

CHILD ABUSE IN THE SCHOOL PERSPECTIVE OF CHILD LAW PROTECTION

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ABSTRACT

The forms of violence experienced by children in schools are physical, psychological, bullying, brawl. Law Number 17 Year 2016 jo Law Number 35 Year 2014 concerning Amendments to Law Number 23 Year 2002 concerning Child Protection, it has accommodated aspects of legal protection including protection of children in the school environment. This research raised the problem: about the factors that cause violence in children in the school environment? And how to deal with violence against children in the school environment? This research was a normative legal that used primary and secondary legal materials. The conclusions of this research are: first, there are at least three factors that cause violence in children in schools from teachers, from students, and from parents. Second, prevention efforts can be carried out without having to prioritize criminal sanctions.

Keywords: Child Abuse, Child Protection, Law Protection

INTRODUCTION

One area that becomes spotlight of child protection today is the school environment. Many cases of violence occur against children in school. The violence is in the form of mistreatment, both physically, psychologically, sexually, neglect, and so on, that results in real or potential disruption to the development, health, and survival of children. Based on the results of monitoring of the Indonesian Child Protection Commission (KPAI) from 2011 to 2014, there was a significant increase. In 2011 there were 2178 cases of violence, 2012 there were 3512 cases, 2013 there were 4311 cases, 2014 there were 5066 cases.¹

According to Kimberly in his book *Child Abuse and Criminal Justice System*, state that “The term child abuse refers to victimizations that are generally divided into the four categories of: (1) physical abuse (2) sexual abuse (3) emotional abuse, and (4) neglect. Children may be the victims of one type or all four types of abuse; thus, child abuse rarely refers to a mutually exclusive category of abuse.”² Violence in children can be categorized into physical violence, sexual violence, psychological violence and neglect. Physical violence is an act of physical aggression directed at a child by an adult.³

The results of the 2012 KPAI monitoring and evaluation in 9 provinces showed that 91 percent of children were victims of violence in the family environment, 87.6 percent in the school environment and 17.9 percent in the community. Violence in children occurs both in elementary schools (SD), junior high schools (SMP) and in high schools (SMA). Violence in schools can be done by anyone, ranging from the principal, teachers, school employees or between students.

Violence committed by teachers against students, lately often occurs because of disciplining students, it is not uncommon for violence to be accepted by students. Forms of violence carried out include beating with bare hands, or blunt objects, throwing with erasers, pinching, slapping, strangling, burning cigarettes, scolding with threats of violence, punishing standing with one foot in front of the class, running around the field, drying students in the field, sexual harassment and coaxing.⁴

Violence in schools is not merely physical violence but also psychological violence, such as discrimination to students that causes losses, both morally and materially. Discrimination intended can be in the form of discrimination of ethnicity, religion, creed, class, race or social status of students.

At least the violence that occurs in students at school can cause a variety of consequences received by students, such as physical: causing students' organs to suffer damage such as bruises, injuries, etc. Psychologically, it can cause psychological trauma, fear, insecurity, revenge, decreased enthusiasm for learning, power of concentration, creativity, loss of initiative, and endurance (mental) students, decreased self-confidence, inferiority, stress, depression, and so on. In the long term this impact can be seen from a decrease in achievement and change in behavior. .

Social impact, students who experience the violence without any countermeasures, may withdraw from the social environment, because they are afraid, feel threatened and feel unhappy among their peers. They also become quiet, difficult to communicate both with teachers and with friends. They might become difficult to trust others, and increasingly close themselves from the society⁵

¹ [http://www.kpai.go.id/berita/kpai-pelaku-kekerasan-terhadap-anak-tiap-tahun-meningkat/diakses pada 25 Januari 2016](http://www.kpai.go.id/berita/kpai-pelaku-kekerasan-terhadap-anak-tiap-tahun-meningkat/diakses%20pada%2025%20Januari%202016).

² Kimberly A. McCabe, 2003, *Child Abuse and Criminal Justice System*, Peter Lang Publishing, New York, p.3

³ Sri Hastuti Susmiati, et.al, 2015, *Fenomena Kekerasan Terhadap Anak (Keberhasilan Lembaga dalam Penanganan Anak Korban Kekerasan)*, B2P3KS Press, Yogyakarta, h.9

⁴ Rika Saraswati, 2009, *Hukum Perlindungan Anak Di Indonesia*, Citra Aditya Bakti, Bandung, h. 142.

