

Teacher Criminal Responsibility for Violence Against Children in Schools is Reviewed According to Article 80 of the Law Number 35 of 2014 Concerning Child Protection

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Abstract — Teachers and students are two things that cannot be separated in the world of education. The relationship between the two sometimes runs harmoniously, but not infrequently contradictory. Often teachers commit acts of violence against students. The teacher argues to uphold discipline for students at school. Teacher violence against students (children) is not justified in the basic philosophy of education. Responsibility for criminal acts of violence committed by teachers against children in school refers to Article 76C of Law No. 35 of 2014 concerning Child Protection which states that: "Every person is prohibited from placing, letting, doing, ordering or participating in committing violence against children." Meanwhile, sanctions for teachers who violate the article above are regulated in Article 80 of Law Number 35 of 2014 and it is fitting for students in schools to get protection from violent behavior by teachers in the form of physical and psychological violence. For teachers, it is recommended that as much as possible always be able to control themselves or control themselves when faced with student delinquency in school or other student behavior which can be a stimulus for teachers to commit acts of violence. Teachers should also not use ways that lead to violence against students in educating.

Keywords: *criminal, accountability, teachers, violence, children*

I. INTRODUCTION

Child development related to character planting is certainly a concern for parents and the environment, planting characters should be instilled not only in the school and family environment, but because the environment is a factor in the formation of children's character. For this reason, safeguards are needed so that the child's developmental factors become fulfilled and realized, this needs to be done in order to be able to realize child welfare by providing guarantees for the fulfillment of their rights without discriminatory treatment.[1]

Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection also emphasizes the need for criminal sanctions for perpetrators of crimes against children, to provide deterrent effects, and to encourage steps to restore, physical, psychological and social. Children of victims and / or children of perpetrators of crime, this needs to be done to anticipate children of victims and / or children of perpetrators of crimes in the future not being the perpetrators of the same crime. [2] The

position of teachers and lecturers refers to Article 6 of Law Number 14 of 2005 concerning Teachers and Lecturers stating that "The position of teachers and lecturers as professionals aims to implement the national education system and realize the goals of national education, namely the development of potential students to become human those who believe and fear the Almighty God, are noble, healthy, knowledgeable, capable, creative, independent, and become democratic and responsible citizens, "but in practice there are teachers who do not implement the national education system, given the many deviations or various forms of violations committed by teachers against students or students. [3] The types of deviations that usually occur in the world of education can be in the form of various forms of violence, immoral acts and others. [4]

The action of teacher violence in the school received an affirmative response from parents of students, some even asked for compensation. Violence in schools occurs because teachers abuse their authority due to the void of clear and detailed types of sanctions that should be properly regulated by the school, in addition to the weak supervision by principals on the performance of teachers and teachers not yet applying humanistic learning models that emphasize value- appreciation humanitarian values of students. [5]

All teacher violations related to the teaching profession (in class, school environment, which still have a relationship with / relating to teacher- student relations, teaching-learning process, as well as things that can be categorized as teacher-student relations), then must be reported to the Indonesian Teacher's Honorary Council (DKGI). Based on this, of course various forms of violence in the school environment that have juridical impact are a threat to the implementation of education in Indonesia.

II. DISCUSSION

A. *Sample of Case*

Victim (Noer Rahman), 4th grade S State Elementary School (SDN) 03 Pagi of South Utan Kayu, having his address at Jalan Pandan Raya Matraman, East Jakarta. The victim claimed to have been persecuted by his religious teacher named Dayat until he bled on his lips and his back turned red. The occurrence of this persecution occurred in 2017.

Information obtained by the author, the alleged violence experienced by Noer Rahman occurred in a classroom located on Jl Pandan Raya, South Utan Kayu. When it is known Noer Rahman was joking with his friends, without accidentally while Noer Rahman throws blackboard eraser on a colleague, Samuel (10 years old). In addition, Noer Rahman also took action by twirling a belt of pants to frighten his classmates. Seeing Noer Rahman's mischief, the teacher Dayat immediately scolded Noer Rahman. Not only that, Dayat who taught Islamic studies even slapped Noer Rahman's lips to bleed and bruise. Dayat was also said to hit Noer Rahman's back until it turned red. After the incident, Noer Rahman immediately went home while crying. Because at his home his parents were away, Noer Rahman then went to the residence of his grandmother, Kurniati (61 years old), on RT 04/12 Kelan Utan Kayu Selatan. Seeing his grandson bleeding, the grandmother suddenly came to Noer Rahman's school. Unfortunately, the religious teacher did not want to apologize and threatened to expel Noer Rahman from the school. Meanwhile Noer Rahman admitted that since the incident, he often felt frightened when he met the religious teacher. According to the student, he was slapped to the point of bleeding. Now if every time you meet the teacher the child becomes afraid. Many parties regretted the case of this persecution. The arena that happened at school and the world of education should not be littered with violence against students.

