

Discussion Paper No. 9

Effects of the Pesantren Law on Indonesia's Education System – A Projection

by Nadia Fairuza Azzahra



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GLOSSARY

Bandongan:

Traditional learning method of collective learning with a group of *santris* taught by the *Kyai*.

Equivalency Education Program in Salafiyah/Informal Pesantren:

Educational program conducted in informal pesantren targeting students who cannot enrol or finish their studies in formal schools. The program certifies that students have achieved equivalent knowledge, skills, and attitude compared to formal school graduates. The certificate allows them to pursue higher education in a formal school.

Kitab Kuning:

Consists of books written by Islamic scholars covering Islamic teachings and the rules of life in accordance with Islamic values. These books are used in many pesantren in Indonesia.

Kyai:

The owner and also the head of pesantren. A pesantren is usually a private venture of *Kyai*.

Ma'had Aly:

Pesantren education on university level.

Madrasah:

Madrasah teach the national curriculum and use methods similar to formal schools but also incorporate weekly hours of Islamic instructions. Madrasah are found on all levels of school education: primary (*Madrasah Ibtidaiyah/MI*), junior secondary (*Madrasah Tsanawiyah/MTs*), and senior secondary (*Madrasah Aliyah/MA*).

Pendidikan Diniyah:

Islamic religious education

Pendidikan Diniyah Formal/PDF:

Pendidikan diniyah conducted by pesantren. The teaching process has been standardized by the government and graduates receive certificates equal to those of formal schools.

Pesantren:

Pesantren is a culturally-rooted Islamic educational institution in Indonesia characterized by its boarding school element and traditional method of teaching Islamic theological materials.

Ru'hul Mahad:

The "Pesantren Spirit" as acknowledged by the Ministry of Religious Affairs consists of eight values: nationalism, scholarly spirit, sincerity, simplicity, brotherhood, self-sufficiency, freedom, and harmony.

Santri:

Pesantren students. “Santri mukim” stay in the boarding house inside the pesantren. “Santri kalong” stay outside of the pesantren.

Satuan Pendidikan Muadalah/SPM:

A pesantren education program that teaches a curriculum designed by pesantren in accordance with their objectives. The Ministry of Religious Affairs grants SPM graduates certificates equal to those of formal schools.

Sekolah Dasar/SD:

Primary school

Sekolah Menengah Pertama/SMP:

Junior Secondary School

Sekolah Menengah Atas/SMA:

Senior Secondary School

Sorogan:

Traditional learning method in which the *santri* study individually with the *Kyai*.

Ula:

Pesantren education on elementary school level

Ulya:

Pesantren education on junior secondary school level

Wustha:

Pesantren education on senior secondary school level

EXECUTIVE SUMMARY

Indonesia's almost 30,000 pesantren are private Islamic education institutions and acknowledged as part of Indonesia's education system. They are particularly known for their long presence in society delivering education to those coming from low-income families in rural areas mostly on the island of Java.

While retaining the authority to conduct education independently, pesantren have long received some public financing but significantly less than public schools. To a large extent, pesantren are funded independently from their own sources. Problems to raise adequate financial support are considered to have affected the quality of facilities and infrastructure as well as the remuneration of pesantren teachers.

Following presidential elections, in which Javanese Muslims largely provided their support to incumbent President Widodo, in late September 2019 the Indonesian House of Representatives (DPR) passed the "Pesantren Law." It provides the legal base for pesantren to receive funding from central and local governments. This public funding introduces pesantren to the regulatory obligations of public schools. The law states that pesantren are going to be subjected to a quality assurance system that determines standards for the curriculum, the institution, the students and the teachers.

The Pesantren Law potentially results in the disappearance of the pesantren's distinctive features determined by the Kyai and the demand of the community in which they operate. Instead, it is recommended that the government provides funds only as an incentive to improve pesantren education. The pesantren should remain largely autonomous to preserve their diversity and to prevent that their accountability is going to be redirected from their respective communities towards government institutions.

A checklist should set benchmarks for the government: it should impose minimum standards for the curriculum, facilities and management while still ensuring substantial autonomy for the pesantren. Moreover, efforts are needed in accordance with the Pesantren Law to improve MORA's Islamic education data management and the Education Management Information System (EMIS) to generate reliable data for future technical regulations.

THE CHARACTERISTICS OF PESANTREN IN INDONESIA

Pesantren deliver Islamic teachings and are deeply historic for they have been part of Indonesia's education system long before the country gained independence in 1945. Pesantren are privately owned, usually by individuals or Islamic mass organizations, and they are registered under the jurisdiction of the Ministry of Religious Affairs (MORA). In 2014/2015, there were 28,961 pesantren with 4,028,660 students across Indonesia (Education Management Information System, 2015)

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As seen in table 1, pesantren made up about 10% of all schools in Indonesia per 2014/2015 and according to the World Bank (2019) approximately 15% of all primary and secondary students study in pesantren. Many of them come from a lower-income socio-economic background living in rural areas.

Table 1.
Numbers of Schools in Indonesia (2014/2015)¹

No.	Type of School	Public	Private
1.	Primary Schools	132,609	14,904
2.	Junior Secondary Schools	22,209	14,309
3.	Senior Secondary Schools (incl. Vocational Schools)	9,482	15,452
4.	Madrasah Islamic Primary Schools (MI)	1,686	22,667
5.	Madrasah Islamic Junior Secondary Schools (MTs)	1,437	15,304
6.	Madrasah Islamic Senior Secondary Schools (MA)	759	6,823
7.	Pesantren	-	28,961
	Total	168,182	118,420
		286,602	

Source: Center for Educational Data and Statistics and Culture (2015), Education Management Information System (2015).

¹ Excluding Kindergartens and Special Schools.

