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# The Legality of Mandatory Farewell Donations to Graduating Students Based on Article 12 Letter B Of Permendikbud No. 75/2016 on School Committees

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### ABSTRACT

**Background:** The quality of education services requires continuous improvement, as emphasized by the Minister of Education and Culture, Muhadjir Effendy, through the revitalization of the School Committee's duties under the principle of mutual cooperation. Permendikbud No. 75 of 2016 establishes the School Committee as an independent institution composed of parents, school communities, and concerned community leaders. Despite these provisions, practices such as mandatory farewell donations often resemble illegal levies, contradicting legal culture, decency, and public interest.

**Objective:** This study aims to evaluate the legality of mandatory farewell donations under Article 12 Letter B of Permendikbud No. 75/2016, examining their alignment with the principles of mutual cooperation and accountability.

**Methodology:** The research employs a normative and juridical approach, analyzing data through descriptive analysis to interpret legal and cultural aspects.

**Findings:** Mandatory farewell donations are often framed as agreements between schools, committees, and parents but tend to violate the legal culture's substance. These practices undermine public trust in educational institutions and conflict with legal principles aimed at ensuring fairness and decency in education.

**Conclusion:** Mandatory farewell donations contradict the principles of mutual cooperation and accountability, highlighting the need for improved legal awareness and cultural shifts among education providers to prevent illegal levies.

### KEYWORDS

Education Policy, Illegal Levies, Legal Culture, Permendikbud No. 75/2016, School Committee.

# INTRODUCTION

Education is an effort that is carried out and planned consciously to reach the environment and learning process so that students achieve self-sufficiency in religious spiritual strength, self-control, personality, intelligence, noble character and skills needed by themselves, society, and the nation and state (Nierenberg & Lewis, 2024). Training is organized in an open system, in person and/or remotely. Every living person in Indonesia is obliged and entitled to learn,

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even citizens aged 7 (seven) to 5 (fifteen) years are obliged to carry out basic education and every citizen aged 6 (six) years can take part in the compulsory education program and the participation of parents of children of compulsory education age is required to provide basic education to the child (He dkk., 2023). In relation to this, the financing of education is a consequence and a shared responsibility between government agencies (Alafaleg dkk., 2023); local governments; and the community; but specifically for basic education, the government and local governments are obliged to finance it and the government and local governments guarantee the implementation of compulsory education at least at the basic education level without charging fees. This means that basic education is free for all Indonesian citizens.

In order to encourage the quality of learning and mapping access to education services (Dyrbye dkk., 2024), the Ministry of Home Affairs has issued Regulation of the Minister of Home Affairs of the Republic of Indonesia Number 3 of 2023 concerning the Management of Education Unit Operational Assistance Funds in Local Governments. The implementation of school administration to educate the next generation of the nation within the framework of educational institutions cannot be separated from the treatment of illegal levies. "The term for illegal levies in today's life is a concern in the lives of school residents, one example is the levy of *infak* money. This illegal levy behavior is a violation that is not justified by legal norms and can be categorized as a criminal act, namely corruption (Fraser dkk., 2020). Corruption is a disease that must be fought massively or together.

The crime of corruption, which is known as an extraordinary crime, has damaged many social, economic and political systems (Barwasser dkk., 2022). This crime, which is committed jointly or simultaneously, is revealed not only in the political environment, but has penetrated the education system in this country. This reality is certainly not in accordance with the path of the law itself, which is the main purpose of law, namely justice; benefit; and legal certainty (Tadese dkk., 2021). Lawyers and philosophers such as Aristotle said the purpose of law is to fill the justice of the people (humans) Seeing the purpose of law which in essence is something very noble, if it is practiced in today's life, it will certainly be a very good thing, because it correlates with the dreams and ideals of the Indonesian nation in the constitution.

Basically, the formulation of law is not only black and white as outlined in various written laws and regulations, but the law can be seen as signs that can be observed in people's lives through the behavior patterns of its citizens (Zdravkovic & Goldstein, 2023). This means that the law is strongly influenced by extra-legal factors such as life values, human attitudes and community views which are often referred to as legal culture or culture.

