

# 1042

*by* Norma Fh Uwks

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## LEGAL PROTECTION OF TEACHERS IN IMPLEMENTING THE PROFESSION

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Gendis Wulandari

Magister Ilmu Hukum Fakultas Hukum Universitas Wijaya Kusuma Surabaya

Wulandari.30gndis@gmail.com

### ABSTRACT

Research titled the protection of the law on teachers in exercise a profession , the first objective of this research is to assess and then to analyze the protection of the law the teaching profession in carrying out the task .Second this research to assess resolution mechanisms and then to analyze cases of violence by the students on teachers .Increases in various cases of teachers in carrying out that duty profession is an attribute to the protection of the law in the teaching profession have not was on the right track .Teachers a generous / esteemed as a profession , as other professions, apparently have not understood by the public in general and especially law enforcement officials which is the instrument of the hands of the government .

Keywords: professional , teachers,protection

### INTRODUCTION

Teachers are substitute parents in schools. Teachers are figures who must be obeyed, obeyed and respected like parents at home, teachers are a very noble profession, it is true that teachers are unsung heroes and teachers do occupy an honorable position in society, teachers are respected by society because of their dignity , so that people do not doubt the figure of a teacher. The disturbing thing that occurs in the world of education is that in the school environment there is violence which usually occurs between students and other students or between teachers who commit violence to students, which recently shocked the world of education is a student committing violence against the teacher This phenomenon illustrates the reversal<sup>1</sup> of status between teachers and students in cases where new teachers become victims of violence. There the teacher does not feel respected by the students.

Such as students who do not listen to the teacher who is explaining, and carry out their own activities, they think that no teacher is teaching. There are also students who do this and are reprimanded by the teacher for rebelling and disobeying the teacher's words. Teachers who are treated in this way feel intimidated and feel less respected by these students. Especially if there are students who do not enter the class choose to sit in front of the class even though in the classroom there are teachers who are teaching. The teacher did not dare to reprimand him because he felt that his students were not respected enough. Victims who are basically weak parties or who are harmed in the occurrence of a criminal act, make the victim need protection in seeking justice, especially in the criminal process. From a human rights perspective, the problem of the interests of victims of criminal acts is part of the problem. human rights in general.<sup>1</sup>

Universal principles as contained in The Universal Declaration of Human Rights (10 December 1948) and The International Covenant on Civil and Political Rights (16 December 1966) recognize that all people are equal to the law and are entitled to the same protection of the law without any discriminatory treatment or attitude. Every act of violation of human rights guaranteed by the provisions of national legislation. The occurrence of a criminal act will directly cause negative consequences to the victim, namely material and immaterial consequences. Material loss is the loss of property, while immaterial loss is the result of feeling a victim of a crime, which allows mental stress to the victim .

### FORMULATION OF THE PROBLEM

Cases of abuse against teachers by students to encourage the curiosity of the author to find out more about the causes of the persecution of teachers by students, as mentioned above is a record that is very interesting to be examined and discussed, so that the phenomenon is becoming an issue that is

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<sup>1</sup> Soejono Sukanto, Kriminologi (*Pengantar Sebab-sebab kejahatan*), Bandung, Politeia, 1987, h.125.

very valuable and helpful also aims to search for the right problem solver and a new mechanism to protect teachers in practicing a profession. Based on the background description above, the problems to be discussed in this thesis can be formulated, namely:

Legal protection for teachers in carrying out their duties and the mechanism for resolving cases of student violence against teachers.

## RESEARCH METHOD

### 1. Typology of Research

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In order to obtain information for this legal research, the type of research used by the author is normative research, namely research using a statutory approach and drawing legal principles relating to Legal Protection of Teachers in carrying out the profession.

### 2. Approach Method

The statute approach is an approach based on the rules or legal provisions that apply and are related to the issues discussed. In this legal research, with the type and approach used by the author, the author will examine how the legal arrangements for cases of violence in Indonesia. While the case approach is the case approach in using cases, what needs to be understood is the ratio decidendi, namely the legal reasons used by judges to arrive at their decisions, the decidendi ratio can be found by paying attention to material facts. These facts are in the form of person, place, time, and everything that accompanies them as long as it is not proven otherwise. The need for material facts to be considered, both the judge and the parties will look for the right legal rules to apply to these facts. This decidendi ratio shows that law is a prescriptive, not descriptive science. As for the dictum, namely the decision is something that is descriptive in nature. Therefore the case approach refers to the dictum of court decisions, but refers to the ratio decidendi .