Originally, pesantren only taught the *Kitab Kuning* to santri guided by the *Kyai*. The teaching process involved traditional methods, such as *sorogan* and *bandongan*. Modern teaching and pedagogies started influencing the teaching methods in pesantren when there was increasing demand from society. Several pesantren started expanding their curricula to include parts of the national curriculum, such as mathematics, history, English as well as religious science (Dhofier, 1990). Many pesantren also offered vocational courses for agricultural skills, vehicle repair, entrepreneurship etc. (Tan, 2014).

To implement the national curriculum, many pesantren opened private formal schools such as junior secondary schools (SMP) or senior secondary schools (SMA) in the pesantren. Meanwhile, the government has been encouraging pesantren since 2014 to teach the national curriculum (ACDP, 2014). MORA Regulations No. 13/2014 and No. 18/2014 established that *Pendidikan Diniyah Formal/PDF* and *Satuan Pendidikan Muadalah/SPM* can grant *santri* graduation certificates equal to those from formal schools. As relatively new programs, in 2019 there were only 74 PDF and 88 SPM (MORA Islamic Education Directorate website, n.d.). In addition, the government also recognized the *Ma'had Aly*, which is pesantren education on university level.

Still, slightly more than half of the pesantren in Indonesia only teach the *Kitab Kuning* and implement traditional teaching methods; they are known as “traditional” or informal pesantren.² According to the Islamic Education Statistics 2014/2015 (2016), 51.99% of all pesantren in Indonesia are categorized as informal pesantren.

Table 2.
Pesantren Education in Indonesia

Types of Pesantren	
Formal Pesantren	Informal Pesantren
Ma'had Aly	Pesantren only teaching Kitab Kuning
Pendidikan Diniyah Formal/PDF	
Satuan Pendidikan Muadalah/SPM	

This majority of informal pesantren is affiliated with, but not owned or directly organized by, the biggest Islamic mass organization in Indonesia, Nahdlatul Ulama, widely known as NU. NU claims to be roughly affiliated with 25,000 pesantren (NU Official, 2019). This would be about 86% of all pesantren, which fits the public perception that most of the pesantren are affiliated with NU. NU considers pesantren to be more than centers of traditional learning, but also centers of community development (Bruinessen, 1990).

²This paper will start using the term “informal pesantren” hereafter.

As an institution that accentuates Islamic religious teaching, the government is not heavily involved in the development of pesantren in Indonesia. Besides the government's involvement in PDF, SPM, and *Ma'had Aly*, it does not have control over the curriculum, facilities, infrastructure and teaching quality in informal pesantren. Therefore, unlike their formal school counterparts, there has been no standardization of pesantren. Although similarities can be identified between pesantren (Rahardjo, 1988), diversity is part of their unique identity.

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In regard to the ownership, there are pesantren established by highly respected *Kyais*. This kind of pesantren relies heavily on the *Kyais* as the source of knowledge, authority, and funding. The *Kyais* in pesantren are often described as "little kings" inside "little kingdoms" for the influence and power they possess (Dhofier, 1990; Lukens-Bull, 2005; Tan, 2012). Also NU cannot effectively exert control over the *Kyais* and their pesantren. *Kyais* are not only regarded as spiritual figures in their pesantren, but also in the community. Pesantren are generally operating in a tightly-knit family network where family members also take part in managing the pesantren. When a *Kyai* deceases, a descendant usually takes over the leadership of the pesantren. In most cases, these pesantren are informal pesantren.

There are also pesantren established by the Islamic mass organizations such as Muhammadiyah and Persis (Islamic Unity Organization/Persatuan Islam). The characteristics of pesantren owned by these organizations are different from those established by individuals. Almost all pesantren established by these organizations teach the national curriculum in addition to their informal religious teachings. Muhammadiyah pesantren have all integrated the national curriculum, while there is a small number of pesantren run by Persis, mostly concentrated in West Java, that are still categorized as informal pesantren.

The central boards of Muhammadiyah and Persis regulate pesantren in a top-down approach; meaning that these pesantren are directly supervised in terms of the curriculum, recruitment of teachers and staff, and the sources of funding. Regional branches of the organizations oversee the operations of these pesantren. Consequently, the leaders of these pesantren do not have absolute powers. They are not the owner of the building or the facilities. Instead, they are implementing the organizations' policies and deal with managerial procedures. The leader is chosen every five years in Persis pesantren, and every four years in Muhammadiyah pesantren. Persis holds the leaders accountable and can even remove them from their position (Persis Official No.1, 2019).

Through MORA Directorate General Regulation No. 3408/2018, MORA allows pesantren to operate if they recruit a minimum of fifteen *santris* but highly established pesantren can accommodate thousands of *santris*. The famous Lirboyo Pesantren in East Java stated that it had 16,839 *santri* in 2015-2016 (Lirboyo, n.d.). Since a majority of pesantren remained outside the government system they were not monitored to achieve the Minimum Service Standards in Basic Education set by MOEC regulation 15/2010 in July 2010. It is generally understood that only a small number of pesantren have proper facilities and infrastructure depending on the financial situation of their owner or organization.

NU pesantren are particularly proud that their scholarly material goes directly back to the teachings of the Prophet and is instilled with the values of nationalism (NU Official, 2019). Muhammadiyah proudly combine instructions in religion with the national curricula while Persis emphasizes more on the Islamic Law. Official No. 1, 2019; Persis Official No. 1, 2019).

Pesantren affiliated with the same organization can also have different characteristics. For instance, two pesantren in West Java affiliated with NU teach different disciplines. Darum Hikam in Sukabumi is famous for *mantiq* (logic) and *falaq* (astronomy) while Riyadul Alfiyah in Garut is famous for *nahwu sharaf* (Arabic grammar) (Alawi, 2019).

Despite the above-mentioned differences, all pesantren in Indonesia are bound by similar values (ru'hul mahad), chief among them is the principle of self-sufficiency. Traditionally, pesantren have been able to support themselves without funding from the government (Geertz, 1976).

