

Accessibility Legal Aid In Realize Fair Teacher Protection

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Abstract

Rule law, in essence, has accommodated giving teacher protection; however, the reality of teacher criminalization still happen. This study aims for uncovering the challenge of fulfillment right accessibility help law as a form of fair teacher protection. The method used was socio-juridical with an approach qualitative, through tool-collecting data questionnaires, interviews, and discussions focused on teacher respondents, unit education, teacher organizations, and agencies that handle education and protection child. Research results showed that not yet a clear existence mechanism for giving protection law impacted teachers' accessibility and help the law to the teacher yet running optimally. By substantive mechanism gift help law to the teacher, they yet accommodated. So that when occurring, problems between teachers and students were solved with various actions, of which 48.57% stated through deliberation; however, there was take action alone with each other dropping on social media. Even the teachers who experienced criminalization no get help law. In research, this uncovers required something institutional level idealized area as a Legal Service and Teacher Protection Unit (LSTPU) can be made receptacle fulfillment accessibility help law in realizing fair teacher protection. Researchers recommend that the formation of LSTPU institutions through policy Required Regional Regulations (RRG) conducted assessment continued

I. Introduction

A teacher is the most important part of realizing the values-based life state (Nanang et al., 2022). Teachers are demanded capable deliver students reach their destination education. Development teacher professionals become very close relations with various efforts to repair schools around the world (Borko et al., 2010). The development of teacher professionals is about teacher learning, how to learn, and changing knowledge they do in practice for the interest growth of students (Avalos, 2011). We need development maintenance professionals through us, heart and soul, and in accordance with our values (Schnellert et al., 2014). Professional development is how teacher innovation is motivated (Cai & Tang, 2022). Therefore, teachers are challenged to weave connections with students and families to show knowledge of operational content, curriculum, and culture, together with the method of teaching and learning recently.

Learning teacher professionalization is a complex process, which requires the involvement of teachers' cognitive and emotional individual and collective, (Martin-Kerr et al., 2022) Policy development teacher professionalism can give room for teachers, makers of policies, and stakeholders to interest others to feel a change in education (Butler & Schnellert, 2012). The system thought-informed learning complexity offers a method new for holder interest in education for work and study by collaboration with supportive and informed ways to change system education (Schnellert et al., 2018). Implication important for policy education moment naturally takes effect to protection for the teacher (Jacob, 2013) The teacher as an educator often is in a position of dilemma, between the demands profession and treatment society (Fuad et al., 2020).

Protection law towards the teacher is vital so various policy governing teacher protection has been accommodated (Barrett et al., 2021). However, the reality when the teacher tried to punish the student for enforcing discipline, spontaneous parents and society categorize. It was as violating action law, the rights of essential people, and the protection child. Even teachers experienced criminalization (Serah & Setiawati, 2022).

Response to the still presence of teacher criminalization, challenge faced is accessibility help law for teachers to get justice. Justice has become a consideration main in life. Justice is also a related conception of dignity, human and fulfillment of rights basic to humans (Wijsman & Berbés-Blázquez, 2022). Urgency the importance of fair teacher protection is accessibility help law when experiencing criminalization. Facts accessibility helps law for teachers while running optimally. Policy law normative accessibility help law for free allotment for poor people and teachers do not apply including category poor people. Whereas reality, there are teachers whose income is below minimum wage, such as teachers with honorary status. Condition the becomes interested to study this idealize importance formation something institutions that can make means or receptacle compliance accessibility help law for teachers who are facing criminalization.

2. Literature Review

In the provisions of Pancasila and the 1945 Constitution which form the basis of the Republic of Indonesia, recognition of Human Rights relating to the principle of equality before the law is guaranteed through Article 27 paragraph 1 of the 1945 Constitution of the Republic of Indonesia which states that the position of every citizen in law and government is equal and equal without exception, as well as Article 28D paragraph (1) of the 2nd amendment to the 1945 Constitution of the Republic of Indonesia which guarantees recognition, protection and certainty

of a fair law and equal treatment for everyone. One of these constitutional rights is realised through the provision of legal aid. Obtaining legal aid for everyone is a manifestation of access to justice as an implementation of legal protection guarantees and guarantees of equality before the law (Kurniawan, 2022a). This is in accordance with the concept of legal aid which is connected to the ideals of the welfare state. In the context of the applicable rule of law, basically; a person who is within the territory of a country must automatically be subject to the provisions that apply within the territory of that country (Yardımcı, 2023). This also applies to foreign nationals, who still have an obligation to comply with the applicable provisions in the country where they are located (Disantara, Hamdani, et al., 2024). Nonetheless, the foreign national continues to enjoy the protection of his or her home country. This provision emphasises the equal and universal nature of legal rights (Ragesh et al., 2018).

