



Criminal Law Review of Violent Acts in the Teaching and Learning Process Based on Indonesia's Child Protection Law of 2014

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Abstract. *The phenomenon of violence still often occurs in the world of education in Indonesia. In the process of teaching and learning activities, violence against children often occurs, therefore a law is needed that can protect children from violence. The purpose of this study is to determine the forms of violence against children that often occur in the teaching and learning environment and to determine how legal protection for children is according to Law Number 35 of 2014 concerning the amendment to Law Number 23 of 2002 concerning child protection. This research method is This study uses a type of qualitative field research, namely a type of research that describes qualitatively the object being discussed according to the reality in the field. Qualitative research is a research that uses a natural setting, with the intention of interpreting the phenomena that occur in depth and is carried out by involving various existing methods with the research approach used is a normative legal approach to issues concerning the synchronization of regulations issued by schools regarding legal protection against child violence or regulations made in the form of student code of conduct books with statutory regulations Number 35 of 2014 concerning child protection, which is presented descriptively, namely by describing a policy related to the synchronization of school regulations with the Child Protection Law. With the results of the study, namely 1) Forms of violence in the teaching and learning process can be physical and non-physical violence, involving various actions such as beatings, slapping, kicking, insults, threats, teasing, cyber bullying, hazing, and persecution. 2) Law Number 35 of 2014 significantly strengthens legal protection for children by establishing a prohibition on violence, regulating its mechanisms for preventing and handling acts of violence which is an amendment to Law Number 23 of 2002.*

Keywords: *Child Protection Law; Child Protection; Criminal Law; Teaching Process; Violence in Education.*

1. INTRODUCTION

Discussions about children and their protection will continue throughout history, as children are the next generation of the nation and the successors to development, a generation prepared to be the subject of sustainable development and the bearers of control over the future of a country.

Article 54 of Law Number 35 of 2014 concerning child protection mandates that: (1) Children within and within educational institutions must receive protection from physical, psychological, sexual, and other forms of violence committed by educators, education personnel, fellow students, and/or other parties. (2) The protection referred to in paragraph (1) is carried out by educators, education personnel, government officials, and/or the community.

In a social context, the emergence of the theory of violence can occur due to several factors, namely: 1. Social situations that allow violence to arise due to certain social structures. 2. Social pressure, namely a condition when a large number of community members feel that many values and norms have been violated. This pressure is not enough to cause riots or violence, but it can also become a driving force for violence. 3. The development of widespread feelings of hatred toward a specific target. The target of this hatred is related to the triggering

factor, namely the event that triggers the violence. 4. Mobilization for action, namely concrete actions in the form of self-organization for action. This stage is the final stage of accumulation that makes violence possible. 5. Social control, namely the actions of third parties such as security forces to control, prevent, and end violence. The cause of violence against students can occur because teachers do not understand the meaning of violence and its negative consequences. Teachers assume that students will be deterred by physical punishment (M. Nasir Djamil, 2013).

Poverty often goes hand in hand with low levels of education, unemployment, and mental stress, which are generally seen as dominant factors driving cases of violence against children. Weak law enforcement and cultural practices can also impact the phenomenon of violence against children. Based on research conducted by UNICEF (2006) in several regions in Indonesia, it was shown that approximately 80% of violence against students was perpetrated by teachers. We know that schools are places where students gain knowledge and should be safe places for them. However, in several schools, cases of violence against students by teachers have occurred (Hasbullah, 2012).

2. TINJAUAN PUSTAKA

General Overview of Children

From a legal perspective, the definition of a child under Indonesian positive law is generally defined as a person who is not yet an adult (*minderjarig/person of child age*), a person who is under age/inferiority (*minderjarig/inferiority*), or often referred to as a child under the supervision of a guardian (*minderjarige ondervoordij*). The General Indonesian Dictionary defines a child as a small human being. Other literature defines a child as a normal human being who is still young and is determining their identity and is mentally unstable, making them highly susceptible to environmental influences (Sophian Y. Selajar, 2019). Meanwhile, according to Romli Atmasasmita, a child is a person who is still under age and not yet an adult and not yet married. From a psychological perspective, Zakiah Darajat in her psychological review states the following: "Children or also called adolescents are a transition period for individuals who have left the weak and dependent childhood age, but are not yet able to reach the strong and responsible adulthood age, both towards themselves and society." Viewed from the criminal law aspect, Determining the criteria for a child, although strictly based on age limits, if viewed carefully, there are several provisions in the Criminal Code (KUHP) which regulate the age limits of children, there is also diversity (KUHP Perdata, 2018).

