

ABSTRAK

Penelitian ini membahas Penegakan hukum pidana di pondok pesantren sebagai upaya perlindungan hukum terhadap santri (Studi Kasus di Pondok Pesantren Sa'idiyah Bangkalan). Sebagaimana yang diatur dalam Pasal 2 Huruf j Undang-Undang No.18 Tahun 2019 Tentang Pesantren bahwa Penyelenggaraan Pesantren berasaskan “kepastian hukum”. Pondok pesantren sebagai lembaga pendidikan keagamaan memiliki peran penting dalam membentuk karakter dan perilaku santri. Dalam kesehariannya, Pondok pesantren memiliki ciri khas dan keunikan tidak terkecuali sistem hukum internal yang berbeda dengan hukum negara. Dalam praktiknya, terdapat perbedaan dalam penerapan sanksi pidana di pondok pesantren yang dapat mengancam hak-hak santri serta tidak sesuai dengan KUHP Indonesia.

Metode penelitian yang digunakan adalah penelitian Empiris yakni socio legal research dengan Pendekatan Fakta (Fact Approach) yang artinya menelaah reaksi dan interaksi yang terjadi di lingkungan masyarakat pesantren. Analisis dilakukan mengenai kondisi eksisting pemberlakuan sanksi pidana terhadap santri di pondok pesantren Sa'idiyah sehingga nantinya akan diperoleh gambaran mengenai inti dan penjelasan dari realita yang sebenarnya terjadi yang dalam hal ini tentu untuk menjawab permasalahan dalam penelitian ini.

Hasil penelitian menunjukkan bahwa penegakan hukum terhadap pelanggaran pidana di Pondok Sa'idiyah menggunakan sanksi internal hal ini dapat dilihat dari kondisi eksisting pemberlakuan sanksi pidana di pondok pesantren terhadap santri yang menggunakan aturan yang telah dibuat oleh pengurus dan pengasuh. Penegakan sanksi internal di pesantren Sa'idiyah dilakukan oleh pengurus pondok pesantren khususnya pengurus dibidang keamanan yang melibatkan pelaku, korban, pengurus, dan/atau ketua pesantren tanpa melibatkan aparat penegak hukum sebagaimana hukum negara.

Kata Kunci : Penegakan Hukum Pidana, Pondok Pesantren, Perlindungan Hukum.

ABSTRACT

This research discusses the enforcement of criminal sanctions in Islamic boarding schools as an effort to legally protect students (Case Study at the Sa'idiyah Bangkalan Islamic Boarding School). As regulated in Article 2 Letter j of Law No. 18 of 2019 concerning Islamic Boarding Schools, the implementation of Islamic Boarding Schools is based on legal certainty. Islamic boarding schools as religious educational institutions have an important role in shaping the character and behavior of students. In daily life, Islamic boarding schools have distinctive and unique characteristics, including an internal legal system that is different from state law. In practice, there are differences in the application of criminal sanctions in Islamic boarding schools which can threaten the rights of students and are not in accordance with the Indonesian Criminal Code.

The research method used is empirical research, namely socio-legal research with a Fact Approach, which means examining the reactions and interactions that occur in the Islamic boarding school community. An analysis was carried out regarding the existing conditions of the implementation of criminal sanctions against students at the Sa'idiyah Islamic boarding school so that later an overview of the essence and explanation of the reality that actually occurred would be obtained, which in this case was of course to answer the problems in this research.

he results of the research show that law enforcement against criminal violators at Pondok Sa'idiyah uses internal sanctions. This can be seen from the existing conditions of the implementation of criminal sanctions at Islamic boarding schools against students who use the rules made by administrators and caregivers. Enforcement of internal sanctions at the Sa'idiyah Islamic boarding school is carried out by Islamic boarding school administrators, especially administrators in the security sector, involving perpetrators, victims, administrators and/or heads of Islamic boarding schools and caregivers without involving law enforcement officials in accordance with state law.

Keywords: Enforcement of Criminal Law, Islamic Boarding School, Legal Protection.