⁵ Ardy Novan Wiyani, *Save Our Children From School Bullying*, (Yogyakarta: AR-RUZ Media Group, 2012), hlm.27.

Violence between students also often occurs in the form of bullying that is aggressive and repressive behavior from someone who is more dominant towards weaker people, where a student or more, is constantly taking actions that cause other students to suffer. According to Randall, bullying is intentional behavior to cause physical, or psychological discomfort to other people.⁶

Bullying can be in the form of, ridiculing, insulting or saying offensive words or making a false story that causes students who are targeted to be isolated or made fun of so that the student concerned becomes inferior, afraid and so on. Besides bullying, violence among students that often occurs is brawl. Fights often occur between one school and another, or among students in the same school. In the author's observation in some cases, students often take pride in participating in the brawl, although in the end they are very sorry, if there is a negative outcome of the brawl.

Various forms of violence experienced by these children often occur at school. Schools should be a place to get education, but not infrequently a place where children / students get violence. Regarding the protection of children from physical, psychological, sexual and neglect, in Indonesia, it has been regulated through Law Number 35 Year 2014 concerning Amendments to Law Number 23 Year 2002 concerning Child Protection (hereinafter referred to as the Child Protection Act).

Violence in article 1 paragraph 15a the Child Protection Act is defined as an act of child that results in physical, psychological, sexual and / or neglect or suffering, including threats to commit acts, coercion or deprivation of liberty unlawfully

Specifically the violence in the school environment will be reviewed in this paper. Given the pros and cons that often occurs. The teacher partly questioned the existence of the Child Protection Act that is seemed to curb the teacher's authority to discipline students. Conversely, parents also often ask the extent of legal protection from the state against violence experienced by their children at school. Seeing cases of violence in schools that increasingly occur, it is necessary to understand the causes, legal protection, and the prevention of violence of children in school.

From the various descriptions above, this paper might be able to answer problems related to violence that occurs in children in the school environment, by reporting the problem boundaries: first, what are the factors that cause violence in children in the school environment? Second, how legal protection for children who are the victims of violence in the school environment.

RESEARCH METHOD

This research used normative legal research methods. Secondary data is the main source of research. The data consists of books and journals on law that discuss protection for child victims of violence. In addition, data sources from the Criminal Code, Law No. 39 1999 concerning Human Rights, Law No. 35 of 2014 concerning Child Protection. Legal material sourced from legal science books and legal writings such as law books, sociology, anthropology and social psychology, legal journals, papers or views of legal experts contained in mass media, dictionaries and encyclopaedias, internet.

In collecting data in this research, it needs literature study that is secondary data. This paper used a conceptual approach (conceptual approach), as well as an analytical approach. The technique of tracing legal materials used document study techniques, and analysis of studies using qualitative analysis.

RESULTS AND DISCUSSION

Causative Factor of Violence in Children in Schools

Parents entrust their children's education at school. But not infrequently, parents often forget the next responsibility for children's education. Although not all, but few parents still think that children's education is left entirely to the school. Some teachers also assume, only during school hours, the duties and responsibilities of a teacher is on the child. It means that school hours are over, the responsibility of teacher education for children. Both of these assumptions, unwittingly become the beginning of irregularities in children education. So it is not uncommon for these irregularities to lead to violence.

At least, There are three factors why violence often occurs in the world of education or rather in schools, namely first, from the teacher, second, from students and third, from parents. First, from the teacher. There are several factors that cause teachers to violence against their students, namely: lack of knowledge that violence both physically and psychologically is not effective in motivating students or changing behavior, instead risking psychological trauma and hurting student self-esteem. It might also be due to work on pressure or even psychological problems that cause obstacles in managing emotions so that the teacher becomes more sensitive and reactive. In some cases that the author has accompanied, some unscrupulous teachers often involve students in school, in psychological problems encountered. The unprofessionalism of the teacher is often shown, The teacher is having problems with the family and the teacher vents the anger to the students. This often happens and the child becomes a victim of violence from the psychological problems of his teacher.