Children's Rights

Indonesia has implemented protection for the rights of every citizen through Law Number 39 of 1999 concerning Human Rights. This law explicitly stipulates that the rights of children in particular must be protected. This is stated in Article 1, number 1, of Law Number 39 of 1999 concerning Human Rights. In principle, human rights are a set of rights inherent in human existence as God's creatures (Tammi Hadi, 2021).

"Child protection is: all activities to guarantee and protect children and their rights so that they can live, grow, develop, and participate optimally in accordance with human dignity and honor, and receive protection from violence and discrimination." Meanwhile, children's rights are stipulated in Law Number 35 of 2014 in Articles 9-15.

Human Rights of Children

Obligations As a State, the state guarantees children's rights to survival, growth, and development, and the right to protection from violence and discrimination, as stipulated in the 1945 Constitution of the Republic of Indonesia (Kayus Kayowuan Lewoleba, 2020: 28). Legal protection in Indonesia for the fulfillment of the rights of children in conflict with the law, including the confidentiality of their identities as victims and perpetrators, is part of respecting and upholding human rights. The Convention on the Rights of the Child, the 1945 Constitution of the Republic of Indonesia, guarantees that all citizens have equal status before the law, and the government is obliged to uphold the law and government without exception.

In several provisions of laws and regulations, the definition of a child is explained as follows: 1) According to Article 1 paragraph (1) of Law of the Republic of Indonesia Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, which reads "A child is a person who is not yet 18 (eighteen) years old, including a child who is still in the womb." 2) According to Law Number 11 of 2012, Article 241 paragraph (3) concerning the Juvenile Criminal Justice System. Article 1 paragraph (3) which reads "A child in conflict with the law, hereinafter referred to as a child, is a child who is 12 (twelve) years old, but not yet 18 (eighteen) years old who is suspected of committing a crime." 3) According to Law Number 39 of 1999, Article 1 paragraph (5) concerning Human Rights. The definition of a child in Article 1 paragraph (5) which reads "A child is every human being who is aged under 18 (eighteen) years old and not yet married, including children who are still in the womb if it is in their interests. Children in conflict with the law, as referred to in Law Number 11 of 2012 concerning the Criminal Justice System, are children in conflict with the law, children who are victims and children who are witnesses.

3. METHOD

This study uses qualitative field research with a normative juridical approach. The data sources used in this study are secondary. Secondary data in this study consist of three types of legal materials, namely: 1. Primary Legal Materials, namely materials consisting of laws and regulations closely related to Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning Child Protection. 2. Secondary Legal Materials, namely legal materials that provide explanations to primary legal materials, consisting of books, legal journals, and the internet related to the author's research title. 3. Tertiary Legal Materials, namely materials that provide explanations to primary and secondary legal materials, namely legal dictionaries and things that can provide explanations related to the problem being studied.

4. RESEARCH RESULTS

Violence in the Educational Environment

Identification of Violence in the Educational Environment

Violence in the educational environment refers to any action that has the potential to cause physical, emotional, or psychological harm to individuals within the school environment. This form of violence includes physical violence, such as hitting or kicking, which directly affects a person's physical well-being. Furthermore, verbal violence in the form of teasing, insults, or threats can damage students' self-esteem and lower their self-confidence.

Forms of Violence in Educational Environments

The following is a classification of forms of violence in educational environments according to several experts:

- a) Sri Esti Wuryani (2007) in her book "Educational Psychology" divides violence in educational environments into several main forms:
 - a. Physical Violence: This violence involves physical actions that can injure someone, such as hitting, kicking, or pushing. In an educational context, physical violence often occurs between students or can also be perpetrated by teachers as a form of corporal punishment.
 - b. Verbal Violence: This includes the use of harsh words, insults, teasing, and threats intended to demean or intimidate others. Verbal violence can occur between students or between teachers and students.
 - c. Psychological Violence: This form of violence is more subtle but very damaging, including actions that cause psychological distress, such as neglect, intimidation, or emotional manipulation.

- b) Kartini Kartono (2002) in her book "Social Pathology 2" distinguishes violence in education into three main categories:
- a. **Physical Violence:** This includes any form of physical attack that results in bodily injury to the victim. Physical violence in educational settings can include fights between students or corporal punishment by teachers.
 - b. **Verbal Violence:** This includes any form of verbal communication that demeans, insults, or hurts someone's feelings. This can include insults, harsh words, and teasing aimed at harming students mentally or emotionally.
 - c. **Symbolic Violence:** Kartini Kartono also highlights forms of symbolic violence, where someone is treated unfairly or intimidated through indirect actions, such as gender-based discrimination or harassment.