The position of a child when in school will turn out to be a student, as well as in terms of who should be responsible for the child, this will certainly be a burden on school responsibility, which in this case is held by the teacher, especially for school-age children, namely kindergarten, elementary, junior high and high school, which by age and thought still have limited maturity and independence and are still classified as children (18 years) as Act No. 35 of 2014 concerning Child Protection.

In Indonesia, the responsibility of the state for the implementation of quality education for each of its citizens is explicitly regulated in the opening of the 1945 Constitution, fourth paragraph and torso Article 31. In the opening of the 1945 Constitution paragraph 4 states one of Indonesia's national goals is "... Intelligent life of the nation". It appears from the statement that efforts to educate the nation's life can only be achieved through education. Furthermore, it is reaffirmed in Article 31 Paragraph (1) of the 1945 Constitution, that: "Every citizen has the right to receive teaching" and, in Article 31 Paragraph (2) it is stated that: "The Government undertakes and organizes a national teaching system regulated in a national teaching system".

Violence in the world of education, including violence against students or students carried out by teachers, this will have a juridical impact and affect the implementation of education

in Indonesia. The existence of this crime is likened to an iceberg phenomenon, which means that this phenomenon occurs a lot in society, but is often overlooked, covered by public assumptions that education is an impeccable field free from the influence of various negative actions, so that every these actions are often justified by reasons that appear rational, such as disciplinary reasons. The erroneous public assumption regarding the education sector has resulted in the handling of various irregularities in the field of education which in essence the crime is not getting serious attention. Violence in education can be caused by poor systems and educational policies. Curricular content that only relies on the ability of cognitive aspects and ignores affective education leads to a reduction in the process of humanization in education. Violence in education is influenced by the community environment and the mass media shows that are lately increasingly vulgar in displaying acts of violence. Violence can be a reflection of the development of the lives of people who experience rapid shifts, so that it requires the emergence of instant solution attitudes and shortcuts, on the other hand, violence is influenced by the perpetrators' socio-economic background. Cases of violent behavior in education also varied: first, the mild category, immediately finished on the spot and did not lead to further violence or acts of revenge by the victim. Violence in this classification needs to be seen first, whether the case is completed internally at school and not exposed by the mass media or not finished and exposed by the mass media. Second, the medium category is still resolved by the school with the help of the apparatus, and third, the heavy category that occurs outside the school and leads to criminal acts and is handled by the police or the court. Generally these cases of mild and moderate categories of violent behavior occur in the school environment, are still in school hours and carry school attributes.

Settlement his case, carried out through the efforts of peace by first making a deal or agreement between the two parties witnessed by the school, and in the agreement where individual teachers are doing persecution back either to Noer Rahman or other students, it will be reported to the authority. In this case, the point is that the solution is carried out with a fixed justice approach, which is basically a criminal law approach that contains a number of traditional values. This is based on two indicators, namely: the values on which they are based and the mechanism offered, where the perpetrators and victims are brought together to find the right solution, or the perpetrators come to the victim's house to apologize and provide compensation discussed in parallel.

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it is reaffirmed in Article 31 Paragraph (1) of the 1945 Constitution, that: "Every citizen has the right to receive teaching" and, in Article 31 Paragraph (2) it is stated that: "The Government undertakes and organizes a national teaching system regulated in a national teaching system".

Associated with the violence that teachers do against students in schools, of course, must involve the role of the school committee. School committees are a forum for stakeholders to participate directly or indirectly within the framework of school development. School committees are independent bodies, do not have hierarchical relations with any other government institution. School committees and their respective independence but remain as partners who must work together in line with the concept of school-based management.

