



Policy Formulation Of Violence In The Teaching Learning Process Reviewed From The Perspective Of Criminal Law

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Abstract

Legal norms in the formulation of violence in the teaching and learning process from a criminal law perspective are contained in Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. The stipulation of Perpu Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002. The formulation of the problems in this study are: 1) How is the policy of formulating criminal acts of violence in the teaching and learning process in the perspective of Indonesian criminal law? 2) How is the implementation of the formulation of violent crime policies in the teaching and learning process from the perspective of Indonesian criminal law? The author uses an empirical juridical approach, which is an approach that is carried out by studying the law in fact in the form of attitudes, judgments, behaviors, which are related to the problems being studied and which are carried out by conducting research in the field. Based on the research results, it can be concluded that: 1) The government welcomes this by issuing Law Number 17 of 2016 concerning Stipulation of Government Regulations in Lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection. Constitution. 2) The implementation of the formulation of violence in teaching and learning is still not optimal. One of the problems is that if schools and teachers are less assertive, students are free so they don't heed existing norms and regulations. For example, students will appear arbitrarily like thugs, free to skip school without harsh penalties, be free to commit delinquency beyond normal limits, underestimate teachers, and so on.

Keywords: Policy; Violence; Teaching and Learning

I. Introduction

The 1945 Constitution of the Republic of Indonesia which clearly states in Article 1 paragraph (3) which states, the State of Indonesia is a constitutional state. One of the concepts of rule of law is the protection of human rights. Article 28G paragraph (1) of the 1945 Constitution of the Republic of Indonesia contains provisions on the existence of protection for everyone, one of which is protection from the threat of fear.

The cause of violence against students can occur because the teacher does not understand the meaning of violence and its negative consequences. The teacher thinks that the student will be deterred by corporal punishment. On the other hand, students hate and are no longer obedient to the teacher. Violence in education occurs due to a lack of love from teachers. The teacher treats students as subjects. Violence can occur because teachers have little or no affection for students, or in the past, teachers themselves were treated harshly. Schools are supposed to be places for achievement, but become a place

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for thuggery. Schools that should be a place to learn about good societal norms, but become a lawless jungle. Teachers who are strong, powerful, have the legality to oppress others. Violence often occurs not in the form of physical violence, but also psychological violence. Trivial things can be an excuse for violence. In fact, sometimes violence is carried out without a reason. It becomes a big question if violence occurs from the teacher to the students. This is very embarrassing the world of education. Teachers who are supposed to be good examples for students, instead set bad examples to students.

Children are the buds, potential and future generation of the aspirations of the nation, have a strategic role in ensuring the existence of the nation and state in the future, so that they will be able to bear that responsibility one day, so they need to have the widest possible opportunity to grow and develop optimally. , whether physical, mental, social, spiritual. They need to get their rights, they need to be protected and prosperous. Therefore, all forms of violence against children need to be prevented and overcome.¹

The status and condition of Indonesian children is a paradox. Ideally, children are the heirs and continuation of the future of the nation. In real terms, the situation for Indonesian children is still and continues to worsen. The world of children should be colored by the activities of playing, learning, and developing their interests and talents for the future, the reality is colored with dark and sad data. Indonesian children are still and continue to experience violence.²

Based on the results of research conducted by UNICEF (2018) in several regions in Indonesia, it shows that around 80% of violence that occurs to students is committed by teachers. Currently the public is shocked by the news about a teacher who mistreated one of his students, as a result the student had to be hospitalized. We know that school is a place where students gain knowledge and should be a safe place for students. However, it turns out that in some schools there have been cases of violence against students by teachers. There are several forms of violence that are generally carried out in educational institutions, including: physical violence, which is a form of violence that can result in injury or injury, such as hitting, mistreating, and others. Then psychological

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¹ Abu Huraerah, (2007), *Child Abuse (Kekerasan Terhadap Anak)*, Edisi Revisi, Bandung: Nuansa, p. 11

² *Ibid.* p.21

violence, namely emotional violence is carried out by insulting, harassing, criticizing or saying words that hurt feelings, hurt self-esteem, reduce self-confidence, make people feel humiliated, small, weak, ugly, useless, and helpless.³

Perpetrators who are teachers often impose disciplinary norms so that legal protection for children is neglected and the implementation of policies on the formulation of criminal acts of violence has not been optimal.

