

LEGAL PROTECTION FOR TEACHERS FROM THE THREAT OF CRIMINAL ACTS OF ASSAULT AGAINST STUDENTS IN THE TEACHING AND LEARNING PROCESS AT SCHOOLS

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Article Info

Received: 2024-08-12

Revised: 2024-12-21

Accepted: 2025-03-24

Keywords:

legal protection, teachers, violence, student discipline, education

Abstract

Legal protection for teachers in facing the threat of criminal acts of violence against students during the learning process at school is becoming an increasingly crucial issue. Teachers have a primary role in guiding and educating students, but in practice they often face a dilemma between enforcing discipline and the risk of criminalization for disciplinary actions. This study aims to analyze the form of legal protection for teachers accused of committing acts of violence against students and to identify the factors causing the accusations and strategies for preventing them. This study uses a normative legal approach with a descriptive method based on literature studies. The main data sources include laws and regulations such as Law Number 14 of 2005 concerning Teachers and Lecturers, the Child Protection Law, and regulations related to the juvenile criminal justice system. The results of the study show that although teachers have the authority to impose sanctions on student disciplinary violations, lack of communication often causes disciplinary actions to be misinterpreted as a form of violence. Factors contributing to the emergence of accusations of violence include psychological differences in students, the character and teaching methods of teachers, imbalances in power relations in the education system, and different cultural norms in society in interpreting discipline. As a protection effort, more specific regulations are needed, strong legal advocacy through teacher professional organizations, and synergy with law enforcement officers. Legal awareness for teachers is also an important factor in avoiding actions that can be categorized as violations of the law. With clear legal protection and support from various parties, it is hoped that teachers can carry out their duties professionally without fear or undue pressure.

I. INTRODUCTION

According to Law Number 20 of 2003 Article 1 Paragraph 1, education is defined as a conscious and planned effort to create a learning atmosphere and learning process, so that students can actively develop their potential. Education also aims to equip students with spiritual strength, self-control, good personality, noble morals, and skills needed for themselves, society, nation, and state. This formal education is carried out by teachers and students in a school environment, where teachers act as professional educators who have the main task of educating, teaching, guiding, directing, training, assessing, and evaluating students at the level of early childhood education, elementary education, and secondary education.¹

In recent years, cases of violence against teachers have often been in the media spotlight, especially those that occur due to teachers' toleration of deviant or delinquent behavior by students. Ideally, teachers should take action against students who exhibit negative behavior. However, many teachers are currently reluctant to act for fear of violating human rights. In addition, a lack of understanding of the steps to take when dealing with student behavioral problems is also a challenge for them. In some cases, teachers are not only reported as perpetrators of violence against students, but also as victims of violence by students or parents. The imposition of disciplinary sanctions by teachers, such as through physical contact (for example, pulling, pinching, or asking students to run around the schoolyard) and verbal contact (such as shouting), has resulted in reports of violations of child protection rights.²

Indiscipline in various aspects of life, such as studying, working, managing time, and obeying the law, is often the main cause of someone breaking the rules. Indonesia as a country of law (*rechtstaat*) regulates every aspect of community life through laws and regulations in order to create order, security, and peace. However, in daily practice, there are still many violations of discipline that occur, including in the school environment, both by students, teachers, and education personnel. Therefore, as a citizen, every individual is obliged to understand and obey the applicable law. This is in line with Article 27 Paragraph (1) of the 1945 Constitution as amended 4th, which emphasizes that every citizen has the same position before the law and is obliged to uphold the law

¹Hastiani, FN (2022). Teachers' Perceptions of Legal Protection in the Teaching and Learning Process at School. *Scientific Journal of the Teacher Profession (JIPG)*, 3 (1), 1-10.