Cases of violence committed by individual teachers against students or their students violate Law Number 35 of 2014 concerning Child Protection, in Article 1 Paragraph (2) stated, "Child protection is all activities to guarantee and protect children and their rights to live, grow, develop and participate optimally in accordance with the dignity and human dignity and get protection from violence and discrimination.

Based on Law Number 35 of 2014 concerning Child Protection, mandates that children must be protected from acts of violence committed by anyone, including teachers in schools, explained in Article 54 Paragraph (1) of Law Number 35 of 2014 concerning Child Protection who stated that: "Children in and within the education unit must receive protection from acts of physical, psychological, sexual crime, and other crimes committed by educators, education personnel, fellow students, and / or other parties."

Based on Law Number 35 of 2014 concerning Child Protection, it is clear that acts of violence against children constitute criminal acts whose perpetrators will be legally processed. The act of violence in education can also result in the perpetrator being subjected to a criminal act, as stated in Article 80 of Law Number 35 of 2014 concerning Child Protection, essentially various parties are able to provide protection for children from acts of violence and abuse.

Related to the violence committed by the teacher named Dayat on students named Noer Rahman, 4th grade SDN 03 of South Utan Kayu, Matraman, East Jakarta, of course there are articles that are used as a form of accountability of teachers who commit violence against their students, where articles on child abuse regulated in Article 76C of Law Number 35 of 2014 concerning Child Protection which states: "Everyone is prohibited from placing, letting, doing, ordering to do, or participating in committing violence against children." Meanwhile, sanctions for people who violate the above article (perpetrators of violence / persecution) are determined in Article 80 of Law Number 35 Year 2014, namely:

- (1) Any person who violates the provisions referred to in Article 76C shall be punished with imprisonment of three (3) years and 6 (six) months and / or a fine of Rp72.000.000, 00 (seventy two million).
- (2) In the event that the child as referred to in Paragraph (1) is seriously injured, then the offender is punished with a maximum imprisonment of 5 (five) years and / or a fine of a maximum of Rp . 100,000,000.00 (one hundred million rupiah).
- (3) In the event that the Child as referred to in Paragraph (2) dies, the offender shall be sentenced to a maximum of 15 (fifteen) years imprisonment and / or a maximum fine of Rp . 3,000,000,000.00 (three billion rupiah).
- (4) Criminal matter is added to one third of the provisions as referred to in Paragraph (1), Paragraph (2), and Paragraph if the person who committed the persecution is his parents.

As explained in Article 54 of Law Number 35 of 2014 concerning Child Protection, it is fitting for students in schools to get protection from violent behavior by teachers in the form of physical and psychological violence. Even though there are criminal sanctions for these acts of violence, however, according to the authors, the choice of criminal charges should be made the last legal effort after peace efforts have been made. The school has invited parents of students who are victims and teachers as perpetrators of violence related to mediation. The school tried to confront and match information based on the victim's information.

The solutions to overcome the violence that teachers do against students at school are:

1. For schools
 - a. Implement nonviolent education at school
 - b. Nonviolent education is an education aimed at children by saying "no" to violence and opposing all forms of violence. In instilling nonviolent education in schools, teachers can do this by establishing effective communication with students, recognizing the potential of students, placing students as subjects of learning, giving teachers the freedom for students to be creative and teachers respecting students according to the talents possessed by students.
 - c. The punishment given is correlated with the child's actions. There is a cause there are consequences, there are mistakes and there are consequences of responsibility, by applying penalties that are in harmony with the logical consequences of the actions of students who are considered wrong, it has prevented irrational election / punishment actions.

The school continues to develop and equip good teachers with insight/ knowledge, opportunities to have new experiences, opportunities to develop their creativity. Teachers also need self-actualization, not only in material form, status, and so on. The teacher is also happy if given the opportunity to express aspirations, creativity and try to develop interesting teaching methods without leaving the principles and values of education. In addition, schools can also provide psychology education to teachers to understand child development and general psychological dynamics. With a psychological approach, it is expected that teachers can find more effective and healthy ways to deal with students.