Based on the foregoing reasons, the author wishes to conduct a study entitled: "Violence Formulation Policy in Teaching and Learning Processes Viewed From a Criminal Law Perspective".

A. Problem Formulation

1. How is the policy of formulating criminal acts of violence in the teaching and learning process from the perspective of Indonesian criminal law?
2. How is the implementation of the formulation of violent crime policies in the teaching and learning process from the perspective of Indonesian criminal law?

B. Research Objectives

1. To describe the policy of formulating criminal acts of violence in the teaching and learning process in the perspective of Indonesian criminal law.

To describe the implementation of the formulation of violent crime policies in the teaching and learning process from the perspective of Indonesian criminal law.

II. Method

A. Approach

The approach method is useful for approaching the object of research or in collecting the necessary data, the approach method used in this research is the empirical juridical approach, which is an approach that is not contradictory to written positive law (legislation) as data. secondary, but from real behavior as primary data obtained from field research locations (field research). This study describes the

³ Imron Fauzi, (2017), *Dinamika Kekerasan Antara Guru dan Siswa. Studi Fenomologi Tentang Resistensi Antara Perlindungan Guru dan Perlindungan Anak*, Jurnal Tarbiyatuna: Jurnal Pendidikan Islam Volume 10, Number 2, August 2017, p.159

condition of the object under study, namely the policy of formulating violent crime in the teaching and learning process in the perspective of Indonesian criminal law.

B. Research

Specifications The research specification used in this research is descriptive analytical, which describes the state of the object under study and a number of factors that influence the data obtained and then collected, compiled, explained, and analyzed according to the Laws and Regulations that regulate and are linked. with legal theories and practice of implementation in positive law concerning the problem. Descriptive research is research that aims to describe something in a certain area and at a certain time.⁴

C. Data

Sources The data sources used in this study are primary data and secondary data.

Primary data is in the form of interviews, while secondary data in this study includes:

- a. Primary legal materials are legal materials that have binding force such as statutory regulations or decisions on gambling crimes. In this study, primary legal materials are used in the form of regulations within the scope of norms or rules, including: Criminal Code (KUHP), Criminal Procedure Code (KUHAP), Law Number 17 Year 2016 Concerning Protection. Children, and Law No. 14 of 2005 on Teachers and Lecturers.
- b. Secondary legal materials, which provide an explanation of primary legal materials such as research results, scholarly scientific work, articles, website pages, books that are closely related to the subject matter in this study.
- c. Tertiary legal materials, namely materials that provide instructions and explanations for primary and secondary legal materials, for example, the Big Indonesian Dictionary, the Legal Dictionary, the English Dictionary, and the Dutch Dictionary.

D. Data Collection Methods

⁴ Ronny Hanitijo Soemitro, (1990).Metode Penelitian Hukum dan Jurimetri, Ghalia Indonesia. Jakarta, p.35.

To obtain the required data in this study adjusted to *socio-legal research* and the type of data used in this study, namely from primary data and secondary data, the data collection methods used in this study were;

- a. Literature study obtained from data collection through library research by studying literature books related to the titles and problems discussed in this study, as well as document studies, namely in the form of data obtained through legal materials in the form of laws, laws or regulations related to this research. The data collection technique with this literature study uses catalog search, which is a list that provides information about the collections that are owned in a library.

Interviews obtained from collecting materials from several informants.

III. Main Heading of the Analysis or Results

A. The Formulation Policy for Violence in Teaching and Learning Processes in the Perspective of Indonesian Criminal Law

In Law Number 23 of 2002 concerning Child Protection, as a special regulation on children, teacher actions indicated as criminal acts are threatened with Article 80 paragraph (1) which states: Every person who commits cruelty, violence or threats of violence or maltreatment against a child, shall be punished with a maximum imprisonment of three years and six months and / or a maximum fine of Rp. 72,000,000.00 (seventy two million rupiah).