²*Ibid.*

and government without exception.³

In the past, disciplinary actions taken by teachers were considered normal and part of an effort to educate students. However, today, these actions are often associated with human rights violations, so teachers face a dilemma. On the one hand, they must enforce school discipline, but on the other hand, they are worried about being criminalized by parents or child protection NGOs on charges of violence against students. As a result, many teachers are hesitant to enforce regulations, so that students who violate school rules do not receive the sanctions they should. This indecisiveness has an impact on decreasing the authority of teachers in front of students, especially for those who often break the rules. Students feel free to commit violations because there are no real consequences.

As a form of protection for teachers in carrying out their professional duties, legal protection is important. This protection includes protection from acts of violence, threats, discriminatory treatment, intimidation, or unfair actions that may come from students, parents, society, bureaucracy, or other parties. The profession of teacher and lecturer is a special profession that has its own principles, one of which is the guarantee of legal protection in carrying out its duties. In addition, the right to obtain legal protection is also part of the teacher's rights in carrying out his professional duties. This ensures that teachers can carry out their role as educators with a sense of security and without pressure from any party.⁴

II. RESEARCH METHODS

This study uses a normative legal approach, which focuses on the analysis of legal theories and expert opinions. This approach is carried out by examining legal provisions that are relevant to the problems discussed. In addition, this study is descriptive and based on library research, where the main sources come from literature related to the research topic, such as books and journals that discuss legal protection for teachers in the context of education.⁵

This study uses three types of data sources. Primary sources include laws and regulations such as Law Number 14 of 2005 concerning Teachers and Lecturers, the Child Protection Law, and

³Prakoso, AR, & Hermawan, R. (2019). Legal Protection for the Teaching Profession for Punishment Actions Against Students. In Proceedings of "Teacher Professionalism in the 21st Century", National Seminar of IKA UNY Year.. P. 178.

⁴ *Ibid* . Pg. 179.

⁵Nurmala, LD (2018). Legal protection for educators. *Gorontalo Law Review*, 1(1), 70.

other regulations related to the juvenile criminal justice system. Secondary sources come from books, journals, and other scientific works that support the research analysis. Meanwhile, tertiary sources include information from newspapers, electronic media, and other references that explain primary and secondary sources. The data collection technique used in this study is a literature study or document study, which aims to analyze written legal materials. Data collected through documentation, such as books, newspapers, magazines, and information from the internet, are analyzed using descriptive methods. This method helps in describing a phenomenon based on the data obtained, which is then studied in depth through legal analysis to understand legal protection for teachers in the teaching and learning process.⁶

III. DISCUSSION

A. Legal Protection for Teachers Accused of Abusing Students in the Teaching and Learning Process

Article 1 Paragraph (1) of Law Number 14 of 2005 concerning Teachers and Lecturers states that teachers are professional educators with the main task of educating, teaching, guiding, directing, training, assessing, and evaluating students in early childhood education through formal education, basic education, and secondary education. The position of teachers as professional staff aims to implement the national education system and realize the goals of national education, namely developing the potential of students to become people who believe in and are devoted to God Almighty, have noble morals, are healthy, knowledgeable, capable, creative, independent, and become democratic and responsible citizens.⁷

The function and role of teachers in improving the dignity and honor of the nation cannot be doubted. However, when the quality of education is considered less than satisfactory, teachers are often the first to be blamed. On the other hand, what is concerning is the lack of support and appreciation from students, parents, society, and the government in supporting teacher professionalism.⁸

The professionalism of a teacher includes the authority to impose sanctions on students who violate moral, decency, religious, or legal norms. This authority is given in order to create

⁶ *Ibid.* Page 70.

⁷ Matnuh, H. (2017). Legal protection of teacher professionalism. *Journal of Citizenship Education*, 7(2), 47.