## DISCUSSION

### A . Teacher Protection Basics.

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The basis for protection is all efforts aimed at providing a sense of security to the victim carried out by the family, advocates, social institutions, police, prosecutors, courts, or other parties either temporarily or based on court decisions.<sup>2</sup> Based on [Permendikbud Number 10 of 2017](#), there are four protections obtained by educators and teaching staff. The four include, legal protection, profession, occupational safety and health, and intellectual property rights.

Legal protection for educators (teachers) and education personnel, including protection against violence; threat; discriminatory treatment; intimidation; and treat no sister. Whether done by students, parents of students, society, the bureaucracy, and other parties.

Professional protection for teachers (educator) and education personnel, including protection for:

- 1) termination of employment that is not in accordance with the provisions of laws and regulations;
- 2) giving improper compensation;
- 3) restrictions in expressing views;
- 4) harassment of the profession;
- 5) other restrictions or restrictions that can hinder Educators and Education Personnel from carrying out their duties.

Safety and Health Protect<sup>22</sup> An educator and education personnel are obliged to receive protection for safety and work health . Protection of Intellectual Property Rights Protection of intellectual property rights for educators and education personnel includes protection of copyright and industrial property rights.<sup>3</sup>

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<sup>2</sup>Satjipto <sup>16</sup> Harjo, *Ilmu Hukum*, PT. Citra Aditya Bakti, Bandung, 2000, hlm.53

<sup>3</sup> Admi, 2017 <sup>15</sup> "Permendikbud No 10 Tahun 2017, Perlindungan Bagi Guru", di akses dari :

<https://ayomadrasah.blogspot.com/2017/03/permendikbud-no-10-tahun-2017.html>, Pada tanggal 02 Juni 2020

## B. Legal Protection for Teachers in Carrying Out Duties

### Government Policy on Efforts to Protect the Teaching Professional Law

Protection is any effort aimed at providing a sense of security to the victim by the family, advocates, social institutions, police, prosecutors, courts, or other parties, either temporarily or based on court rulings. The obligation to provide legal protection to teachers in carrying out their professional duties, especially lies with the government, both central and local governments. This obligation begins with the provision of statutory regulations ranging from laws, government regulations, to regional regulations as a legal umbrella for the government and local governments in making policies and forms of policies that are appropriate and in accordance with the rights that teachers must accept.<sup>4</sup> The central government has enacted Law Number 20 of 2003 concerning the National Education System, Law Number 14 of 2005 concerning Teachers and Lecturers, Government Regulation Number 19 of 2005 concerning National Education Standards and Government Regulation Number 74 of 2008 concerning Teachers. These laws and regulations are the main basis or legal basis for the government in carrying out the obligation to provide legal protection for teachers.<sup>5</sup>

### The Role of Teacher Professional Organizations

In this case, PGRI should also be able to establish cooperative relationships with educational institutions, organizations engaged in education, and / or community organizations in general in order to improve the quality of education and culture.<sup>6</sup> It is the professional organization that should foster and protect by using a teacher professional code of ethics approach which includes a professional and independent apparatus that plays this role, namely the Indonesian Teacher Honor Council (DKGI).<sup>7</sup> The Indonesian Teacher Honor Council (DKGI) is a complement to the PGRI organization formed to carry out its duties in providing suggestions, opinions, considerations, assessments, enforcement, and violations of organizational discipline and teacher professional ethics. Regulations on the Indonesian Teacher Honor Council are the main guidelines in managing the Honorary Council.

### Cases By Students Against Teachers in Sampang Madura

Some of the cases above have a similarity where a victim looks passive when receiving attacks from his students. The cases of teachers in Kendal and Sampang Madura also have similarities where the victims are not very active in fighting. One example is an art teacher at SMAN 1 Torju, Sampang Regency, East Java named Ahmad Budi Cahyono (Guru Budi), who was beaten to death by his student. This sadistic and tragic incident was even more heartbreak when it was discovered that Budi's teacher was still a non-permanent teacher. The following is the chronology of HI's persecution of the teacher as conveyed by Budi: On Thursday (1/2/2018) at around 13.00, the victim filled out a painting lesson on the front page of class XII. All students were given painting assignments. The perpetrator ignored what the victim assigned. The victim then reprimands the perpetrator to do the task like his other friends. The perpetrator still ignored the reprimand. Because the reprimand was ignored, the victim then rubbed paint on the perpetrator's cheek. The perpetrator did not accept and issued an impolite sentence. Because it was disrespectful, the victim hit the perpetrator with a paper absence. The perpetrator was warded off by the blow and immediately hit the victim's right temple. As a result, the victim fell. Other students intervene the perpetrator and the victim. The victim wakes up after falling. The victim's left arm was

<sup>4</sup> Minal Ardi, "Pengaruh Pemberian Hukuman Terhadap Disiplin Siswa Dalam Belajar(Penelitian eksperimen di kelas VIII Sekolah Menengah Pertama Negeri 1 Nanga Tebidah Kecamatan Kayan Hulu Kabupaten Sintang", Jurnal Eksos, Vol. 8, Nomor 1, Februari 2012, hlm. 61

<sup>5</sup> Ibid.