Legal culture is the total factor that determines how a legal system can find its logical place in the cultural framework of society. Legal culture is not what anthropologists roughly call public opinion. Culture is not just a collection of mutually exclusive fragments of behavior (thought). The concept of culture itself is defined in the legal context as general social values. From this it can be concluded that legal culture is the opinion of the community about how legal norms can be practiced in upholding common interests in society. The dominant reason is used as an obstacle in launching the intended deviations, among others, in order to improve quality, to add school facilities (infrastructure) (Nilsson & Bengtsson, 2024), and so on and this certainly involves the school committee as a move to smooth out the action. Article 10 paragraph (1) of Permendikbud No. 75/2016 on School Committees explains that the School Committee collects funds and other educational resources to carry out its duties in terms of providing energy support, facilities and infrastructure, and supervision of education. Article 10 paragraph (2) of Permendikbud No 75/2016

on School Committees also states that the fundraising and other educational resources mentioned in paragraph 1 are grants and/or donations and not payments.

Education assistance is a contribution in the form of money/goods/services given by a participant to an education unit other than the learner or his/her parents/guardians on terms agreed by the parties (Azhar dkk., 2024). Education grants are voluntary donations in the form of money/goods/services/by students, parents/guardians, either individually or jointly, by the community or educational institutions and are not tied to education units. If left unchecked, the issue of illegal levies on basic education providers will become a social issue in the general public against the implementation of basic education. The answer is the unity of views on legal values and behavior. Legal culture thus shows the pattern of behavior of a person as a member of society, which describes the same reaction (orientation) to the legal life lived by the community concerned.

#### **RESEARCH METHODOLOGY**

The research used in writing is normative juridical. The sources of legal materials used in this research are primary legal materials and secondary legal materials (Sema dkk., 2024). Primary materials used are legal science books (Tadesse dkk., 2022). The types of approaches used in this research are legislative approaches, comparative legal research approaches, cases and legal analysis approaches (Uwen & Ellah, 2023). The data processing method used is the analysis method which is then outlined in descriptive analysis writing.

#### **RESULT AND DISCUSSION**

In this Permendikbud, it is stated that the School Committee raises funds and other educational resources to carry out its functions in providing energy, facilities, and infrastructure support, as well as supervision of education (Fetensa dkk., 2020). Fundraising and other educational resources are in the form of assistance and/or donations, not levies, Article 10 paragraph (2) of this Permendikbud states. However, it is emphasized in this Permendikbud that the School Committee must make a proposal known to the School before raising funds and other educational resources from the community. In addition, the results of fundraising must be recorded in a joint account between the School Committee and the School.

In consideration of improving the quality of education services, Minister of Education and Culture (Mendikbud), Muhadjir Effendy, considers it necessary to revitalize the duties of the School Committee based on the principle of mutual cooperation (Elbeshbeshy dkk., 2021). Based on these considerations, on December 30, 2016, the Minister signed the Minister of Education and Culture Regulation (Permendikbud) Number: 75 of 2016 concerning School Committees. This regulation states that the School Committee is an independent institution consisting of parents/guardians of students, school communities, and community leaders who care about education (Lederman dkk., 2021). The School Committee is located in each school, functions in improving education services; carries out its functions in a mutual cooperation, democratic, independent, professional, and accountable manner, Article 2 paragraph (1), paragraph (2), and paragraph (3) of the Permendikbud read.

As for the issue of illegal levies, in terms of language, illegal levies can be divided into 2 (two) words, namely levies and wild. Based on the Dictionary of Contemporary Indonesian Language, it is explained that levy means goods that are collected, and wild means arbitrary, not according to the rules and not recognized by the authorities (Al-Twal & Aladwan, 2021). Thus, it can be seen that illegal levies are goods that are taken incorrectly and not in accordance with existing regulations.

Illegal extortion is usually the acquisition of a sum of money or goods without official authorization and secretly from law enforcement agencies. or goods without official authorization and secretly from law enforcement agencies. More specifically, illegal levies are all types of unauthorized charges that have no legal basis. The term illegal levies is very familiar in Indonesian society (Koskinen dkk., 2022). Illegal levies can also occur anywhere, whether on the street, in business places, or in government agencies and bureaucrats and even educational institutions. This action is also despicable. Extortion or coercion, which is the act of demanding something in the form of money and others from a person, institution or company without following the usual rules. This is usually equated with extortion, fraud or corruption (Visiers-Jiménez dkk., 2022). Extortion or extortion is an act committed by a person, employee or government official who demands the payment of a certain amount of money that is inappropriate or not based on existing payment requirements. Illegal activities themselves are also often equated with extortion, fraud or corruption.