However, in the practice of law implementation, there is still a tendency for access to legal aid to only be felt by certain parties who have the ability to access it. For the poor who are dealing with the law, the problem that is often faced is the inability to appoint a party to provide legal assistance. This condition is not only contrary to the provisions of the Constitution, but also contrary to one of the important principles adopted in Law Number 8 of 1981 concerning the Criminal Procedure Code (Maloku, 2021), namely the principle of *accusatoir*, which has a definition as a principle that shows that a defendant examined in a court session is no longer an object of examination, but a subject. The *accusatoir* principle has shown an open examination where everyone can attend or witness the examination. The defendant has the same rights as the public prosecutor, while the judge is above both parties to resolve criminal cases according to applicable criminal law. The right to a defence by an advocate or public defender (access to legal counsel) is a basic right of every person and is one of the elements to obtain justice for all people (Disantara, Prasetyo, et al., 2024). Justice, according to Aristotle, must be distributed by the state to everyone and the law has the task of protecting it so that justice reaches everyone (Widiatmika et al., 2023). If two disputants come before a judge, they must be treated equally (*audi et alteram partem*). If the economically well-off can be defended by an advocate, then the poor must be defended by a public defender free of charge (*pro bono publico*). This defence must be carried out without regard to the background of the individual concerned, such as religion, descent, race, ethnicity, political beliefs, socio-economic strata, skin colour, and gender. In this context, so that parties facing the law truly adhere to the principle of equality before the law, the state is obliged to provide legal aid for the poor. This is also a consequence of the state's recognition in the constitution, which not only affirms the equal position of every citizen before the law and guarantees legal certainty for every citizen in accordance with Article 27 and Article 28D of the 1945 Constitution, but also the provisions of Article 34 paragraph (1) of the 1945 Constitution which affirms that the poor and abandoned children are cared for by the state (Kurniawan et al., 2023). This can be extensively interpreted that the state is responsible for providing protection and recognition of the rights of the poor.

Internationally, instruments guaranteeing protection and legal aid are set out in the 1948 Universal Declaration of Human Rights which recognises the right of every person to be recognised before the law as a person wherever he or she may be, and guarantees that every person is equal before the law and has the right to equal protection of the law without discrimination. This instrument is then affirmed in article 14 paragraph (3) letter d of the 1966 Convention on Civil and Political Rights which states that in a case related to a criminal offence, one of the rights granted to everyone is equal guarantees in terms of defence before the court, consisting of the right to defend himself in person or through a defender of his own choosing, the right to be informed of this right if he does not have a defender (Gede Agus Kurniawan, 2023); and the right to obtain legal assistance in the interests of justice, and without payment if he does not have sufficient funds to

pay for it. This provision means that the state has an obligation to provide free legal aid to indigent citizens.

Law No. 39/1999 emphasises three points regarding the recognition of the right to justice in the context of the provision of legal aid, consisting of: 1) Every person is recognised as a private human being who has the right to demand and obtain equal treatment and protection in accordance with his or her human dignity before the law. (2) Every person has the right to receive fair assistance and protection from an objective and impartial court. (3) Every person belonging to a vulnerable group of society shall be entitled to further treatment and protection in respect of his/her speciality. Legal aid in its broadest sense can be interpreted as an effort to help the poor in the field of law. According to Buyung Nasution, this effort has three interrelated aspects, namely the formulation of legal rules; the supervision of mechanisms to ensure that these rules are adhered to; and the education of the community so that these rules are internalised (Manrique et al., 2017).

Legal aid, a locally organised national system in which legal aid is provided to those who are financially disadvantaged and cannot afford private counsel. It is clear from this definition that legal aid can help those who cannot afford to hire legal counsel. Legal aid therefore means the provision of legal services to a person involved in a case or matter where (Kurniawan, 2022b): 1) The provision of legal aid services is free of charge; 2) The provision of legal services in legal aid is more specialised for the poor; 3) Thus, the main motivation in the concept of legal aid is to uphold the law by differentiating the interests and human rights of the little people who do not have and are illiterate.