Factors that cause violence in the educational environment

The following is a brief explanation of the factors that cause violence in the educational environment, divided by form and source from each relevant figure:

a.) **Individual Factors** Individual factors include personal characteristics such as aggressive personality, trauma experiences, and inability to manage emotions which can encourage someone to commit violence at school,

b.) **Family Factors** Ineffective parenting, violence at home, and lack of parental attention can cause children to imitate violent behavior at school,

c.) **School Environmental Factors** A school environment that is not conducive, including a culture that is not strict about violence and conflict between students, can become a fertile ground for violence to occur,

d.) **Community and Cultural Factors** Social and cultural norms that support violence, as well as the influence of media that depict violence, can influence student behavior at school,

e.) **Economic Factors** Poverty and social inequality create pressure that can trigger violent behavior, especially in stressful environments,

f.) **Educational Factors:** Overly oppressive curricula, non-inclusive learning methods, and a lack of character education can create an environment conducive to violence,

g.) **School Policy and Structure Factors:** Ineffective discipline policies and a lack of resources in schools can trigger or exacerbate violent situations. Each of these factors is interconnected and can influence each other, creating an environment prone to violence in schools. Violence prevention requires a holistic approach, involving improvements in every aspect related to the factors.

Impact of Violence Against Children

Violence against children can have widespread and serious impacts on various aspects of their lives. Here are some of the main impacts of violence against children:

- a) Physical Impact
 - a. Injuries and Health Problems: Physical violence can cause immediate injuries such as bruises, broken bones, and long-term health problems.
 - b. Chronic Health Problems: Children who experience physical violence may experience chronic health problems due to the physical trauma they suffer, such as sleep disturbances, headaches, or gastrointestinal problems.
- b) Psychological Impact
 - a. Mental Disorders: Violence can cause mental disorders such as anxiety, depression, and post-traumatic stress disorder (PTSD). Children may experience feelings of anxiety, fear, or emotional instability.
 - b. Decreased Self-Confidence: Children who experience violence often experience decreased self-confidence and self-esteem. They may feel worthless or unloved.
- c) Social Impact
 - a. Interpersonal Problems: Children who are victims of violence may have difficulty forming healthy social relationships. They may develop aggressive behavior or withdraw from social interactions.
 - b. Antisocial Behavior: Violence can increase the likelihood of children engaging in antisocial or criminal behavior, such as fighting, theft, or other law violations.
- d) Academic Impact
 - a. Poor Academic Performance: Children who experience violence often have difficulty concentrating and motivating, which can negatively impact their academic performance.
 - b. School Absenteeism: Emotional and physical problems resulting from violence can lead to frequent absences from school, disrupting their learning.
- e) Developmental Impact
 - a. Developmental Delays: Violence can affect a child's cognitive, social, and emotional development. They may experience delays in language development, social skills, or other cognitive skills.
 - b. Increased Risk of Future Violence: Children who experience violence may be more likely to become perpetrators of violence in the future, as they imitate the behavior they experience or absorb violent attitudes as the norm.

f) Long-Term Impact

- a. Lifelong Mental Health Problems: The psychological impact of violence can persist into adulthood, leading to mental health problems such as anxiety disorders, depression, and PTSD.
- b. Economic and Social Impact: Children who experience violence may face difficulties in reaching their full potential professionally and personally, which can affect their future economic and social stability.

Implementation of Criminal Penalties for School Violence

Penalties for Perpetrators of School Violence

School violence is a serious problem that threatens student safety and undermines the educational environment. In Indonesian criminal law, the Indonesian Criminal Code (KUHP) serves as the basis for addressing various forms of school violence, such as physical violence, bullying, sexual exposure, and extortion. Physical violence includes beatings or kicks, which are punishable under Article 351 concerning signing a document, with a penalty of up to five years in prison if it results in serious injury, and Article 352 concerning minor signing, with a penalty of three months in prison. Group bullying that results in public violence is punishable under Article 170, with a penalty of up to five years and six months in prison. Sexual harassment, whether perpetrated by students or teachers, is regulated under Articles 289 and 290 of the Criminal Code, with a penalty of up to nine years in prison. Meanwhile, extortion with the threat of violence is regulated under Article 368 of the Criminal Code, with a maximum penalty of nine years in prison. This law enforcement aims to prevent and handle acts of violence in educational environments in order to create a safe and conducive learning environment for students.