An act of violence against students is never wanted by anyone, especially in educational institutions that are supposed to solve problems in an educative manner. Violence in education is an act of violence committed by certain people to others in the name of disciplining students using physical punishment, even though in fact physical violence is not necessary. Currently, there are many cases where a teacher who should be a role model and provide knowledge for the future of his students, is actually the most feared figure because of various cases in school, such as violence (*abuse*).

The rise of cases of violence against students in recent years shows that students need to be protected. So many students are victims of family, school, environmental and community violence today.

Article 4 of the Student Protection Law states that: "every student has the right to survival, growth and development and is entitled to protection from violence and discrimination". However, the implementation is still a question among the community. As is well known, Indonesia is still far from the conditions mentioned in that Article.

The existence of several forms of violence in educational institutions that are still rampant is an indicator that our educational processes or activities are still far from human values. Until now things like this will cause bad conditions for the development of a student's life which includes physical, spiritual and social development of students.

The violence that often occurs in the school environment is caused by several factors, including:

1. Supervision of student behavior that is less than that of parents

Parents need to supervise the education of their students, because without the commitment of supervision from parents, it is likely that student education will not run smoothly. Parental supervision means controlling or supervising all activities or activities carried out by students either directly or indirectly. Parental supervision of students usually takes precedence over learning problems. In this way parents will know what difficulties students are experiencing, the setbacks or progress of student learning, what students need in connection with their learning activities, and so on.

Thus parents can fix everything so that students can finally achieve maximum learning outcomes. Parental supervision does not mean restricting students' freedom to be creative but emphasizes more on the supervision of students' obligations that are free and responsible.

When students have started to show signs of irregularities, parents who act as supervisors must immediately remind students of the responsibilities they are bearing, especially the consequences that may arise as a result of their negligence.

The negligence here, for example, is when students are lazy to learn they prefer to play games, it is the duty of parents to remind students of their learning obligations and give students understanding of the consequences of not learning, because when playing games students feel fun, students find new things, new challenges In

fact, the game is felt to be attractive to him so that students prefer to play games rather than learn.

2. Violations accompanied by Physical Punishment

Rules and sanctions established in educational institutions are often not accompanied by socialization, so this will lead to violent acts by teachers against students. This can be demonstrated by physically involved actions. Violence in corporal punishment is the deliberate application of physical pain as a method of changing behavior, by hitting / slapping, pinching, shaking, shoving, using objects or electric currents, confining in tight spaces, excessive physical movement, drills, prohibiting urination, and others, under the pretext of controlling student attitudes.

So, there are those who violate and those who give sanctions. If the sanction exceeds the limit or is not in accordance with the conditions of the violation, then what is called violence occurs. In addition, violence in education is not always physical, but can take the form of violations of the school code of ethics and rules.

The form of physical violence that occurred in SMA Negeri 1 Makassar was violence perpetrated by teachers in the form of beatings against students on the pretext of controlling students against the rules that apply at school. Every school must have rules that apply to all students. However, in practice, sometimes it is still not effective in shaping student discipline. The student's lack of discipline is the reason for disciplining students, even though the teacher's methods are excessive and can be classified as acts of violence against students.

According to the author's analysis of cases of violence that occur, it will have an impact on students' embarrassment of the actions of teachers who give excessive punishment, ridicule, and berate students, which will have a further impact in the form of loss of student motivation to enter school. This not only has an impact on the loss of student motivation in learning at school, but also affects the way students behave, which is related to the role of the teacher who should be a good example for students, but the actions of teachers who commit physical and psychological violence will be a bad example for students of their age. schools like that still need guidance in attitude and behavior.

3. School Environment Educational

institution is an environment that is considered by the community as a place to instill the foundations of human values and the environment which is considered to form good morals for students. However, in reality, there are currently many cases in the mass media that publish violence in educational institutions.