Legal assistance explains the meaning and purpose of legal aid more broadly than legal aid. Legal assistance better describes the profession of legal counsel as a legal expert, so that in that sense as a legal expert, legal assistance can provide legal aid services to anyone without exception. This means that the expertise of a legal expert in providing legal aid is not limited to the poor, but also to those who can afford to pay. For some people the word legal aid always has to be associated with poor people who cannot afford an advocate, but for some people the word legal aid is interpreted the same as legal assistance which usually has the connotation of legal services or legal services from the advocate community to the rich and poor.

3. Research Method

This study used the juridical-sociological method to understand the relationship between legal phenomena and society. Because basically, the law was not seen only as an independent or esoteric normative intensity but as a real part of the social system related to social, cultural, and other variables (Disantara, 2024). Through this method, it was hoped that hidden meanings behind the subject under study will be found so that they can reveal the secrets of something by gathering information in appropriate circumstances, using a systematic, directed, and accountable way of working. Not only recording things that appear explicitly but must see the whole phenomenon that occurs.

4. Results and Discussion

Regulation Legal Protection for Teachers

Protection laws for the teacher in carrying out his job as an educator actually has set in legislation. Teacher and Lecturer Law gave protection law for teachers to operate Duty

professionally (Kleinig & Evans, 2013) with gave right for having freedom in giving assessment and follow determining graduation, award, and/ or penalty to participant education in accordance with rule education, code teacher ethics, and regulations legislation and obtain a sense of security and guarantees safety in doing the task.

Though, it was also emphasized that in operating Duty professionalism, the teacher was obliged, of them, to act objectively and not discriminatory on base considerations type gender, religion, ethnicity, race, and condition physique certain, the background behind family, and the social status of the economic participant educated in learning and respecting tall regulation legislation, laws, and codes teacher ethics, as well as religious and ethical values. Thus, the freedom granted to the teacher in giving a penalty to participant education must be following rule education, code teacher ethics, and regulations legislation.

An obligation for teachers done right for act objectively and not discriminatory on base consideration type gender, religion, ethnicity, race, and condition physique certain, or background behind family, and social status economy participant educate in learning as well as respect tall regulation legislation, law, code teacher ethics, as well as religious and ethical values.

When the rights and obligations of teachers have been held with balanced and responsible answers in accordance with the provision Law on Teachers and Lecturers expected no will occur problems that lead to reporting violations of administrative, code teacher ethics, up to report case law criminal or even threatened the sanctions that become the consequences if proven.

The problem is when the teacher has to do " a little " action physical" or already lead to action violence physique in to do action discipline to students. Reality often occurs, indicating that the teacher's actions have entered the realm of violation provision applicable law, specific legislation that regulates Child Protection. The interpretation that action physical, good that in scale small or big, basically could be categorized as action violence, though Thing this must be seen by casuistic related action physique like what is done and the impact for victim's child. Even though, action physique the, of course, potential lead to action violence to the child. Actions like this should be prevented to protecting child educate from the impact of bad violence and good by physique or psychic.

Constitution Child Protection indeed normalizes that not quite enough answer protect children from violence good physique nor psychic in the environment education should precisely be carried out by educators and staff education. Therefore, training or socialization protection of children and support to teachers need to be designed for going to progress education, primarily in the process of interaction stare face (AS & Purba, 2017).

Research results revealed that problems in education still lead to violence in the world of education. However, the fact there is not yet a policy governing mechanism solution to violence in education. The reality that occurred in Ketapang Regency and Pontianak City from the target location research carried out is illustrated in Figure 1.