⁸ *Ibid.*

an orderly, safe, and comfortable learning environment, both based on school rules and regulations set by the government. This is clarified in Article 39 of Government Regulation Number 74 of 2008, which further regulates the rights and limitations of teachers in enforcing discipline in the educational environment.⁹

In the regulation, teachers have the freedom to impose sanctions on students who violate religious norms, morality, politeness, and written or unwritten regulations that apply in schools. The sanctions given can be in the form of reprimands or warnings, either verbally or in writing, as well as educational punishments, in accordance with the principles of education, the teacher's code of ethics, and applicable laws and regulations. However, if the violation committed by students is related to the rules of the educational unit, the authority to impose sanctions lies with the head of the educational unit, and the teacher is only tasked with reporting it. Meanwhile, if the violation that occurs is related to laws and regulations, the teacher is required to report it to the head of the educational unit so that it can be followed up in accordance with applicable laws and regulations.¹⁰

In the teaching and learning process, punishment by teachers has long been part of efforts to discipline students so that they do not commit acts that violate norms. However, the lack of communication between teachers and students often causes these disciplinary actions to be misinterpreted as a form of violence. In some cases, teacher actions can be categorized as physical violence against children. Physical violence against children includes acts of torture, beatings, or abuse, either with or without using certain objects, which can cause physical injury or even death. Wounds from physical violence can be in the form of abrasions, bruises from blunt objects, bites, pinches, or blows with tools such as belts and rattan. In some cases, burns from cigarette burns or irons are also indicators of physical violence against children, with common locations of wounds being on the thighs, arms, cheeks, chest, stomach, back, or buttocks.¹¹

In the Criminal Code (KUHP) Article 89, it is stated that violence also includes actions that make someone faint or helpless. According to R. Soesilo, violence in this context means

⁹ *Ibid.* Page 48.

¹⁰ *Ibid.* Page 48.

¹¹ Hardiansyah, A., & Khisni, A. (2018). Violent Crimes in the Teaching and Learning Process Reviewed from the Perspective of Criminal Law and Law Number 14 of 2005 Concerning Teachers and Lecturers. *Jurnal Daulat Hukum*, 1(1).

the illegal use of physical force or power, such as hitting, kicking, or using weapons and other objects that can injure someone. This article makes it clear that actions that cause someone to lose consciousness or become weak are also included in the category of violence that can be subject to legal sanctions.

Furthermore, Law Number 23 of 2002 concerning Child Protection regulates sanctions for perpetrators of violence against children. Article 80 paragraph (1) states that anyone who commits cruelty, violence, threats of violence, or abuse against children can be subject to a maximum prison sentence of three years and six months and/or a maximum fine of Rp. 72,000,000.00. This regulation emphasizes that all forms of violence against children, including those occurring in educational environments, have clear legal consequences in order to protect children's rights.¹²

In carrying out their professional duties, teachers in Indonesia are aware of the importance of the Indonesian Teachers' Code of Ethics as a guideline for attitudes and behavior. This code of ethics reflects moral and ethical values that must be upheld in carrying out the profession as educators. To strengthen teacher professionalism, Article 41 Paragraph (1) of Law Number 14 of 2005 concerning Teachers and Lecturers mandates the formation of an independent teacher professional organization. The existence of this professional organization is normative and must be followed by every teacher as part of the national education system.¹³

Furthermore, Article 41 Paragraph (2) of Law No. 14 of 2005 explains that teacher professional organizations function to improve professionalism, competence, career, educational insight, professional protection, welfare, and community service. Paragraph (3) emphasizes that teachers are required to be members of professional organizations, while Paragraph (4) states that the formation of professional organizations must be in accordance with laws and regulations. In addition, Paragraph (5) stipulates that the government and/or regional governments can facilitate professional organizations in fostering and developing the teaching profession. Article 42 of Law No. 14 of 2005 also gives authority to teacher professional organizations to determine and enforce a code of ethics, provide legal assistance, protect the teaching profession, carry out fostering and developing the profession, and advance national

¹² *Ibid* . Pg 92.