2. For parents or families
 - a. It needs to be more careful and considerate in choosing schools for their children so that they do not experience violence in school.
 - b. Establish effective communication with teachers and fellow parents to monitor the development of their children.
 - c. Parents apply parenting, which emphasizes support rather than punishment, so their children are able to be socially responsible
 - d. Avoid television shows that are not educational, even contain elements of violence. Violence displayed in films tends to be correlated with heroism, greatness, strength and power.
 - e. Every problem that exists, you should find a solution / solution and not drag on. The habit of delaying problems, avoiding conflicts, actually makes the problem drag on and take energy. An open attitude to each other and mutual support, is needed to solve every problem well.
 - f. Seek professional help if the problems in the household cause more pressure to cause one or several family members to experience obstacles in carrying out their daily lives.
3. For students who experience violence Immediately *share* with parents or teachers or people who can be trusted about the violence they experienced so that the students immediately get help to recover their physical and psychological condition. Therefore, it is very important for all parties, both teachers, parents and students to understand that violence is not the right solution or action, but increasingly adds to the problem. Hopefully this discussion can be useful and reduce the occurrence of violence against students. It should be remembered, that to overcome this problem requires cooperation from all parties.
4. For the teacher
Teachers are educators who provide a number of knowledge to students in school and are tasked with instilling good values and attitudes. Therefore, a teacher

must have good self control because what is said and done will be a reference for students and even the surrounding community. If a teacher in his daily life always says harsh words, deviates behavior and ethics and morals, then he will have a negative impact on students and will certainly tarnish the image of the teacher's professionalism.

According to the author, related to the handling of violence carried out by teachers in schools, especially in SDN 03 Pagi of South Utan Kayu, Matraman, East Jakarta, the role of the school committee in SDN 03 Pagi of South Utan Kayu is needed, which must be optimized, given its role is to absorb, accommodate and channel people's aspirations in improving the quality of education. Therefore the participation of school committees can be said as a process of channeling community aspirations both in material and non-material support from all members and their management, both individually and collectively, directly or indirectly in planning, decision making and policy making, implementation, and monitoring / evaluating education for the advancement of school quality.

The establishment of a school committee in SDN 03 Pagi Utan Kayu Selatan was intended as a forum for empowering community participation. School committees are school partners in an effort to build commitment and loyalty and concern for the community to improve school quality. The purpose of establishing a school committee as a school community organization is as follows:

1. Representing and channeling community aspirations and initiatives in giving birth to operational policies and educational programs in educational units.
2. Increase the responsibility and participation of the community in the implementation of education in educational units.
3. Creating transparent, accountable and democratic atmosphere and conditions in the provision and quality of education services in the education unit.

The existence of school committees always rests on the foundation of community participation in improving the quality of services and the results of education in schools.

Based on this, the author also argues that the violence against children carried out by teachers is contrary to the role of the teacher as an educator, namely those who become leaders, role models and identification for students, and their environment. The attitude and behavior of teachers at school or in the study room is very important for the willingness and enthusiasm of learning for children, if the teacher gives punishment to students and the sentence is not educational, then the punishment carried out by the teacher will be a negative impression that has a negative impact on children's learning process. No matter how small the impact on the practice of violence in education, this is still a mistake.

III. CONCLUSION

Responsibility on the criminal act of violence committed against children in the school teachers refer to Section 76C of Law No. 35 of 2014 concerning Child Protection

which states that: "Every person is prohibited from placing, letting, doing, ordering or participating in committing violence against children." Meanwhile, sanctions for teachers who violate the above article are regulated in Article 80 of Law Number 35 Year 2014 which states:

- (1) Each orang in violation of the provisions referred to in Article 76C shall be punished with imprisonment of three (3) years and 6 (six) months and / or a maximum fine of Rp 72,000,000, 00 (seventy- two million rupiah).
- (2) In the case of a child as referred to in A yat
 - (1) serious injury, then the offender is punished with imprisonment for a maximum of 5 (five) years and/ or a fine of at most Rp 100,000,000 , 00 (one hundred million rupiah).
- (3) In the event that the Child referred to in A yat
 - (2) dies, the offender is convicted imprisonment for a maximum of 15 (fifteen) years and / or the most fine Rp 3,000,000,000, 00 (three billion rupiah).
- (4) Criminal added one third of the provisions as referred to in A yat (1), paragraphs (2), and (3) if one does of the persecution by him parent. Already it is fitting for students in the school to get protection from violent behavior by the teacher in the form of physical and psychological violence. This means that the acts of violence by teachers against students also indicated their understanding that teachers can not perform his profession as educators who have properties patient, guardian and protector of children in the school environment, on the other hand acts of violence by teachers are not in accordance with the code of conduct of teachers.

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