No	Action	Ketapang District		Pontianak City	
		Amount	%	Amount	%
1	Resolved amicably (peacefully at school)	12	48	17	48.57
2	Completed by giving compensation	1	4	1	2.86
3	Completed by teacher organization (PGRI)	5	20	6	17.14
4	Resolved through the relevant Office	5	20	5	14.29
5	Resolved through a legal process	1	4	2	5.71
6	Etc.	1	4	4	11.43
	Amount	N=25	100	N=35	100

Figure 1: Actions taken in solution case violence against /by teachers in Ketapang Regency and Pontianak City

Source: The research results obtained cases of violence against/by teachers occurring in the Pontianak City area rather than Ketapang Regency. The process of resolving cases of violence against/by teachers is widely resolved through deliberation (peace in schools)

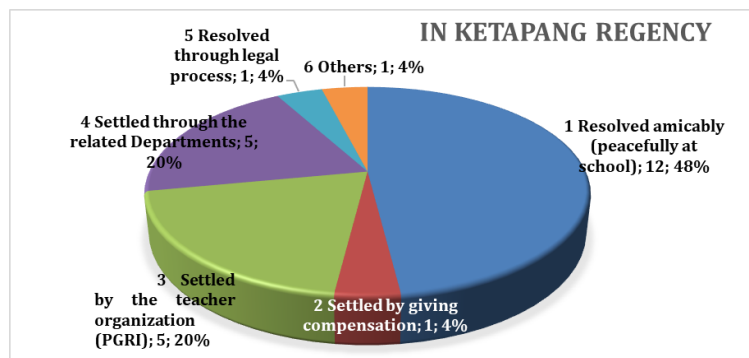


Diagram 1: Actions taken in solution case violence against /by teachers in Ketapang District

Source: The diagram above is the result percentage of processing the data in Figure 1.

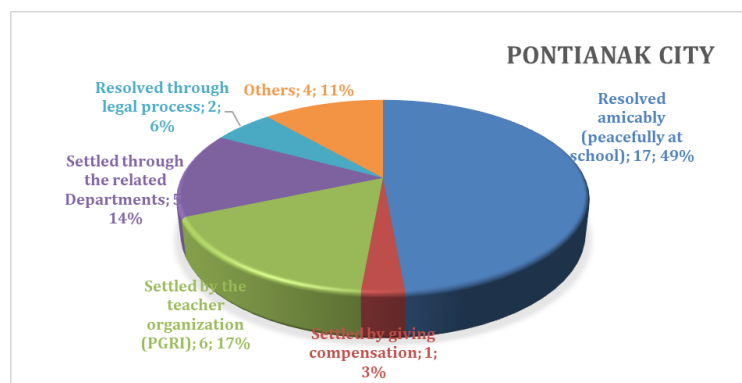


Diagram 2: Actions taken in solution case violence against /by teachers in Pontianak

Source: The diagram above results from the data processing in Figure 1. The action was taken in solution case violence teacher in Pontianak

The overview above revealed that although teacher protection and child deserve are put forward, by limited not yet there is a policy when occurring problems violence in the world of education each party complete with various shapes. Even though most results study show could be solved by deliberation, however ironically, there are also teachers who have to experience criminalization and deal with the law.

The problem when the teacher experiences criminalization, then challenges faced is access to help the law. Temporary rule law has set the right teacher get service law; however, access service law does not yet set more carry on how to fulfill its accessibility. Therefore, important to give protection law for teachers who experience criminalization, besides the teacher being prosecuted for more understanding of effort protection children in operating Duty his profession

Accessibility Legal Aid for Teachers

Talking about help law is not only simply defense in the process of litigation in front of court only (litigation), but also in helping outside law court (non-litigation), or gift help law in a broad sense. Help law is defined as giving help-free law to the poor (Treacy & Nohilly, 2020). Help law often is an element important fulfillment of rights (Malathesh et al., 2021).

Nasroen Yasabari put forward that mature this gift help law in a broad sense, known as help law structural. Because only with the help of law structural will we be capable of understanding help law as problem rights basic humans and expanding horizon help law in the context of political, economic, social, and cultural (Gruodytė & Kirchner, 2016) Structural interpreted as a pattern underlying life social in society. Because of that existing view about the need to develop ideas to help law structural is awareness new in the world of movement help law. If help law was only given by passive like During this conducted so effort Fulfill needs law the poor will difficult achieved.

Help law is a guarantee protection law and guarantee equation in front law, which is right constitutional for every citizen. Because the constitution ensures rights, every citizen gets the same treatment upfront law, including the right to access justice through help law (Baital, 2016).

Related help law to the teacher besides set in the Teacher and Lecturer Act, also more carry on set in the Regulation Government Number 74 of 2008 concerning Teachers, which outlines the teacher has the right get protection law from various forms of treatment no fair from students and their families. Arrangement protection law is carried on in Regulation of the Minister of Education and Culture Republic of Indonesia Number 10 of 2017 concerning Protection For Educators and Education Personnel that one possible protection obtained by power educator in Thing this teacher is protection law.