¹³ Efendi, E., & Hakim, MA (2022). Legal Protection for Teachers Regarding Punishment Actions to Their Students. *Lex Stricta: Journal of Legal Science*, 1(1), 66.

education.¹⁴

This provision confirms that professional teacher organizations have a crucial role in protecting teachers' rights, including in dealing with legal issues. The Teachers and Lecturers Law also guarantees legal protection for teachers in carrying out their professional duties, including the right to provide assessments, determine graduation, provide awards, and apply sanctions to students in accordance with educational principles, teacher code of ethics, and laws and regulations. In carrying out their duties, teachers are required to act objectively and non-discriminatory, and uphold the law, code of ethics, religious values, and ethics, without discriminating against students based on gender, religion, ethnicity, race, physical condition, family background, or socio-economic status.¹⁵

B. Factors Causing Accusations of Abuse Against Teachers and Prevention Strategies

Based on the analysis of the results of the National Child Violence Consultation conducted in 2005 (in Adiningsih, 2006), there are several factors that cause violence by teachers against students, which can be summarized in four main aspects. First, from the aspect of the student, each child has biological, intellectual, and psychological differences, where psychological factors are the main trigger for violence. Students show a variety of traits and behaviors, ranging from disciplined to problematic, such as being impolite or disobeying rules. Second, from the aspect of the teacher, the interaction between teachers and students can trigger violence, where actions that are considered harsh by teachers, such as hitting or speaking harshly, are often influenced by the character of both parties. Teachers, who are hierarchically more mature and have a higher position, are expected to receive respect from students. Third, from the aspect of the education system, the unequal power relations between teachers and students, influenced by hierarchical education policies, create the understanding that power lies in the hands of teachers. This causes inequality and the potential for violence in everyday interactions. Finally, from the aspect of community culture, human behavior, including violence, is influenced by local culture, where in some areas violent acts may be considered taboo, while in other places they may be accepted as a method of discipline in education. These four aspects interact with each other and contribute to the emergence of violence in the context

¹⁴ Ibid. Pg. 67.

¹⁵ Ibid. Pg. 67.

of education.¹⁶

Cases of criminalization, abuse, and unpleasant actions against teachers, both by students and parents, such as those that occurred in Maros, South Sulawesi, show the need for serious protection for the teaching profession. This incident tarnishes the world of education which should be based on humanistic values and compassion. For this reason, the Indonesian Teachers Association (PGRI) is trying to encourage the government to create clearer regulations on legal protection for teachers through various organizational forums. Clear legal protection is important so that teachers feel comfortable in carrying out their duties, and so that parents provide adequate support to teachers.¹⁷

PGRI also urges the establishment of a legal advocacy institution for educators to socialize the importance of understanding the law and providing legal assistance when there are cases involving teachers. Although PGRI already has a Legal Consultation and Aid Institute (LKBH) which was established in 2016, its impact on the authority of teachers still needs to be improved. In addition, PGRI collaborates with law enforcement officers to build good synergy between educational institutions, government, NGOs, and the community. The Memorandum of Understanding that has been signed between PGRI and the Indonesian National Police includes the establishment of the Indonesian Teachers' Honorary Council and Code of Ethics (DKGI) which functions to handle legal issues involving teachers while they are carrying out their duties. Thus, these steps are expected to increase protection for teachers and ensure that they carry out their profession safely and with dignity.¹⁸

Protection efforts for teachers can be divided into two categories: repressive and preventive law. Preventive legal efforts can be seen from the regulation of teachers through various regulations, such as Law Number 14 of 2005 concerning Teachers and Lecturers, Government Regulation Number 74 of 2008, and Regulation of the Minister of Education and Culture Number 10 of 2017 which discusses the protection of educators and education personnel. On the other hand, repressive legal efforts refer to the regulation of criminal acts in these regulations. Although there are various regulations governing the protection of teachers,

¹⁶Pondaag, GAS (2019). Legal Review of Child Protection Due to Violence Committed by Teachers Against Students at School. *Lex Crimen*, 8(1), 29.

