built a house derived from woven bamboo to start new tinsel. Accompanied by insults, insults, and slander here and there does not make kyai Hashim daunted in proselytizing for virtue. Gradually, the establishment of a pesantren brought the community to live in prosperity and peace. The maksiat of localization, gambling, and liquor parties is fading as people's understanding of Islam grows. Until now, the establishment of the ireng jombang sugarcane boarding school has become history in creating an Islamic society (Irfan & Tamzil, 2001).

*Fourth* is the role of pesantren in forming the social and economic environment. Pesantren has a significant role in the social order in society. The existence of pesantren is a forum for anxiety and problems that occur in the community. Not only responding to questions and answers about religion but related to other things. Such as problems of relationships with others, conflict resolution, tightening the ropes of brotherhood, and alleviating poverty and ignorance. In carrying out the function of pesantren to create a healthy social society, it will also indirectly come into contact with the economy. Currently, pesantren continues to strive to create innovations to maximize the empowerment of the surrounding community. In addition, the rapid growth of digital makes it imperative for Islamic boarding schools to adapt and maximize the sophistication of technology (Novita Kurniasari, 1981).

The Ministry of Religious Affairs of the Republic of Indonesia also said that the development of Islamic boarding schools in East Java in 2021 amounted to 4,452. This number explains that the distribution of Islamic boarding schools in East Java has been evenly distributed. The highest data on the spread of Islamic boarding schools in Jember regency is 611. At the same time, the lowest number is in the Madiun regency, with only 8 Islamic boarding schools (Winarto, 2019). The era of increasingly fierce human resources (HR) competition is a challenge for pesantren graduates. Many graduates feel inferior to the competition that occurs. This is a new paradigm for pesantren leaders to develop independence from various aspects of the economy and student independence (Latipah, 2019). Students' freedom is realized by equipping students with various skills or skills to increase competitiveness after graduation. The hope is that student graduates



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will understand not only religious knowledge but also be able to adapt to the world of work (Alfian & Yaqin, 2021).

Meanwhile, the independence of pesantren from an economic point of view can develop the potential of pesantren productively. As we know, Pesantren is an educational institution whose financing comes from self-help. Cooperation with the community without government interference. The research results at the Assalafy Putra-Putri Al-Asror Islamic boarding school on Jalan Kauman no. 1 Patemon, Gunungpati District, Semarang City, Central Java Province, Indonesia, have a unique program to realize the independence of pesantren. The program is entrepreneurship. The entrepreneurship program includes aquaculture and animal husbandry, workshops, grocery stalls, and pesantren cooperatives as the parent company. Indirectly, students are equipped with business skills (Kholis et al., 2021).

The Pesantren Law consists of IX CHAPTER and 55 articles (Nuraeni, 2021). The Pesantren Law has 5 (five) main points, namely: pesantren are required to teach the yellow book to students; pesantren independent institutions that have the characteristic of value-religious values in them; a kyai must be a diamond a graduate of a boarding school; with quality assurance, diplomas from pesantren are equivalent to formal institutions; and pesantren get funds from the government (Rufaidah Salam, 2021).

The birth of the pesantren law is like a currency with two sides. The first side is the impetus so existing changes do not leave behind advanced and modern pesantren. Implementing <sup>7</sup> education in Islamic boarding schools has three main points: making individuals practice religious teachings in everyday life. Have akhlakul karimah, knowledgeable, independent, ta'awun, tawazun and tawasut. Second, it forms individuals who are tolerant of diversity. Indonesia has a variety of religious, ethnic, racial, and cultural diversity. For coexistence and peace, it is necessary to cultivate tolerance early on through Islamic boarding school education. Third, play an active role in realizing an empowered society (Junaidi & Fildza Avisyah, 2020).

<sup>14</sup> The presence of Islamic boarding schools in the environment also impacts the surrounding community and the wider community. The birth of the pesantren law as a forerunner that the State supports progressive pesantren to develop and advance in various economic, educational, and social (Ghofarozin & Janah, 2021). On the other hand, the

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existence of the Pesantren Law causes shock if later it can interfere with the independence and peculiarities of pesantren so far (Zaini, 2021).

Pesantren has been managing and developing an education system without disturbing government interference. Pesantren stands alone in developing and managing its education (Rahma & Suryanto, 2022). Article 2 of the Pesantren Law explains that pesantren is an educational institution that implements the yellow book curriculum as a characteristic of pesantren". With the involvement of outside parties such as the government, it is feared that it will shift the characteristics of the pesantren curriculum. The pesantren Law is a government policy to equalize the position that pesantren is also a recognized formal education so that it will get the same facilities as state institutions or educational institutions if it follows existing regulations (Idam Mustofa, 2020).