Many pesantren are, for instance, running businesses to sustain themselves. As an example, pesantren got involved in local sugar and tobacco businesses or acquired media ownership (Dhofier, 1990, as cited in Ritchey and Muchtar, 2014). Nowadays, the businesses of pesantren are more varied than before. For instance, the well-known Gontor Pesantren located in Ponorogo, East Java, owns several business units including a bookstore, sport shop, and pharmacy (Gontor.ac.id, 2016). A Muhammadiyah pesantren in Sleman, Special Region of Yogyakarta, has a bakery, restaurant, catfish farm, etc. (MBS Yogyakarta, 2018).

Self-sufficiency includes the pesantren's authority to manage their own organization. They are free to develop their pesantren in accordance with their vision and mission and they should also remain free from the influence of outside parties who could intend to use pesantren for personal gain (Zulfa & Alawi, 2018).

Finally, self-sufficiency is also a value taught to the *santris* by commanding them to be independent and able to take care of themselves without relying on the help of others.

It is in light of this diversity and the tradition of self-sufficiency in pesantren, that experts see attempts to generalize the Islamic education system as risky (Azra et al., 2010). Still, one obvious downside of their autonomy is that a lot pesantren are not financially secure (Tayeb, 2018). Even when pesantren open businesses they may not have the entrepreneurial skills to fully support their daily operations. Many pesantren are considered to lack financial resources. This puts them at a disadvantage compared to public schools.

BUDGETARY DIFFERENCES BETWEEN PESANTREN AND PUBLIC SCHOOLS

Because of their importance for the Indonesian nation, religious affairs in Indonesia fall under the authority of the central government represented by the Ministry Of Religious Affairs (MORA). Government Regulation No. 55/2007 mandates the Minister of Religious Affairs to execute all government affairs related to religion, including religious education. The National Education System Law No. 23/2003 acknowledges pesantren among the institutions for religious education.

Meanwhile, public school education is under the authority of the Ministry of Education and Culture (MOEC). Local Government Law No. 23/2014 determines that education is managed by local governments, specifically provincial and municipal governments, supervised by MOEC. These different jurisdictions have consequences for pesantren, which fall under MORA, while public schools remain under MOEC. One of the differences appears in the school funding system.

The funds for Islamic education remain in the central MORA budget under the Directorate General of Islamic Education (DGIE) (ACDP, 2014; Joshi, 2018). By contrast, public schools under MOEC receive funding from both central and local governments.

The primary financial assistance of pesantren comes through direct cash transfers from the central government's School Operational Assistance (Bantuan Operasional Sekolah/BOS). BOS is calculated per *santri*, ranging from annual payments of IDR 800,000 to 1,400,000 per *santri* depending on their level of school education. To be eligible for these transfers the pesantren have to teach the national curriculum.

BOS comes in various forms depending on the type of school they support. A pesantren that formally opens a *madrasah* (MI, MTs, MA) receives BOS Madrasah while other pesantren that establish secondary schools (SMP or SMA) receive regular BOS. Informal pesantren are not entitled to get BOS Pesantren unless they have either PDF, SPM, or the Equivalency Education Program in Informal Pesantren. These provisions do not cover the boarding school expenses of pesantren.

Informal pesantren can receive Pesantren Operational Assistance (*Bantuan Operasional pada Pondok Pesantren/BOP*). They may also receive occasional assistance from the central government, mostly for facilities and infrastructure, such as classrooms, dormitories, and libraries. This assistance is not a reliable source of funding because pesantren have to file specific requests and subsequently undergo verification to confirm their eligibility.

Some provincial and municipal governments also provide occasional funding for pesantren (Joshi, 2018). Local governments in East Java, for instance, provide salary supplements for pesantren teachers (ACDP, 2014). It does take the initiative of the head of a local government to enact local regulations that allow funding for Islamic education. Still, the local administration has to be cautious and avoid violating regulatory provisions from the Ministry of Home Affairs (MOHA) and The Audit Board of Indonesia (*Badan Pemeriksa Keuangan/BPK*) (Haedari, 2004).

These provisions prevent many local governments from funding pesantren (Republika, 2013; Tempo.co, 2015).

MORA's budget for Islamic education is limited and many experts believe it to be insufficient to adequately fund all institutions for Islamic education in Indonesia, including the pesantren (Tayeb, 2018; MORA Official No. 4 2019; Dauer 2013). Realistically, the ministry cannot expect large increases in its Islamic education budget due to general budgetary constraints of the central government. Moreover, the education budget already takes 20% of the national budget, a proportion mandated by the Indonesian constitution (ACDP, 2014).

By contrast, public schools enjoy additional funds from different sources of the government. They receive support from a Decentralization Fund disbursed from the central to local governments. The Decentralization Fund consists of the Special Allocation Fund (*Dana Alokasi Khusus/DAK*)³ that distributes the Regular BOS, the General Allocation Fund (*Dana Alokasi Umum/DAU*)⁴ which pays the salaries of civil servants incl. teachers, the Revenue-sharing Fund (*Dana Bagi Hasil/DBH*)⁵, the De-concentration fund⁶, and the Co-administered Tasks Fund/*Dana Tugas Pembantuan*⁷ (Joshi, 2018).

MORA's education budget in 2016 was IDR 46,8 trillion (Nota Keuangan APBN 2016, 2016). Its Directorate General for Islamic Education (DGIE) received IDR 44,128 trillion or about 94% of that education budget (Laporan Kinerja Program Pendis 2016, 2017).

MORA's budget is disbursed vertically, from the ministry to its regional offices across Indonesia (ACDP, 2014; Tayeb, 2018). In Islamic education it finances not only pesantren, but all stages of Islamic education from primary to higher education levels in *madrasah* and *Pendidikan Diniyah*. MORA is also paying the salaries of religious education teachers in public schools.