¹⁷Kadir, A., & Jiwantara, FA (2022). Guarantee of Legal Protection for Educators Who Are Members of the Indonesian Teachers Association. *Unizar Law Review*, 5 (2), 313.

¹⁸*Ibid.*

most of them are still general and not specific enough, so that the Aceh Government does not yet have a regional regulation specifically for the protection of teachers, which results in a lack of attention to real actions in such protection. There is a need for regional regulations (Perda) concerning the protection of teachers to ensure ongoing supervision by the DPRD. However, without effective law enforcement, existing regulations will only be "paper tigers."¹⁹

In addition, every law enforcer has a status and role in the structure of society, where the protection of teachers from violence, intimidation, and discriminatory treatment depends on effective law enforcement. Good law enforcement requires an understanding of the underlying principles, including legitimacy, accountability, and protection of human rights. Law enforcement officers need to be more responsive to the various threats faced by teachers, both directly and through the media. The Central and Regional Governments, especially the Aceh Government, are also expected to be more responsive in handling legal problems faced by teachers.²⁰

Legal culture also plays an important role in law enforcement, where existing norms must be internalized by individuals. In the context of teacher protection, it is important for teachers in Indonesia to have legal awareness to avoid violence, intimidation, and other injustice issues, and to understand their rights and obligations in accordance with applicable laws and regulations. Thus, they can act wisely towards students without violating child protection laws.

IV. CLOSING

A. Conclusion

Legal protection for teachers accused of abusing students in the teaching and learning process is very important, considering the role of teachers as professional educators who are responsible for developing students' potential, as regulated in Law Number 14 of 2005. Although teachers have the authority to discipline students who violate norms, lack of communication often causes disciplinary actions to be perceived as violence, and physical violence against children has strict legal sanctions in the Criminal Code and the Child Protection Law. In carrying out their duties, teachers are expected to uphold the code of ethics

¹⁹Masrianto, M., Suhaibah, S., & Mahdi, U. (2024). LEGAL PROTECTION FOR TEACHERS IN ENFORCEING STUDENT DISCIPLINE AT STATE SENIOR HIGH SCHOOL 2 MUTIARA. *MEUSAPAT: Journal of Legal Science*, 3 (1), 14.

²⁰*Ibid.*

and act objectively without discrimination, and protect students' rights. Teachers' professional organizations have a crucial role in providing legal protection and legal assistance, as well as developing professionalism, so clearer legal protection regulations and support from all parties are needed to create a safe and equitable educational environment for teachers and students.

Allegations of abuse against teachers can be triggered by various interacting factors, including aspects of the students themselves, the teachers themselves, the education system, and the culture of society, each of which contributes to the emergence of violence in the context of education. Legal protection for teachers is very important, especially considering the cases of criminalization that occur from both students and parents, which tarnish humanist values in the world of education. These protection efforts include the development of clear and specific regulations, including the establishment of legal advocacy institutions to provide legal understanding and support, as well as cooperation with law enforcement officers. Although there are various regulations, such as Laws and Government Regulations, that support teacher protection, specific regional regulations are still needed to ensure greater attention to real protection. Effective and responsive law enforcement from law enforcement officers and legal awareness from teachers are needed to prevent violence, intimidation, and other injustices, so that teachers can carry out their duties safely and with dignity.

B. Suggestion

The suggestions that can be given are the importance of increasing legal protection for teachers through the creation of clearer and more specific regulations, as well as the establishment of effective legal advocacy institutions to provide legal support and understanding to educators. In addition, strong cooperation is needed between the government, law enforcement officers, and teacher professional organizations in creating a safe and equitable educational environment. The community is expected to provide appreciation and support to teachers, and increase legal awareness so that educators can carry out their duties professionally and responsibly without fear of intimidation or violence. Effective and responsive law enforcement must also be strengthened to protect the rights of teachers and students in the teaching and learning process.

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