*Pungli* (illegal levies) are actions taken by civil servants or state administrators to benefit themselves or others unlawfully or by abusing their power by forcing someone to give something, pay, or receive payment by deduction, or to do something for themselves.

Based on the provisions of Education Regulation No. 44/2012 on Tuition Fees and Basic Education Unit Fees, it is stipulated that fees: (Jayas dkk., 2024)Payment is the cost of education in the form of money and/or goods/services made by students or parents/guardians directly from the basic education unit which is compulsory and mandatory, the amount and time of collection is determined by the basic education unit." Meanwhile, donations are clearly defined in Article 1 Point (3) of the Minister of Education Regulation No. 44/2012, which reads: "Donations are education fees offered by students, parents/guardians, individuals or other educational institutions to the basic education unit in the form of money and/or goods/services that are voluntary, optional, non-binding and not targeted by the basic school.

Payments for basic education organized by the state and local governments are prohibited, but education donations are allowed. Payments from (private) basic education units established by municipalities and donations from basic education units organized by state and local governments must be transparently reported and units billed (Beaton-Comulada dkk., 2022). If the donation received by an education unit in one school year exceeds IDR 5,000,000,000.00 (Five Billion Rupiah), an audit will be conducted by an auditor and the results of the audit will be publicly announced in the national print media. Ministers, governors, governors/mayors or appointed officials under their authority supervise the collection, storage and use of levies and donations in accordance with the provisions of laws and regulations.

The provisions of Article 9 Paragraph (1) of Permendikbud No. 44/2012 on levies and donations of education fees in primary education units explicitly regulate the prohibition of primary schools from making illegal levies. Primary education units implemented by the government and/or local government are not allowed to collect education unit fees. (Strutin dkk., 2022) Permendikbud No. 75/2016 on School Committees, Article 12 Letter b stipulates that School Committees, either individually or collectively, are prohibited from making levies from students or their parents/guardians. This means that the two Permendikbud regulations above clearly stipulate that schools are only allowed to collect donations, not levies, so if levies still exist, the act is clearly an illegal practice. However, in reality, illegal levies in educational institutions still continue. In fact, sometimes the levies are bridged by the school committee with the aim of student needs.

The culture of extortion with the mode of using the services of school committees, mushrooming and becoming difficult to eliminate as if there are those who deliberately carry out planned conversations; systemic and massive so that it can damage the life order of the state; nation and society need special attention from the government (Burkholder dkk., 2021). In the practice of illegal levies, the legal standing mentioned above is considered to be limited to dogmatic regulations that are powerless, because the evidence is that the practice of extortion in the mode of school committees continues to grow and mushroom in every government agency18 and basic education providers are no exception. In public services there are two parties involved and act as service implementers and service recipients.

In relation to public services in schools, implementers of school management services include educators (teachers) and education personnel (administration) while those who receive services are students. Schools have two types of student services, namely academic services and non-academic services (Antunes-Alves & Langmuir, 2021). Academic services are services related to education, teaching and school counseling, which can be described as basic services, while non-academic services are services that support the school's academic process, such as library services and laboratory services, which can be described, as secondary services during the canteen. Services, health services (UKS), school transportation services, hospitalization services and cooperative services can be referred to as tertiary services.

The school's mission is to develop the student's personality as a whole.20 The school's more important task is actually to instill knowledge and carry out intelligent education. According to Suwarno, the role of schools in intellectual education can be equated with the role of families in moral education. The function of schools can be seen from various points of view. Sociologically, the role of schools is as educational institutions that use teachers as educators and replace the role of parents as real educators. This is because parents are busy with their respective jobs and activities.

As an elementary school teacher, teachers must carry out their main duties professionally, namely training, teaching and mentoring students (Mwelwa & Mawela, 2021). From a psychological perspective, the role of the school is a formal educational institution that teaches, guides and fosters students to have a good personality and behavior, with guidance to become social beings and solve future social problems. Formal educational institutions are equipped with facilities and infrastructure that support the educational process, such as learning spaces, libraries, sports facilities, offices and laboratories.