³ A fund from the national budget allocated to provinces/regencies/cities for the purpose of financing activities that are aligned with national priorities.

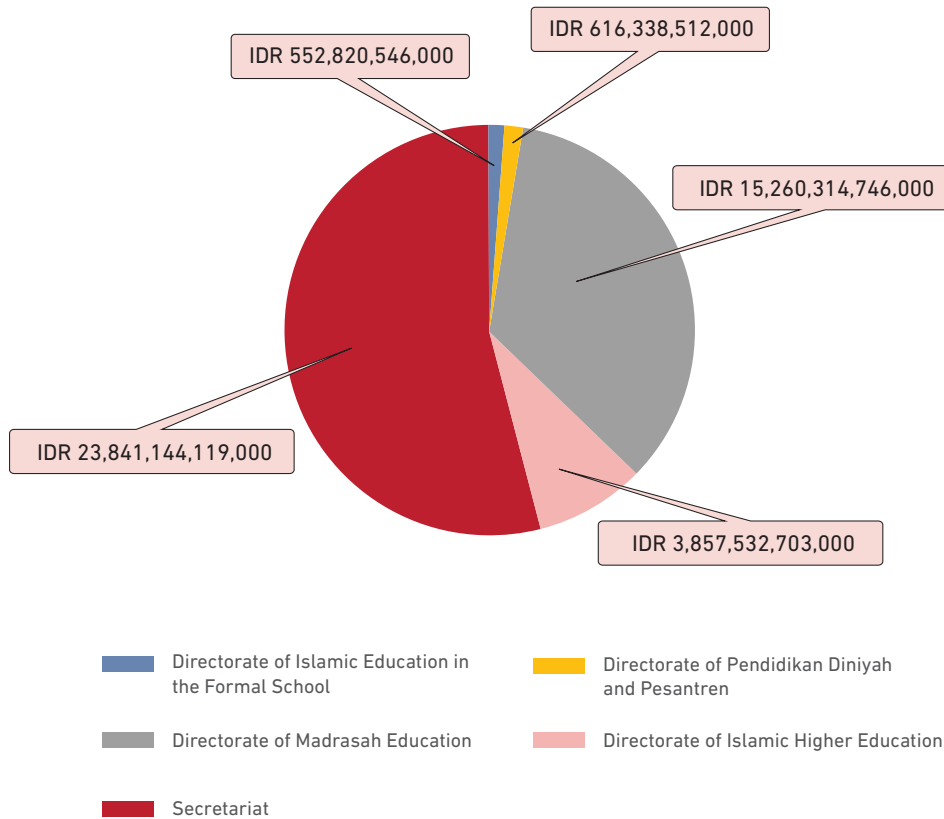
⁴ The aim of DAU is to achieve equitable development in all regions. DAU is allocated as a block grant which means that the utilization of funds is under the authority of local governments according to their needs.

⁵ Allocated to local governments based on the national budget revenues to fund the needs of the region in the implementation of decentralization.

⁶ Funds to extend the distribution of power to the governors of Indonesia's provinces.

⁷ "Co-administered Tasks means an assignment from the Government to a region and/or village or other entities with the obligation to report and account for the implementation of the assignment to the Government." (Law Number 33 / 2004 Concerning Fiscal Balance Between The Central Government And The Regional Governments, Section 1, Art. 1)

Figure 1.
Budget of Directorate General of Islamic Education (DGIE) in 2016



Source: Laporan Program Pendidikan Islam (Pendis) Kementerian Agama (2016)

Figure 1 indicates that the budget for *Pendidikan Diniyah* and Pesantren was IDR 616,328,512,000 or about 1.3% of the IDR 46.8 trillion for Islamic education in 2016. This is far less than the budget for the DGIE secretariat or the budget for madrasah. Moreover, pesantren still need to share these funds with *Pendidikan Diniyah* (MORA Official No. 4, 2019). A study by the Center for Indonesian Policy Studies (CIPS) found that BOS funds only cover about 7% of pesantren expenses (Joshi, 2018).

It has often been argued that little budget support by the government affects the welfare of pesantren teachers (Octa, 2016; Purwadi, 2014; NU Official, 2019; Persis Official No.1, 2019; Member of PKB, 2019). Many even argue that teachers only teach in pesantren because of their dedication to the community (Sofwan & Habibi, 2016; Persis Official No.1, 2019). Teachers are forced to work multiple jobs to make ends meet, which would be a reason for common teacher absenteeism in pesantren and also explain why some teachers eventually abandon their teaching activities (Persis Official No. 1, 2019; Habibi et al., 2018). Since this affects the learning outcomes of the *santris*, teacher salaries have long been in the focus of improving the quality of pesantren education.

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THE EMERGENCE OF THE PESANTREN LAW

The National Awakening Party (*Partai Keadilan Bangsa/PKB*) is an Islamic political party and a political channel of Nahdlatul Ulama. In 2016, PKB proposed a bill titled “Pendidikan Madrasah dan Pondok Pesantren” (*Madrasah and Pesantren Education Bill*) because it was the understanding of PKB, NU, and their supporters that the National Education System Law No. 20/2003 did not accommodate the innate potential and role of pesantren in community development.

As PKB and NU provided strong support for Joko Widodo’s candidacy in the 2014 presidential elections, several programs that supported the pesantren community appeared during President Widodo’s tenure.

A “National Santri Day” was stipulated in the Presidential Decree No. 22/2015. President Widodo also ensured an increasing flow of state resources to NU (Fealy, 2018).