Cases of School Violence Resolved Through Criminal Law

Cases of school violence resolved through criminal law demonstrate the complexity and seriousness of this problem. In Indonesia, various cases of bullying, physical violence, and sexual violence have been handled legally, with the goal of not only punishing the perpetrators but also protecting the victims and providing justice. For example, a bullying case in Bandung in 2013 involving physical violence against a student was charged under Article 351 of the Criminal Code and subjected to a serious legal process. A sexual violence case in Yogyakarta in 2010 involved a teacher who harassed a student, with the perpetrator being tried under Article 289 of the Criminal Code and the Child Protection Law, which carries a more severe penalty. A stabbing case of a student in Bekasi in 2011, which caused serious injuries, was also processed with strict penalties under Article 351 paragraph 2 of the Criminal Code.

Furthermore, a bullying case in Neda, India, in 2012, which resulted in the victim's death, demonstrates that criminal law enforcement regarding school violence has also received international attention. These various cases demonstrate that the application of criminal law in educational settings serves not only as law enforcement but also as an educational and preventative measure. The roles of schools, teachers, parents, and law enforcement officials are crucial in creating a safe and violence-free learning environment.

Law Number 35 of 2014 concerning Child Protection in Cases of Violence in Schools.

Cases of violence in schools in Indonesia since 2014 demonstrate that violence in educational settings remains a serious problem requiring firm criminal law enforcement. The following is a summary of several notable cases reflecting the application of criminal law in addressing violence in schools: a.) In 2015, in Surabaya, a case of physical violence occurred at a junior high school, where a student was beaten by a classmate, resulting in serious injuries. The perpetrator was charged under Article 351 of the Criminal Code concerning assault and sentenced to serve as a deterrent and to uphold justice for the victim, b.) In 2016, in Jakarta, a case of sexual harassment at an elementary school involved a teacher who sexually abused several students. The teacher was prosecuted under Article 289 of the Criminal Code concerning indecent acts with violence or threats of violence, aggravated by the Child Protection Law. This case underscores the importance of child protection in schools, c.) In 2017, in Bandung, a case of bullying at a high school caused the victim to suffer severe depression. The perpetrators were prosecuted under Article 170 of the Criminal Code concerning collective violence in public and received strict sanctions. This case serves as a warning to other schools to be vigilant against bullying.

These cases demonstrate that criminal law in Indonesia is implemented to address various forms of violence in schools, not only to punish perpetrators but also to protect victims and prevent similar violence in the future. Strict law enforcement is expected to make schools a safe and comfortable place for students.

Furthermore, data from the Indonesian Child Protection Commission (KPAI) shows high rates of violence against children, including physical, psychological, and sexual violence, which have continued to increase year after year from 2011 to 2014, with thousands of cases reported annually. This reinforces the urgency of effective law enforcement in educational settings.

The sexual harassment case at Jakarta International School (JIS) in 2014 also garnered national attention, with several janitors and teachers charged with sexually abusing kindergarten students. This case was prosecuted, with the perpetrators facing criminal sanctions

and also sparked a civil lawsuit from the victim's parents. This case highlights the complexity and importance of law enforcement in cases of sexual violence in schools.

Overall, the handling of school violence through criminal law in Indonesia since 2014 demonstrates a serious effort to uphold justice and provide a deterrent effect to perpetrators, while also enhancing protection for children in educational settings.

The Role of Law No. 35 of 2014 in Protecting Children from Violence in Educational Environments.

Law No. 35 of 2014 concerning Child Protection plays a crucial role in protecting children from violence, including in educational environments. This law is an amendment to Law No. 23 of 2002 and aims to strengthen legal protection for children, particularly in the face of various forms of violence that frequently occur in schools. The protection provided covers physical, psychological, and social aspects and involves various parties, including the government, schools, and the community.

Legal Protection for Children According to Law No. 35 of 2014 and Amendments to Law No. 23 of 2002 concerning Child Protection

Legal protection for children is a crucial aspect in ensuring optimal child growth and development within society. Law Number 35 of 2014, which amends Law Number 23 of 2002 concerning Child Protection, was introduced as a response to the need for more comprehensive and firm legal protection for children in Indonesia. This change was made with the aim of addressing various weaknesses in previous regulations and to adapt to evolving social dynamics. One significant change introduced through Law Number 35 of 2014 is the expansion of the definition of a child and the scope of protection provided. Previously, protection for children was often limited to certain issues such as physical violence or economic exploitation. However, through this new law, legal protection is expanded to include all forms of violations of children's rights, whether physical, psychological, sexual, or social. Article 1 paragraph (2) of Law Number 35 of 2014, for example, states that a child is every person under 18 years of age, including children who are still in the womb. With this expanded definition, legal protection for children becomes more comprehensive, covering all stages of a child's development from the time they are in the womb until they reach adulthood. Law Number 35 of 2014 also strengthens legal sanctions for perpetrators of violations of children's rights. While previously the penalties for perpetrators of crimes that harm children were considered too light and did not provide a deterrent effect, in this new law, penalties are significantly increased. For example, Article 76A of Law Number 35 of 2014 states that anyone who treats children in a discriminatory manner that causes the child to suffer physical, mental, spiritual, moral, and

social harm is subject to a maximum prison sentence of 5 (five) years and/or a maximum fine of Rp100,000,000.00 (one hundred million rupiah). This increase in sanctions is expected to provide a deterrent effect on perpetrators and protect children from potential violence and exploitation.