From a public service perspective, the school's mission is to provide academic services to students. These services are in the form of training, teaching and mentoring (Zhang dkk., 2021). The benefits of education are related to good character and behavior as a student, the benefits of teaching are related to producing knowledge according to the appropriate curriculum, and the benefits of mentoring are related to specific technical and psychological skills.

The ebb and flow of the quality of law culture in a society lies in education, which is the basis of legal human development. This can be accepted and understood because the community understands that education is an effort to pass on, complete and develop knowledge, experiences and ways from one generation to the next which are certainly in accordance with the norms and values of law and culture of a particular community (Gao dkk., 2023). However, in the perspective of legal culture, the community considers that in primary education providers there have been extortion practices carried out in a softer and tidier way.

The school or school committee packages the illegal levies as if they are based on a mutual agreement between the school, school committee, and parents/guardians. The word agreement is known in civil law. Civil law recognizes the principle of consensuality, which stipulates that basically an agreement occurs when an agreement is reached (Yang dkk., 2022). This principle of consensuality can then be used as a basis that the levy is not contradictory or unlawful if it is made

on the basis of an agreement. However, in an agreement there must be a voluntary agreement of the parties for the validity of the agreement.

The existence of law is an important and inseparable element of life today, people need the presence of law to maintain and protect their physical, existential and psychological aspects. The desire of the law is realized to protect their rights as multaram beings while still respecting their status as living beings (Forsman dkk., 2020). The community understands that the legal content created cannot stand alone and strong, but is supported by the structure or legal guardian and legal culture or legal awareness of the community itself.

This is emphasized by experts who generally argue that the legal system has three important parts or elements that are complementary and interdependent (Getie dkk., 2021). These aspects are subsystems consisting of: 1) Structural aspects, 2) Substantive aspects, and 3) Cultural aspects. Being aware of the law as part of the legal subsystem, Friedman further suggests that the level of legal awareness is closely related to the legal culture of society in the sense that the level of legal awareness of education organizers can be said to be a legal culture when the legal culture tends to be positive, proactive towards legal ideals, then everything deviates from the legal awareness of the organizers.

*Pungli* in the perspective of legal culture, will be prevented or disappear depending on the legal culture of the education organizer. The non-compliance of education administrators with Permendikbud No. 44/2012 on levies and donations of education fees in primary education units has directly or indirectly rooted and greatly influenced law enforcement in Indonesia. This apparently violates the spirit of Article 1 Paragraph 3 of the 1945 Constitution of the Republic of Indonesia, which emphasizes that Indonesia is a state of law. In the author's view, community behavior is not always in line with the norms in the law (Barrie dkk., 2022). The reasons are very diverse, one of which is that the norms are not in line with the legal culture in society. *Pungli* in the perspective of legal culture, will be prevented or disappear depending on the legal culture of the education provider. Even though the government has issued a good and good regulation on Education Fee Collection and Contribution in Basic Education Units, if the legal culture tends not to support it, extortion in educational institutions will still occur (Ezechukwu dkk., 2021). This is because illegal levies are crimes that become a habit of society to legalize or legalize levies outside the established rules.

The implementation of the Regulation of the Minister of Education and Culture of the Republic of Indonesia No. 75/2016 on School Committees in Improving the Quality of Education Services at SMP Negeri 6 Natal said that communication between school committees and parents was less effective, because parents were busy so that not all parents could follow the programs implemented at school (Adah & Ekweani, 2024). Community participation in education funding in Banjarmasin city is very low due to the issuance of Permendikbud Number 75 of 2016 concerning school committees, namely the assumption by parents of students and the community, that voluntary contributions based on the Permendikbud may donate as they wish and may not donate even though they have the financial ability to reduce education funding from community participation (Saab dkk., 2023). The Role of the School Committee in Improving the Quality of Education at SD Negeri 3 Terkesi, Klambu District, Grobogan Regency said that the inhibiting factors of the role of the school committee are the lack of knowledge about the duties of the school committee, the lack of independence and professionalism of the school committee and the minimal time for coordination between the school and the education school committee at SDN 3 Terkesi (Khami dkk., 2023). Different studies show that school committees have carried out their duties and roles in accordance with Permendikbud No. 75/2016, including the following. The committee in

madrasah has played a role both directly and indirectly in the management of BOS fund management, teacher performance and educator quality (Benati dkk., 2021). The school committee at SD Negeri 1 Amahusu plays a role as a school partner and giver of consideration for everything that is done by the school, supporting the implementation of education in the form of material by obtaining financial contributions and active participation from parents, controlling the use of the budget or allocation of school funds (Santos & De Oliveira, 2020), accommodating community aspirations and the school committee can carry out its role well only because of the active participation and openness of the school, namely from the principal.