Another factor of the teacher, that teachers tend to passively find out specific things that happen to students, for example, when students violate, teachers are usually limited to reprimand and act, without really finding out what is the basis of student

⁶ Randall, *Bullying in Adulthood: Assessing their bullies and their victims*, (New York: Brunner- Routledge, 2002)

violations. Teachers also often experience work pressure, targets that must be met and achieved, such as curriculum, materials, achievements. The things above are not bad, but become meaningless, when forgetting the best interests of students. The level of achievement of a teacher should be reflected in the number of students that have successfully expressed and innovated without violence.

The pattern of prioritizing adherence and obedience in students can also be a cause of violence in the world of education / schools. Elizabeth Gershoff, in a 2003 meta-analytical study, found that the only positive result of violence was momentary obedience.⁷ It means that children obey just because they are afraid, not because they really realize that what is done is wrong. In this connection, two-way teaching and education become important points for teachers and students to avoid violence. If it has happened so far, the teacher teaches only one direction (from educators to students), then cooperation, dialogue, mutual understanding will be key, apart from the pattern of obedience and obedience for a moment.

Second, from students. Violence to students is also often caused by the behavior or attitude of the students themselves. Nevertheless, it must be understood that student attitudes cannot be separated from the psychological and personality dimensions of the student / child. For example, students / children try to get attention by acting up to anger. Harassing friends while the teacher is teaching, skipping during class time, making a fuss when the teacher is absent / late during class time, and many other examples. The purpose of doing this with the aim of getting attention.

Third, from parents. Parents become one of the factors causing violence in children at school, including because of parenting. Children who are educated in parenting who like to be spoiled, all the wishes of the child are always fulfilled although not necessarily according to needs, parenting children like this, tend to grow up with an arrogant nature and can not control emotions. So that children will force others to meet their needs, in any way as long as the goal is achieved. In addition, psychological problems of parents. Parents who experience protracted psychological problems, can affect the pattern of relationships with children. For example, parents who are stressed for a long time, become sensitive, lack patience and get angry easily at children, or vent their frustration to children. Over time this condition affects the child's personal life. Children can lose enthusiasm, power of concentration, be sensitive, reactive, irritable, and affect the nature of the child at school hours. When children lose enthusiasm, concentration and reactive power, it often causes anger in the teacher and has the potential to lead to violence.

Parents also often forget responsibility for children's education. Although not all, but it is still found a few parents that think the children's education is surrendered entirely to the school. This means that parents are only providers of needs, without having to be involved in the child's education. This then affects the formation of children's character, which does not grow perfectly. An educational model that hopes for schools, without the participation of parents, will not be maximized. Parents and teachers must cooperate in providing the best education for children, so that it is far from violent.

Prevention of Violence for Student in School

Whatever the factors causing violence in children in school, it should not be forgotten, that children remain in a vulnerable position. Vulnerable to the negative influences around them, vulnerable to parental wrongdoing, and vulnerable to violence from adults including teachers at school. So that violence in schools, both physical and verbal violence, can be subject to legal sanctions. Even because violence is basically an act of violation of the law, every perpetrator of violence can be subjected to criminal sanctions.

Regarding violence against children regulated through the Child Protection Act, it is expressly regulated in article 80 of the Child Protection Act. Article 80 stipulates that any perpetrator of violence against children may be subject to criminal sanctions. Everyone is prohibited from placing, allowing, committing, or participating in violence to children based on Article 76C. In Article 80, every person who commits violence against a child is convicted to a maximum imprisonment of 3 (three) years for 6 (six) months. This article is an expression that the child is a party that must be protected. He added, if the violence caused serious injuries, then the perpetrators of violence were convicted to a maximum imprisonment of 5 (five) years. If violence against the child causes the death of the victim, then it will be aggravated by imprisonment for a maximum of 15 (fifteen) years. If the violence is committed by the child's parents, then the crime is added by one third, 20 years.

This is often a question even debates among teachers. Just because they get much protection, the creativity and discipline of the child even more backward. In fact, it is not uncommon for teachers to say that the Child Protection Act is "excessive" in providing protection. According to some teachers, due to the very strict protection of children, students today are rarely disciplined.