In 2017, 10 pesantren in Java established Sharia microfinance institutions (*Lembaga Keuangan Mikro Syariah/LKMS*) funded by National Zakat Board (*Badan Amil Zakat Nasional/Baznas*) and facilitated by the Financial Services Authority (*Otoritas Jasa Keuangan/OJK*) (Sahara, 2017). The President also mandated the Ministry of Manpower and Transmigration to establish vocational training centers (*Balai Latihan Kerja/BLK*) in pesantren (Fachrudin, 2019). Government scholarships for *santri* (LPDP Santri) have been granted since 2018.

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The Madrasah and Pesantren Education Bill was drafted with the basic demand for the government to recognise the historic role of pesantren as an authentic part of Indonesian culture that have long been present in the middle of society and that have contributed to the nation’s development. *Santris* were among the forces that contributed to Indonesia’s independence and the proponents of the Bill suggested that the government should award the appropriate recognition of their past efforts (MORA Official no. 1, 2019; Commission Eight Member of DPR, 2019; Member of PKB, 2019; NU Official no. 1, 2019). They called for the pesantren graduation certificates to become equal to other formal school graduation certificates, giving pesantren graduates equal opportunity to enter the workforce.

The Bill also proposed to address the growing concern about Islamic radicalism in the pesantren. As some pesantren were seen to be hotbeds of terrorist groups (Pohl, 2006; Dauer, 2013) the Bill requested the government to further regulate the pesantren. The Bill included a required commitment of pesantren to implement Islamic practices that are in line with Indonesia's state philosophy *Pancasila* and the Indonesian constitution. This would be used to filter out any pesantren or other associations that teach radical values.

In return, the Bill was to provide a legal base for pesantren to receive additional financial assistance from both central and regional governments (Commission VIII Member of DPR, 2019). The Madrasah and Pesantren Education Bill was later integrated with a Religious Education Bill initiated by the United Development Party (*Partai Persatuan Pembangunan/PPP*), another Islamic political party and political channel of Nahdlatul Ulama. On 16 October 2018, the bill was officially selected by the Legislative Committee (*Badan Legislasi/Baleg*) of the House of Representatives (*Dewan Perwakilan Rakyat/DPR*) to be discussed in the House as a DPR-initiated bill with the title "Pesantren and Religious Education Bill" (DPR RI, 2018). A meeting on 17 July 2019 held by a government-formed working committee and DPR Religious Affairs Commission VIII decided the Bill would be titled "Pesantren Bill" and it accommodated stipulations in the draft Bill initiated by PPP (Pendidikan Pesantren, 2019).

Although this Bill came from a political party related to NU there was some disagreement among the *Kyai* of NU regarding its possible implications. Despite some support for the Bill, there was also a concern about the potential loss of the cultural roots of pesantren (NU Official, 2019). This stance was not different from Persis that generally welcomed the Bill but objected to the interference from the government in the specific operating systems of pesantren (Persis Official No. 2, 2019).

Muhammadiyah, on the other hand, believed that the Pesantren Bill should have been a part of The National Education System Law No. 20/2003 and the government needed to involve the DPR Education Commission X in the legislative process (Muhammadiyah Official No. 2, 2019). They shared the general concern of other organizations that the definition of pesantren was too narrow and geared towards the pesantren affiliated with NU. They were worried that the law would not benefit their religious schools because they had different characteristics than pesantren.

MORA openly supported the Bill, possibly because the Ministry itself is seen as a major source of employment and high-status appointments for NU members (Fealy & Bush, 2014). A MORA official even claimed that "the Government only provides the stamp to authorize the Bill while we let the people in the pesantren formulate the Bill." (MORA Official No. 3, 2019).

Still, NU shared some concerns of other Islamic mass organizations and articulated them in a meeting between DPR Commission VIII and several representatives from Islamic mass organizations on August 27th, 2019. NU was worried about several articles that allowed the government to interfere in pesantren, referring in particular to articles about guidance and quality assurance of pesantren (Astuti, 2019), while Muhammadiyah generally objected to the Bill. A request to postpone the enactment of the Bill was brought up by Muhammadiyah, Persis, Al-Waliyah, and others.

Despite the controversy and unfinished consultations with the Islamic mass organizations, the

Pesantren Bill was legally enacted into law by the DPR Plenary Session on September, 24th 2019.

In its final version, the Pesantren Law No. 18/2019 only consists of 9 chapters and 55 articles, far less than a previous draft which comprised of 169 articles and 10 chapters.

Table 3.
Structure of The Pesantren Law No. 18/2019

CHAPTERS	ARTICLES	CONTENTS
1	1	General Requirements
2	2 - 4	Principles, Objectives, and Scope
3	5 - 46	Establishment and Organization of Pesantren: Part 1: General Part 2: Establishment Part 3: Management Part 4: Pesantren's Educational Function Part 5: Pesantren's Da'wa Function Part 6: Pesantren's Social Empowerment Function
4	47	Data Management and Information
5	48-49	Funding
6	50	Cooperation
7	51	Society participation
8	52-53	Transitional provisions
9	54-55	Closing

Source: The Pesantren Law No. 18/2019 (2019)

IMPLICATIONS OF THE PESANTREN LAW FOR THE GOVERNANCE AND FINANCIAL MANAGEMENT OF PESANTREN

The implementing regulations of this Law must be stipulated no later than one year from its time of enactment⁸. These planned regulations will need to address current discussions about the Law and its potential impact on the governance and financial management of pesantren.⁹

A. An Obligation to Register as a Legal Entity

As stipulated in the Ministry of Home Affairs (MOHA) Regulation No. 13/2018, agencies, institutions, and organizations are obliged to register as legal entities to be eligible for local government funding. Pesantren are no exception. Those that teach the national curriculum have already registered.¹⁰ However, the regulation sparked NU's concern because half of the pesantren affiliated with NU are informal and have not registered as legal entities (NU Official, 2019). Likewise, Persis is concerned about their small group of informal pesantren, mainly concentrated in West Java.