It cannot be denied that the violence that has occurred so far has also occurred due to environmental factors, namely:

- a. The existence of a culture of violence: a person commits violence because he is in a group where acts of violence often occur, so seeing violence is a common thing.
- b. There is a tradition: For example, violence that occurs between seniors and juniors, where the senior imitates the actions of his previous seniors who did the same thing to him. Television shows that contain a lot of violence.⁵

B. The Implementation of Violent Crime Formulation Policies in the Teaching and Learning Process from the Perspective of Indonesian Criminal Law

The definition of a teacher who imposes physical sanctions on students in the school environment can be declared as the perpetrator of a criminal act of persecution. Because the teacher has fulfilled the elements of persecution:⁶

- 1) Intentionally, namely wanting the action to occur or knowing that the action is an act that is prohibited according to law. In other words, a person is said to be doing an act on purpose if the action is done by willing and knowing. A person who commits a criminal act has realized that the consequences of his dressing can be in accordance with the will or purpose, or not in accordance with the will or purpose.
- 2) The actions taken have caused pain, of course the physical sanctions given by the teacher to students result in pain.

So teachers who give physical sanctions to students at school are not a criminal act and cannot be held liable for crime as simple as physical sanctions only as a means of

⁵ <http://yessyanjani.blogspot.co.id/2012/03/kekerasan-siswa-di-sekolah-bab-i.html>.

⁶ Hiariej, Eddy O.S. (2014). Prinsip-Prinsip Hukum Pidana. Cahaya Atma Pustaka. Yogyakarta. p.31

educating and disciplining students as well as physical sanctions given within the corridors and limits of reasonableness.

Because schools and teachers are less assertive, students are free so they don't heed existing norms and regulations. For example, students will appear arbitrarily like thugs, are free to skip school without harsh penalties, be free to commit delinquency beyond normal limits, underestimate teachers, and so on.

Therefore, the role of the government is needed to create good educational standards that can make students afraid in a good sense. Teachers should be allowed to punish naughty and undisciplined students with a little violence and physical punishment so that students are afraid and motivated to learn, obey, respect, discipline, take responsibility, know the rules, and so on.

Some of the solutions given to dealing with violence against students in schools include the following:

- a. Implementing education without violence in schools
- b. Encourage / develop the humanization of education by:
 - 1) Integrating awareness of heart and mind.
 - 2) Requires both mental and action involvement.
 - 3) A lively, happy learning atmosphere by combining physical and psychological potential into an integral strength.
- c. The punishments given are correlated with the actions of the child,
- d. Continuously equipping teachers to add knowledge, opportunities, new experiences to develop their creativity.
- e. Counseling. Not only students need counseling, but also teachers. Because teachers also experience difficult times that need support, reinforcement, or guidance to find the best solution.

Immediately provide help for anyone who experiences violence at school, and follow up and find the best alternative solution.

IV. Conclusion

1. Currently, the Child Protection Law has undergone dynamism in line with the increasingly complex needs of society, especially with regard to the implementation of policies on the formulation of criminal acts of violence in the teaching and learning process. The government welcomes this by issuing Law Number 17 of 2016 concerning Stipulation of Government Regulations in lieu of Law Number 1 of 2016 concerning the Second Amendment to Law Number 23 of 2002 concerning Child Protection into Law.
2. The implementation of the formulation of violence in the teaching and learning process is still not optimal. One of the problems is when schools and teachers are less assertive, students are free so they don't heed existing norms and regulations. For example, students will appear arbitrarily like thugs, are free to skip school without harsh penalties, be free to commit delinquency beyond normal limits, underestimate teachers, and so on.

Suggestion

1. In order to reduce acts of violence in schools, it is necessary to increase efforts to protect or defend victims of torture legally through legislation and through the formation or organization of non-governmental organizations that can assist children as victims of abuse.
2. Give attention to victims of persecution, while respecting the legal rights of the perpetrators of crime.

It is hoped that, with the enforcement of discipline in all elements, it is no longer possible to hear a teacher punishing his students by slapping. And it is hoped that there will be no more students who take arbitrary actions that can provoke the teacher's anger.

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