Protection law was spelled out in the Regulation of the Minister of Education and Culture protection law held in the form of non-litigation advocacy. Advocacy non-litigation is facilitation solutions things outside court in the form: (a). consultation law; (b). mediation; and/ or (c). fulfillment and/ or recovery rights Educators and Education Personnel. More further emphasized that Consultation Law could be in the form of giving advice or opinion for solving disputes.

Notice substance Settings related protection law for teachers who are a problem with students and/or parents/family students already accommodated inside regulation legislation good Laws, Regulations Government nor Ministerial Regulation. However, in reality, accessibility get protection law still faces constraints in mechanism implementation because not yet thereby assertive who or which party can give protection law referred to in its implementation. Then access get help law for teachers who face criminalization has still faced a challenge.

Constitution Number 16 of 2011 concerning Legal Aid was formed based on the idea that the state guarantees rights constitutional everyone for getting recognition, guarantee, protection, and certainty of fair law as well as the same treatment in front of the law as a means of protection right basic human. The state is a responsible answer to gift help law for the poor as an embodiment to access justice (Andhini, 2021).

In essence Constitution, This Legal Aid accommodates everyone, including the poor and not capable, have equal rights to getting access to justice so that rights on recognition, guarantee, protection, and certainty of fair law, as well as the same treatment in front of the law, could realize in context thereby very necessary presence giver help law, which is since beginning designed for To do profession law for help poor people and not able.

Spirit gift help law free to the poor is carried out by the organization help accredited by the National Legal Development Agency and received a reward from Government and or Local Government (Mandjo & Sarson, 2021) With thereby Government and or Local government has an obligation allocate a budget for implementation gift help law.

Presence-giver help law is the implementation of the state's obligation to help the country in the Duty gift help law for the poor and not able (Surip et al., 2021). The country believed it could do for the creation of well-being life Public specifically in guaranteeing rights acknowledgment and guarantee law (Fauzi & Ningtyas, 2018). The state should create an atmosphere for giving help law could Duty help law free to people who aren't able (Kasim, 2018). giver help law no gets the reward from people who aren't able. Therefore, the state must provide the budget for the interested gift help law carried out by the giver help law.

This becomes a problem in a study is to what extent accessibility fulfillment right on justice in getting help law for these teachers could implement underlying Constitution This Legal Aid. The problem is that the teacher is categorized as a person not able/poor so they could access the help law for free. Here are challenges faced by teachers in accessing help law free from Government, meanwhile reality still there are non- apparatus teachers Civilian whose income is still under standard minimum wage. is against such a teacher entitled to get help law for free base Constitution Legal Aid.

LSTPU as Receptacle Fulfillment Access Legal Aid for Teachers

Construction formation Institutional Legal Services and Teacher Protection Unit abbreviated UPHPH integrally becomes an important engagement of various parties and a very urgent engagement role institution help law in it. Reason importance engagement institution help law based on thoughts opinion Soerjono Soekanto, that help the law, in essence, means help the law given by the experts for inhabitant community in need for realize his rights and also get

reasonable protection law (Simbre et al., 2021).

Researchers disclose that gift help law to teachers who are face to face with the problem teacher criminalization needs service help law, were important for formulating something service mechanisms and processes integrally in an idealized institution with the establishment of the LSTPU which involves several role Government and Community Institutions, including Legal Aid Institutions

Therefore, the researcher will deepen the results study related to how synergism engages the role of aid agency's law in giving service law and teacher protection, which is the development of a just teacher protection model.

5. Conclusion

Answer all problems and challenges accessibility get help law as form protection law for teachers who have accommodated through regulation legislation as described above, then researcher To do offer protection model development fair law for teachers through importance establishment of the Legal Service Unit and Teacher Protection in every area district/city through policy area and followed policy budget To use fulfillment accessibility help law for teachers who are face problem law. Mechanism work gift protection law for teachers, of course, poured to in regulation more carry on through Regulation Regent/Regulation Mayor with provision facility get help law inside LSTPU container.

Recommendation researcher to the front is important to change the Law on teachers and lecturers who mandate concretization protection law for teachers who have normalized more continue so that every district/city forms LSTPU through Regional Regulations regarding Legal Protection for Teachers.

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