Considering the importance of registering as a legal entity for receiving government funds, in August 2019 the Central Board of NU assisted 200 NU-affiliated pesantren in Banten Province to acquire notarial deeds in order to obtain their legal entity status (NU Online, 2019). Still, this is just a small fraction of those that remain informal NU pesantren.

In Indonesia, there appears to be little public awareness of registering associations or foundations as legal entities (Regional Office of the Ministry of Law and Human Rights in East Java, 2017). In the same vein, many *Kyai* or pesantren principals are poorly informed about the procedures to formally register their institution as a legal entity. In addition, some of them do not have sufficient resources to finance the administrative process.

B. Funding Schemes for Pesantren

Strong implications will emanate from the allotment of funding to the pesantren. The Pesantren Law acknowledges that, since pesantren originate from society, the main source of funding should also come from society.¹¹ The central government and local governments should merely provide additional support through the state and local budgets in accordance with the Law.¹² Some, therefore, anticipate that the level of financial support will remain lower than that for public schools (Member of PKB, 2019).

⁸ Article 54 of the Pesantren Law

⁹ The author obtained information regarding the planned regulations from interviews with relevant stakeholders from MORA and DPR at the end of 2019.

¹⁰ According to MORA Regulation No. 3408/2018, pesantren that do not teach the national curriculum are not obliged to register as legal entities. MORA still regards them as pesantren.

¹¹ Article 48, Clause 1 of the Pesantren Law

¹² Article 48, Clauses 2 and 3 of the Pesantren Law

Others argue, however, that pesantren are boarding schools and their learning activities run longer than those at public school. Daily studies begin in the early morning and end just before bedtime. Hence, they should be eligible to receive more funding (MORA Official No. 3, 2019).

The discussion of several schemes of financial assistance has been ongoing between MORA and DPR while the budget of each scheme is still undecided (MORA Official No. 3, 2019). Several financial assistance scenarios are being considered:

(i) **School Operational Assistance (BOS) specifically for Pesantren**

Proponents of the Pesantren Bill were generally seeking to increase School Operational Assistance (BOS) for pesantren. PKB advocates for BOS subsidies as much as IDR 500,000 per *santri* annually. They estimate the number of *santri* in Indonesia to be 4.5 million, meaning that the government will have to allocate IDR 2.25 trillion for BOS (Partai Kebangkitan Bangsa, 2017).

Meanwhile, MORA considers supporting pesantren with boarding school operations (MORA Official No.3, 2019) and plans to offer Operational Assistance for *Santri Mukim (Bantuan Operasional Santri Mukim/BOS-M)*. Slightly different from the PKB plan, MORA's BOS-M will only be calculated per residential student (*santri mukim*) of pesantren.

Currently, BOS Pesantren only covers operational expenses, such as the purchase of consumables, subscriptions, school maintenance etc. However, it is not covering the particular boarding school expenses and the funding depends on the school teaching the national curriculum.

BOS-M intends to cover the operational expenses of pesantren. While the specific operational expenses that are going to be covered by BOS-M have not been decided yet, it could possibly cover specific boarding school expenses such as dormitory furniture and maintenance as well as the food consumed by *santris*. These are expenses not covered by current BOS funds.

BOS-M is meant to become the primary source of funding from the government for pesantren. There are also considerations that that all pesantren, formal or informal, will be eligible to receive BOS-M (MORA Official No. 3, 2019).

Moreover, pesantren that teach the national curriculum will still be eligible to BOS Pesantren, meaning that they will receive two types of BOS assistance in the future.

(ii) **Financial Support for Pesantren Teacher Salaries**

Teachers' salaries in pesantren are significantly lower compared to their public school counterparts. In 2007/2008, the average monthly income of a private school teacher was just a little above IDR 1 million, while public school teachers earned close to IDR 2 million per month (World Bank, 2012). In 2019, pesantren teachers affiliated to NU still only earned slightly above IDR 1 million and around IDR 500,000 in small pesantren (NU Official, 2019).

Against this backdrop, PKB proposed an incentive scheme for pesantren teachers. Each teacher is supposed to receive financial assistance worth IDR 3,000,000/year or IDR 250,000/month. The party estimated that this subsidy will cost the government IDR 1.2 trillion per year (Partai Kebangkitan Bangsa, 2017). The incentive is proposed to be channelled through the Non-Physical Special Allocation Fund (*Dana Alokasi Khusus Non-Fisik/DAK Non-Fisik*) from the central budget to local governments that are in charge of disbursing the funds. This financial support for pesantren teachers emulates financial incentives that non civil servant teachers receive in formal schools.

MORA is considering the possibility of providing teachers with incentives and a professional allowance (MORA Official No. 3, 2019). Both the teacher incentive and professional allowance might go hand in hand with a certification scheme for pesantren teachers; a similar approach has also been adopted for public school teachers in accordance with the Teacher Law in 2005.

The Teacher Law requires the teachers to pursue at least a bachelor's degree and to undergo an assessment of their teaching competencies in order to receive a professional allowance equal to their basic salary. Various studies have suggested that the certification and the doubling of teachers' income has neither improved the students' learning outcomes, nor the teacher performance, although it improved the teachers' motivation (De Ree et al. 2012; Chang et al, 2014; Kusumawardhani, 2017). There is a risk that the proposed incentives for pesantren teachers will also have no impact on learning outcomes or the quality of learning in pesantren.

Given current consideration, pesantren teachers should be able to receive funding from three sources: a salary from pesantren, as well as an incentive and professional allowance from the government.

(iii) Pesantren Endowment Fund

Pesantren are also supposed to be equipped with an endowment fund that will be sourced from the National Education Endowment Fund (*Dana Abadi Pendidikan*). The money is supposed to provide scholarships for outstanding *santri* (Sari, 2019). As stipulated in Presidential Decree No. 12/2019, the endowment fund only provides scholarships and research funding. It is expected that the management of the pesantren endowment fund will follow the regulations of the national education endowment fund, which is supervised by the Ministry of Finance. However, a Presidential Decree will specify the regulations of the Pesantren Endowment Fund.