The school committee should develop the philosophical wealth of the community collectively. This means that school committees develop user-oriented concepts (client model), various authorities (power sharing and advocacy model), and partnerships (partnership model) that are focused on improving the quality of education services.

The school committee in a school still exists, but its functions, duties and responsibilities are adjusted to the needs of the school (Belle dkk., 2022). The role of the school committee is not only limited to mobilizing donations, and overseeing the implementation of education, the essence of school committee participation is to improve the quality of decision-making and school planning that can change the mindset of skills, and the distribution of authority over individuals and communities that can expand human capacity to improve living standards in the school empowerment management system.

The role of the school committee is: (1). As an advisory agency in the determination and implementation of education policy; (2). As a supporting agency, both in the form of finance (Lynn, 2023), thought, and energy in the implementation of education; (3). As a controlling agency in the context of transparency and accountability of education implementation and output; (4). As a mediator agency between the government (executive) and the community. However, the school always argues that it does not know about the levies made by the school committee. It is not uncommon to find, in the circular letter of levies made by the school committee, the principal also signed in the circular letter of the collection of funds (Weldon dkk., 2024). The school, as a representative of the government, should have provided guidance to the school committee, so that in conducting fundraising the school committee did not lead to levies, but rather took the form of voluntary donations.

### CONCLUSION

Education is an effort that is carried out and planned consciously to reach the environment and the learning process so that students achieve their abilities and the School Committee is located in each school, functioning in improving education services; carrying out its functions in a mutual cooperation, democratic, independent, professional and accountable manner, Article 2 paragraph (1), paragraph (2), paragraph (3) of the Permendikbud reads. Therefore, in order to realize the great ideals of the Indonesian nation, the behavior and practice of illegal levies must be stopped immediately,32 this is because the habit of illegal levies in schools greatly affects the mentality of employees, emotions and behavior of students at school.

Some strategies are immediately implemented to stop illegal levying behavior in schools. And the role of the school committee is not only limited to mobilizing donations, and overseeing the implementation of education, the essence of school committee participation is to improve the quality of decision-making and school planning that can change the mindset of skills, and the distribution of authority over individuals and communities that can expand human capacity to improve living standards in the school empowerment management system. Because it can be said that the factors inhibiting the role of school committees are the lack of knowledge about the duties of school committees, the lack of independence and professionalism of school committees and the lack of time for coordination between the school and the school committee.

The government in handling cases about education or school committees must be more digital and thorough to avoid unwanted actions in the scope of education in this country. The Ministry of Education and Culture must control the use of the budget or allocation of school funds, accommodate the aspirations of the community and school committees can play their role well. In response to this, the government intends to prevent extortion in schools by issuing Decree of the Minister of Education and Culture of the Republic of Indonesia No. 60/2011 on the Prohibition of Paying Education Fees for Primary and Secondary Schools. However, this prohibition does not provide a solution to the lack of funds needed by educational institutions, as a consequence of achieving the quality standards of education launched by the government.

Central and local governments to work to eradicate illegal levies. One of them is the equalization of school facilities, adequate remuneration for teachers or coaches, a good learning system must be able to eradicate illegal levies from schools. The non-compliance of education administrators with Permendikbud No. 44/2012 on levies and donations of education costs in primary education units has directly or indirectly rooted and greatly influenced law enforcement in Indonesia. This apparently violates the spirit of Article 1 Paragraph 3 of the 1945 Constitution of the Republic of Indonesia, which emphasizes that Indonesia is a state of law.

#### **AUTHORS' CONTRIBUTION**

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing. Author 2: Conceptualization; Data curation; In-vestigation.

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