The existence of the Pesantren Law impacts the independence of pesantren. This can be seen by SWOT analysis to find out the strengths, weaknesses, opportunities, and threats from the exit of the government regulation, namely:

*First, Strengths.* With the existence of the Pesantren Law, it has become an educational institution that is shah in the eyes of the Law and the government. This means that it has the same position as other formal institutions. The welfare of the teacher or ustad and ustadzah is guaranteed. Educators get a budget allocation to earn wages. Pesantren will also get an additional budget for building cottages from the government. Vital legality and financing support from the government will increase the intense power of pesantren in carrying out development—both in terms of operations and expansion of Islamic boarding schools (Setyawan, 2019).

*Second, Weaknesses (Weaknesses).* Ministry of Religious Affairs Number 13 of 2018 that agencies, institutions, and organizations are required to register as legal entities to receive government funds. Pesantren is no exception. Boarding schools that teach the national curriculum are already registered". This policy requires Islamic boarding schools to register operational permits. Otherwise, it is feared that they will be labeled as illegal operating institutions. With the existence of a centralized policy, it requires pesantren to follow government regulations, thus making the space for pesantren to move limited. Especially if you have received cost support assistance from the pesantren government, you must follow the standard operating procedure. Another weakness is the existence of

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curriculum standards from laws and regulations. Thus limiting the independence of pesantren in designing and formulating systems, institutions, and curricula.

*Third, Opportunity.* With the existence of the Pesantren law, quality assurance is related to standards, curriculum, teaching, management, and others. So that pesantren graduates have high competitive qualities and can independently rely on their feet to adapt to society. In terms of funding, Islamic boarding schools can have development or development funding opportunities from the government. Financing Islamic boarding schools or funding for pesantren organizers is regulated in presidential regulation or Presidential Regulation No. 82 of 2021 (Muhiyi Shubhie, 2021).

*Fourth, Threat.* The government's new regulations for Islamic boarding schools can eliminate the identity of the pesantren itself. Pesantren, which initially did not depend on the government, can fade its independence and distinctiveness. This has been alluded to by Mr. Aceng Abdul Aziz, who is the head of the sub-directorate of education and Mahad aly directorate of diniyah education and Islamic boarding schools, ministry of religion: "pesantren has long been known for its kemandiri, hopefully <sup>2</sup>with the existence of the pesantren law, it will not make pesantren dependent on the government or the state." Remembering pesantren has proven to be an existing institution until now that is resistant to all crisis conditions (Harahap & Halimah, 2021).

Law 18/2019 directly mentions pesantren as an institution directed at independence. There are at least 4 (four) points of independence contained in this Law. *First*, Pesantren is based on independence (Article 2), wherein this Law explains that this independence is an optimization of the resources in the pesantren. <sup>13</sup>*Second* is the independence of Islamic boarding school education in the quality assurance system (Article 26). *Third*, the economic freedom of Islamic boarding schools (Article 51); and *fourth*, the Spirit of Independence (Explanation of Law 18/2019). Pesantren is an institution that can stand on its own feet without having to rely on other parties. <sup>3</sup>Based on the results of the study, it was found that the need for a discourse on the reconstruction of articles in the Pesantren Law is in line with the pesantren independence program, namely: *first*, the addition of Article 6 Paragraph 2 Point (a) with the editorial "and independent spirit." This is necessary to strengthen the pesantren independence program as explained in the Explanation of Law 18/2019 concerning the spirit of pesantren independence. *Second*, the addition of Article 51A with the editorial "Independence of Pesantren is

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carried out with the reference of the Government." This reference /guideline needs to be done considering pesantren as an educational institution, so that it allows for supervision, not just fixated on business institutions.

With the enactment of the two Pesantren Law PP No.5 of 2007, Pesantren Law No. 18 of 2019 is expected to further encourage pesantren's independence in realizing the nation's progress. The ratification of the Pesantren Law is a form of recognition, affirmation, and facilitation of the government for the significant contribution of pesantren as educational institutions in Indonesia (Usman & Widyanto, 2021). The independence of pesantren can be measured from the existence of a business or business to be managed as a form of economic freedom and the optimism of pesantren in managing business by creating independence in students (Kusuma Nailah Aka, Jamilatul Uyun, 2020).

## CONCLUSION

The independence of pesantren is an attitude that does not depend on other parties, always able to stand alone. So that pesantren as a community that can meet needs and all financing without depending on external parties. There are 2 (two) factors motivate a pesantren to become independent. *First*, internal factors that arise from within the pesantren itself. A pesantren that has a high desire to grow and advance will strive for independence so that it is free to determine policies without external interference. The success will be a separate satisfaction for his efforts and perseverance in solving problems. *Second*, external factors have a lot of support from the community environment. The high enthusiasm of the community for the presence of pesantren in their midst is undoubtedly a trigger for pesantren to grow forward to bring beneficial impacts to the community.

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