(iv) Local Government Funding

The Pesantren Law provides the legal base for funding from local governments to pesantren. Based on a survey carried out by MOEC as quoted by the World Bank in 2012 and ACDP (2014) 60% of the local governments have been disbursing BOSDA (Bantuan Operasional Sekolah Daerah/Local Government BOS) to public schools and Madrasah. BOSDA often assists poor students and supplements teacher salaries in Jakarta and East Java. The Pesantren Law will possibly initiate BOSDA funding for pesantren.

C. Financial Reporting Requirements

Based on the proposed pesantren funding schemes, both formal and informal pesantren will receive BOS-M to cover their operational expenses, including dormitory and food expenditures in pesantren. Pesantren teachers will receive additional incentives and professional allowances from the government, outstanding *santri* will be supported by the pesantren endowment fund, and pesantren will become eligible to financial support by their local government.

In order to receive financial assistance, pesantren have to regularly submit standardized financial reports to the government. This becomes a burden for informal pesantren that have never even received BOS Pesantren and, consequently, do not have the experience in producing financial reports for the government. Small pesantren affiliated to NU will find it difficult to comply (NU Official, 2019).

A study by Solikhah et al. (2019) found that most pesantren do not apply proper accounting procedures according to the Statement of Financial Accounting Standards No. 45 (*Pernyataan Standar Akuntansi Keuangan/PSAK No. 45*) about Financial Reporting of Nonprofit Organizations. Usually, the pesantren only record their cash receipts and disbursements without using a standardized accounting method (Arifin & Raharjo, 2013). According to Affifudin & Siti-Nabiha (2010), this practice raises questions related to the pesantren management and accountability. It has been argued that the financial accountability of NU pesantren can be undermined by their dependence and their strong focus on the *Kyai* (Wulandari et al., 2018).

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Small pesantren are lacking the human resources to perform administrative tasks and they face difficulties recruiting experienced staff with the required financial skills. NU is aware of this situation but due to limited resources they only manage to conduct basic accounting trainings for 6-7 pesantren each year (NU Official, 2019). NU has also collaborated with the National Gas Company (Perusahaan Gas Negara) to conduct financial management trainings in pesantren (RMI NU, 2019). Its influence and network allows it to reach out to several pesantren.

Meanwhile, pesantren which have already been receiving BOS Pesantren as well as pesantren owned by Muhammadiyah and Persis have some experience in providing annual reports to their central boards (Persis Official No.1, 2019).

These administrative issues are important as they determine the transparency and accountability of pesantren. If pesantren fail to adopt legally required accounting standards they will lose their eligibility to government funding. It will be a monumental task for Islamic mass organizations to prevent this from happening and to improve the pesantren management.

D. Quality Assurance System for Pesantren

According to the Pesantren Law the government seeks to implement a quality assurance system for pesantren¹³ with standards for teaching, management, and curriculum. Prior to the Law, these standards were only imposed on *Madrasah*, PDF, SPM, and Equivalency Program in Informal Pesantren as well as *Ma'had Aly*. However, the Pesantren Law includes all types of pesantren in the quality assurance system.

Most of the Islamic mass organizations in Indonesia are strictly against this level of government interference. Muhammadiyah sees difficulties in maintaining the diverse curricula of various pesantren under the quality assurance system of the government (Muhammadiyah Official No. 1, 2019). NU is concerned that it will undermine the independence and unique characteristics of its pesantren (NU Official, 2019).

Seeking a solution, it appears the organizations and the government found a consensus and handed the authority to an independent body called National Assembly of Pesantren's Senior Ulama (*Majelis Masyayikh*)¹⁴. In addition, the government also demands every pesantren to set up a body called Pesantren Council of Ulama (*Dewan Masyayikh*).¹⁵

Previously, the government had established a *Majelis Masyayikh* specifically for *Ma'had Aly* through MORA Regulation No. 71/2015.

The new *Majelis Masyayikh* will be granted authority to develop the framework for pesantren curricula, formulate the quality criteria for pesantren and their graduates, determine standards of competence for teachers and teaching personnel, conduct assessments and evaluations according to the quality assurance system, verify the validity of the *santris'* graduate certificates issued by pesantren, as well as advising the *Dewan Masyayikh* in determining the pesantren curriculum.

Some NU pesantren have already created *Dewan Masyayikh* but now it becomes mandatory for all. The *Dewan Masyayikh* is tasked to develop the pesantren curriculum, oversee the learning process, improve competency and professionalism of teachers and teaching personnel, conduct tests using the determined quality criteria, and also submit the data of pesantren graduates to the *Majelis Masyayikh*.

These two bodies will work closely together to improve the quality of pesantren in Indonesia as mandated by the Pesantren Law. The members of *Majelis Masyayikh* will also be chosen from the members of *Dewan Masyayikh*.

Since most pesantren in Indonesia are affiliated with NU, it is likely that most members of *Majelis Masyayikh* will also be chosen from NU Pesantren. This will provide NU with some influence over the curricula and the learning process in other pesantren.

¹³ Article 26 of the Pesantren Law

¹⁴ Article 28 of the Pesantren Law

¹⁵ Article 27 of the Pesantren Law.

CONCLUSION AND RECOMMENDATION

The Pesantren Law provide financial incentives at the expense of the authority of the pesantren. Especially *Kyai* have voiced their concerns because their role is crucial in the pesantren development (Oktaviani, 2019).

In their history, pesantren have often had to cope with a changing environment. Some have adapted (Steenbrink, 1986) while more conservative *Kyai* resisted educational changes (Azra, 2000). With the new Pesantren Law, the *Kyai* will have to transfer some of their authority to the government. It can be expected that most *Kyai* will abide by the new law to receive government funding. With that, a pesantren tradition that is deeply rooted in local culture and that largely follows the authority of the *Kyai* will most likely undergo a significant transformation.