Indeed, discipline is a feeling of obedience to values and regulations. It must be acknowledged that in the disciplinary process there is an element of punishment for violating these values and regulations. The application of discipline can be done by force, but it can also be done voluntarily. For early childhood (children), this form of discipline should be carried out voluntarily and through ways of playing. Psychologically, violence in educational institutions can cause children to become traumatized or antipathy towards education. This negative circle if it continues to spin can perpetuate a culture of violence in society.⁸

⁷ Pusat Pelayanan Terpadu Pemberdayaan Perempuan Dan Anak, 2007, *Kekerasan Di Sekolah*, Pusat Pelayanan Terpadu Pemberdayaan Perempuan Dan Anak (P2TP2A), Jakarta, hlm. 32

⁸ Syamsuarni, 2006, YPHA, Annual lobby, *Kekerasan anak dalam pendidikan : Akar masalah, locus, korban, pelaku, dan kewajiban Negara*.

However, violence against children, primarily in the name of discipline is still common. Though discipline is very clear, different from violence. Some teachers tend to equate discipline with punishment in the form of violence. Basically childhood is the most effective time to shape and direct children's behavior. Every child has the potential to understand the rules that develop at each stage of his life. Discipline is also needed to help the child's personal and social adjustment. Through discipline children can learn to behave in an agreed manner, and in return they can be easily accepted by their social environment. However, arbitrary discipline, without limits, using harsh penalties, even using violence cannot be justified.

Understanding this, legislation, including the Child Protection Act, seeks to protect children from the intended abuse. It does not mean that children do not need discipline and children are left free without rules, but the Child Protection Act wants to give a message that disciplining children does not have to be violent. There are still many methods that can be used, to apply or develop a disciplined attitude in children. So that the Child Protection Act, especially in article 80, regulates sanctions on everyone who commits violence against children. Including children / students who experience violence in schools, the perpetrators must be held accountable, even criminal liability.

In addition to use the criminal law channel, violence against children will results in material losses, it can also be sued civilly. Civil lawsuits can be submitted to a district court against perpetrators of violence in schools or the school as an institution in the form of material and immaterial damages in the form of money. This lawsuit refers to the provisions. Article 1365 Civil Code; "Every act that violates the law brings a loss to another person, obliging the person who causes to the mistake to issue the loss, compensates for the loss".

Article 1366 Civil Code; "Everyone is responsible not only for losses caused by his actions, but also for losses caused by negligence, or carelessness". Article 1367 of the Civil Code; "School teachers are responsible for losses incurred by students during the time students are under their supervision, unless they can prevent acts that they should be held responsible."

The Child Protection Act has been applicable, even recently revised through Law Number 35 of 2014. The revision of the new law, even added criminal sanctions for perpetrators of violence against children, if the offender is the closest person to the child (Article 80 paragraph 4). This means that the perception of a handful of teachers that the Child Protection Act is very excessive and not quite right. The revised Child Protection Act, in fact, even adds criminal sanctions for perpetrators of violence against children. This can be interpreted that the focus should not be on criminal sanctions, but on the best interests of the child. There are still many ways to educate and discipline children, without having to commit violence against them. Because violence against children is not justified.

We recommend that the right actions and attitudes of the teacher in dealing with this, namely first, do not let the child become increasingly undisciplined. This means that the teacher cannot be separated from the responsibility to educate and discipline the child. The act of letting, is the same as worsening the attitude of the child, so that it is increasingly disobedient and has the potential to fight against the teacher so that it leads back to acts of violence. Second, understand the legislation related to child protection. Understanding the rules is important, so that the rules of the law are not misinterpreted. The rules of the law also do not become a barrier for educators in their noble purpose of disciplining students in schools.

Third, more creative and innovative. Becoming a teacher must have been through special education and training. There is a process and stage that must be passed to obtain the title of hero without merit (a title pinned to the teacher, as a tribute). Therefore, creativity and innovations should be developed by the teacher, without having to prioritize violence to educate and discipline students. Fourth, understand the character of children. The ability of a teacher to understand character is crucial. Given the character of each student is certainly very diverse. By understanding the character of their students, a teacher will avoid attitudes that are identical with violence in school.

CONCLUSION

Regarding the protection of children from physical, psychological, sexual and neglect, Indonesia has been regulated through Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection. Legal protection for children from violence in schools, can also be achieved with a civil law mechanism. There are at least three factors causing violence in children at school, from teachers, students and parents. Seeing these various factors, prevention efforts can be carried out, without having to prioritize criminal sanctions. Cooperation between teachers and parents is also an important key in tackling violence against children in schools. It is better for the right actions and attitudes of the teacher in dealing with violence in school, that is, first, not to let the child become increasingly undisciplined. Second, understand the legislation related to child protection. Third, more creative and innovative. Fourth, understand the character of children.

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