

**ANALISIS YURIDIS TANGGUNG JAWAB HUKUM PERDATA
PESANTEREN TERHADAP PENITIPAN ANAK
PADA MASA PEMBELAJARAN
(Studi Penelitian di Pesanteren Nurul Hakim Bandar Setia Kecamatan
Percut Sei Tuan Kabupaten Deli Serdang)**

ABSTRAK

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Penitipan anak di pesanteren bertujuan untuk mendidik anak agar memperoleh ilmu agama lebih baik. Rumusan masalah dalam tesis ini adalah bagaimana pengaturan tentang perjanjian penitipan anak pada masa pembelajaran di pesanteren, bagaimana pelaksanaan kesepakatan penitipan anak pada masa pembelajaran di pesanteren, bagaimana tanggung jawab atas kesepakatan bersama terhadap penitipan anak pada masa pembelajaran di pesanteren.

Metode penelitian yang digunakan adalah deskriptif analisis yang mengarah pada penelitian hukum yuridis normatif yakni penelitian yang dilakukan dengan cara mengacu pada norma-norma hukum yaitu meneliti terhadap bahan pustaka atau bahan sekunder. Data sekunder dengan mengolah data dari bahan hukum primer, bahan hukum sekunder dan bahan hukum tersier.

Pengaturan tentang perjanjian penitipan anak pada masa pembelajaran di pesanteren diatur dalam Pasal 1601 KUHPerdata sebagai bentuk perjanjian untuk melakukan pekerjaan jasa, Peraturan Pemerintah Nomor 27 Tahun 1990 tentang Pendidikan Prasekolah ditegaskan bahwa penitipan anak adalah sarana pengembangan pendidikan dan pelayanan kesejahteraan anak, Peraturan Menteri Pendidikan dan Kebudayaan Nomor 84 Tahun 2014 tentang Pendirian Satuan Pendidikan Anak Usia Dini, dan Keputusan Menteri Sosial RI No 47HUK1993 tentang Taman Penitipan Anak. Pelaksanaan kesepakatan penitipan anak pada masa pembelajaran di pesanteren adalah pihak Pesanteren Nurul Hakim Bandar Setia Kecamatan Percut Sei Tuan Kabupaten Deli Serdang dan orang tua anak menjalankan dan memahami isi dari kesepakatan bersama tersebut, melalui proses dan pembayaran serta ketentuan-ketentuan yang berlaku dalam kesepakatan bersama.

Hasil penelitian menunjukkan bahwa tanggung jawab atas kesepakatan bersama terhadap penitipan anak pada masa pembelajaran di pesanteren adalah pihak yang menimbulkan kerugian maka harus mengganti kerugian sesuai dengan yang diatur dalam Pasal 1239 KUHPerdata mengenai wanprestasi, jika pihak yang melakukan wanprestasi bersedia mengganti kerugian sesuai dengan yang diatur dalam perjanjian, maka pertanggungjawabannya selesai. Namun sebaliknya, apabila pihak yang melakukan wanprestasi tidak bersedia untuk mengganti kerugian dan tidak bisa diselesaikan secara kekeluargaan, maka pihak yang mengalami kerugian dapat mengajukan gugatan atas dasar wanprestasi kepada Pengadilan Negeri.

Kata Kunci: Tanggung Jawab, Pesanteren, Penitipan Anak.

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**RESPONSIBILITY OF BOARDING SCHOOLS' CIVIL LAW TOWARDS
CHILD CARE IN THE LEARNING TIME
(Research Study at the Nurul Hakim Islamic Boarding School in
Bandar Setia, Percut Sei Tuan District, Deli Serdang Regency)**

ABSTRACT

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Child care in Islamic boarding schools aims to educate children to gain better religious knowledge. The formulation of the problem in this thesis is how to arrange child care agreements during the learning period at Islamic boarding schools, how to implement child care agreements during the learning period at Islamic boarding schools, what is the responsibility for mutual agreement regarding child care during the learning period at Islamic boarding schools.

The research method used is descriptive analysis which leads to normative juridical research, namely research conducted by referring to legal norms, namely examining library materials or secondary materials. Secondary data by processing data from primary legal materials, secondary legal materials and tertiary legal materials.

Arrangements regarding child care agreements during the learning period at Islamic boarding schools are regulated in Article 1601 of the Civil Code as a form of agreement to carry out service work, Government Regulation Number 27 of 1990 concerning Preschool Education stipulates that child care is a means of developing education and child welfare services, Regulation of the Minister of Education and Culture Number 84 of 2014 concerning the Establishment of Early Childhood Education Units, and Decree of the Minister of Social Affairs of the Republic of Indonesia No. 47HUK/1993 concerning Child Care Parks. The implementation of the agreement on child care during the learning period at the Islamic boarding school is the Nurul Hakim Bandar Setia Boarding School, Percut Sei Tuan District, Deli Serdang Regency and the child's parents carry out and understand the contents of the mutual agreement, through the process and payment as well as the provisions that apply in the mutual agreement

The results of the study show that the responsibility for the mutual agreement on child care during the learning period at the Islamic boarding school is that the party causing the loss must compensate according to what is regulated in Article 1239 of the Civil Code regarding default, if the party committing the default is willing to compensate according to what is regulated in the agreement, then the accountability is complete. On the other hand, if the party committing the default is not willing to compensate for the loss and cannot be resolved amicably, then the party who suffers a loss can file a lawsuit on the basis of default to the District Court.

Keywords: Responsibility, Islamic Boarding School, Child Care

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