This transformation and the declining role of *Kyai* must not only be a loss but can also benefit the pesantren. A strong dependence on the *Kyai* also means that, when he deceases, his pesantren faces the potential loss of attractiveness as his descendants cannot continue the legacy of the late *Kyai*. In that situation, pesantren may lose *santris* and find it difficult to operate (Noer, 1973). The regional MORA office in Kuningan, West Java, estimated that 10% of pesantren in their area were closed down mostly due to the passing of *Kyai* (Saputra, 2019). Despite these concerns, however, it remains to be seen whether transferring the *Kyais'* authority to the government will create a more sustainable management system in pesantren.

“ Moreover, it remains a matter of concern that the new regulations undermine the diverse nature of pesantren in Indonesia. ”

Moreover, it remains a matter of concern that the new regulations undermine the diverse nature of pesantren in Indonesia. Looking at international experience, a study in British Columbia, Canada, found that as a consequence of government funding Catholic private schools became less responsive to parents and ceased to be part of close-knit communities that prioritize effective education (Erickson, 1984, cited in Van Brummelen, 1993). These concerns were shared by Kober (1998) who looked at government subsidies to religious private schools in several countries. She found that the subsidies caused the schools to lose some of their autonomy and their religious character along with other distinctive and innovative features.

It is therefore recommended that the funding should only be an incentive that keeps the pesantren accountable to minimum education standards set by the government. Meanwhile, pesantren should retain their autonomy to conduct and develop their teachings in response to parental choice. This will also nurture a competition with other schools that can further improve the education quality in the pesantren.

“ It is therefore recommended that the funding should only be an incentive that keeps the pesantren accountable to minimum education standards set by the government. Meanwhile, pesantren should retain their autonomy to conduct and develop their teachings in response to parental choice. This will also nurture a competition with other schools that can further improve the education quality in the pesantren.”

Given the diverse nature of pesantren, it is important for the government not to include them in a one-size-fits-all policy. Presented below are provisions that can act as benchmarks to be considered by the government. They allow pesantren to improve their education quality without eroding the pesantren's unique characteristics:

First, the quality assurance system for pesantren needs to respect the diversity and disparities among pesantren in Indonesia. The government will impose minimum curriculum standards with compulsory subjects on the *Ula*, *Wustha*, and *Ulya* levels of pesantren. In order to preserve and appreciate the diverse academic tradition of pesantren, these government-approved standards should only take a few hours per day. The majority of school hours should be allocated to the special curriculum that is determined by the pesantren and not by the government.

The importance of pesantren to develop and teach their own curriculum is crucial also for the fight against radicalism. One of the factors that drive radicalism is the narrow understanding of religion (Abdullah, 2005). According to Pohl (2006), the option to have educational activities outside the state-prescribed curriculum allows the *santris* to enjoy a solid religious curriculum with more advanced religious texts. A deepened understanding eliminates text-literal interpretations that contribute to the expansion of social conflict initiated by religious intolerance and violence (Amin et al., 2019). Mutohar (2017) argues that schools will likely foster radical attitudes among students when they only teach a single Islamic interpretation. Thus, providing room for a broad extent of learning will result in a comprehensive and unpresumptuous understanding of religion.

Second, standardized teaching methods should only be required for the part of the curriculum that was set by the government. For other subjects, the pesantren should retain the authority to choose the teaching methods that fit their curriculum and learning objectives. A uniform choice of teaching methods does not automatically result in academic success since it abandons the students' specific needs (Gale & Densmore, 2002). Thus, in order to transmit knowledge effectively, the pesantren and the teachers should be granted authority to choose their teaching methods as they understand the *santris* better than the government.

Third, facilities and infrastructure standards are needed to support the learning activities in pesantren. However, the government should not impose rigid regulations that cannot be implemented by small pesantren. MOEC/former MONE Regulation No. 24/2007 and MOEC Regulation No. 42/2008, for instance, specify the minimum area of land as well as the types of rooms and the furniture mandatory in primary, secondary and vocational schools. These regulations have hindered the establishment of new private schools in Jakarta (Wikaningtyas, 2017). Based on this experience, it is a concern that rigid regulations will put an undue burden on pesantren. Instead, the government should formulate realistic minimum standards that allow the pesantren to operate.

Fourth, several studies (Basri & Tabrani, 2014; Murdayanti & Puruwita, 2017) pointed out that it is crucial for pesantren to improve their financial management system and to manage their funds effectively. It was also found that an improved management system is instrumental for the improvement of learning outcomes (Barrera-Osorio et al. 2009). A strong focus should hence be placed on conducting training in financial management and accounting standards, especially for small pesantren.

Fifth, as the government adopts new regulations to guide the implementation of the Pesantren Law, it also needs to improve the comprehensiveness and accuracy of the Education Management Information System (EMIS). EMIS keeps the records of Islamic education institutions in Indonesia. It is used as a reference by MORA and other government agencies when preparing regulations for or related to these institutions.

For the precise disbursement of government funds and for composing evidence-based policies for pesantren, MORA should improve the accuracy of EMIS data and ensure proper data collection by MORA operators. According to Sina et al. (2019), EMIS data often do not match the actual condition of pesantren. In addition, many pesantren do not know the significance of EMIS, which results in the delayed submission of pesantren data. This in turn leads to poor quality EMIS data. The production and dissemination of high quality education statistics through EMIS is essential for an effective education policy (UNESCO, 2017). In line with the Indonesian President's order to utilize state budgets efficiently and effectively (Nota Keuangan dan RAPBN 2020, 2019), evidence based planning is essential to improve education policies, especially for pesantren education.

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