Penalties for Perpetrators of Violence Against Children

Law Number 35 of 2014 amends Law Number 23 of 2002 concerning Child Protection, strengthening legal protection for children, particularly in cases of violence. This law broadens the definition of violence against children to include physical, psychological, sexual, and neglect. Sanctions for perpetrators of violence are increased. For example, physical violence carries a maximum prison sentence of 3 years and 6 months and/or a fine of up to IDR 72 million. If the act results in serious injury, the penalty can be up to 5 years in prison and/or a fine of IDR 100 million. If the act results in death, the perpetrator can be sentenced to up to 15 years in prison and/or a fine of IDR 3 billion. Furthermore, a judge can revoke custody of a child by a parent or guardian who commits violence. This amendment aims to provide a deterrent effect and prevent similar violence in the future. However, enforcement of legal sanctions in the field still faces challenges such as a lack of public understanding of children's rights and a patriarchal culture. Therefore, in addition to firm law enforcement, increased public education and awareness are also essential for optimal child protection.

Obstacles and Challenges in Law Enforcement on Violence in Educational Environments

Law enforcement against cases of violence in educational environments still faces numerous challenges, despite existing regulations such as Law Number 35 of 2014 concerning Child Protection. The main obstacles include a culture of silence and the fear of victims and witnesses to report cases, a lack of legal understanding among educators, and the perception that violence is part of the educational process. Furthermore, complicated bureaucracy, a tendency to protect perpetrators for the sake of the school's reputation, a lack of local government support, and low participation from parents and the community are also obstacles. To overcome these obstacles, increased legal awareness, training in non-violent educational methods, strengthening transparent reporting systems, and the active involvement of all elements of society are needed. With coordinated efforts, it is hoped that law enforcement in educational environments can be more effective, thereby creating a safe learning environment for children.

5. CONCLUSIONS AND SUGGESTIONS

Conclusion

Based on the explanation above, the following are the conclusions of this study: 1. Forms of violence in the teaching and learning process can take the form of physical and non-physical violence, involving various actions such as hitting, slapping, kicking, insults, threats, teasing, cyberbullying, hazing, and persecution. This violence can be perpetrated by both educators and students and can negatively impact students' emotional and psychological development. Regulations related to this violence are regulated in Law Number 35 of 2014 concerning Child Protection, which stipulates prohibitions and penalties for perpetrators of violence, making it a *lex specialis* that overrides general regulations on child protection. Several factors causing violence in schools include weak school supervision, lack of parental attention, unstable family conditions (broken homes), and personal problems between students. 2. Law Number 35 of 2014 significantly strengthens legal protection for children by establishing a prohibition on violence, regulating mechanisms for preventing and handling acts of violence, which is an amendment to Law Number 23 of 2002. By providing a clear legal framework and sanctions for perpetrators of violence, this law aims to create a safe and supportive environment for children's development and ensure that their rights are effectively protected. The application of criminal law to educators involved in violence reflects a commitment to protecting children and preventing violations of their rights. Based on Law Number 35 of 2014 concerning Child Protection, which is an amendment to Law Number 23 of 2002, children have the right to receive protection from all forms of violence. Educators who commit violence against students can be subject to criminal sanctions in accordance with the provisions stipulated in the law.

RECOMMENDATIONS

The researcher's suggestions are as follows: 1. It is recommended that educators receive special training in teaching methods that do not involve violence. This is important to ensure that educators understand the negative impact of violence on children and can use a more positive and constructive approach in teaching. 2. The government and schools need to increase supervision of interactions between educators and students to prevent violence. This supervision can also include the establishment of a reporting mechanism that is easily accessible to students who experience or witness violence. 3. Socialization of the Child Protection Law to educators, parents, and the wider community needs to be improved. With better knowledge of children's rights and the legal consequences of violence, it is hoped that

acts of violence can be minimized. 4. Suggestions for future researchers who will conduct similar studies can expand the research objectives and focus more on what is being studied. Researchers must understand the focus of the study by reviewing the literature related to the focus of the study.

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