<sup>6</sup> Ni Luh Emi Puspini, dkk, "Perlindungan Hukum Organisasi Persatuan Organisasi Persatuan Guru Republik Indonesia Terhadap Profesi Guru Dalam Tindak Pidana Pendidikan di Kabupaten Bangli", Jurnal Pendidikan dan Kewarganegaraan, Vol. 1, Nomor 5, 2013, hlm. 6.

<sup>7</sup> Harun, "Perlindungan Hukum Profesi Guru Dalam Perspektif Hukum Positif", Jurnal Law and Justice, Vol. 1 Nomor 1, Oktober 2016, hlm. 74.

scratched because he was holding his body when he fell.

After this incident, all students entered the class. In the classroom, the perpetrator apologized to the victim, witnessed by other students. After the lesson, the victim and the perpetrator returned to their respective homes. The victim still had time to tell the principal about the beating incident by his student. Arriving home, the victim immediately rested because she complained of dizziness and headaches. At around 15.00, the victim was taken to the Jrengik Health Center, Sampang Regency. Because the Puskesmas was unable to handle it, the victim was then referred to the Sampang District hospital. The victim was again referred to the DR Soetomo hospital, Surabaya. The hospital then treated the victim and the victim was declared to have had brain stem death (MBO), which caused all her organs to malfunction. Doctors predict that the victim will not live long. Around 9:40 p.m., the victim was pronounced dead. The victim was then immediately taken back to his house in Sampang. "I straighten it out, there was no interception of the victim by the perpetrator after school hours. The actual incident of abuse was in front of the classroom yard," said Budi. He hopes that there will be no more confusing information regarding this incident.<sup>8</sup>

### **School Environment Case Resolution Mechanisms .**

Student delinquency that tends to lead to sadistic acts has become a phenomenon in this country. Lust and emotions for a moment to pursue self-identity recognition, has damaged students' common sense. When religious values are no longer effective in directing human morals, there is no longer mutual affection for each other. When the law can be bought, then human life becomes a transaction arena. The Sampang District Court judge finally sentenced MH (17) to a guilty verdict, a student of SMAN 1 Torjun Sampang who tortured Ahmad Budi Cahyanto, an art teacher at the school, to death. Tuesday (6/3/2018) the student was sentenced to 6 years in prison. At the trial the verdict was chaired by the presiding judge, Purnama, the verdict on the sentencing sentence against MH was read out.

From the trial results, the defendant MH was legally and convincingly proven to have committed the crime of torture to death against the late Budi Cahyanto, "explained Purnama. Purnama added that the panel of judges agreed to state that MH was proven guilty of committing a crime of maltreatment to murder in accordance with the contents of Article 338 of the Criminal Code. The result of this decision is lighter than the previous demands of the Public Prosecutor (JPU), namely a prison sentence of 7.5 years, "he explained. Meanwhile, Sampang District Court public relations officer I Gede Perwata expressed his view that it was irrelevant if the defendant was entrusted to a Social Protection House. (RPS) Sampang, as requested by a lawyer and MH. " It is very irrelevant if the defendant (MH) is placed at the Sampang RPS.<sup>9</sup>

Due to the rampant cases of violence that have recently been experienced by teachers. To motivate the Indonesian Teachers Association (PGRI), the government through Kandikbud to immediately draft the Teacher Protection Law. The existence of this law is considered very important to provide protection and a sense of security for teachers so that they can focus on teaching. While waiting for the Teacher Protection Law, the government should issue a Government Regulation first so that it can be realized more quickly. Incidents of persecution of teachers who are carrying out state duties, educating the nation's children and trying to improve the nation's intelligence are not maximal due to the actions of irresponsible parents of students<sup>10</sup>

Regarding the protection of the teaching profession, it needs to be obeyed and implemented by all parties concerned, both by students, parents and the wider community, the Police, the Attorney General's Office and the Justice. Even though regulations already exist, implementation is still lacking and there

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<sup>8</sup> Kompas.com. 2018. "Penganiayaan Guru oleh siswa di Sampang." Diakses secara online dari: <https://malang.kompas.com/read/2018/02/03/10041991/penganiayaan-guru-oleh-siswa-di-sampang-begini-kronologinya?page=2> Pada tanggal 27 Juli 2020.

<sup>9</sup> Kompas.2018."Kasus Guru dianiaya hingga tewas di Sampang ". Di akses dari : <https://regional.kompas.com/read/2018/03/06/22423241/kasus-guru-dianiaya-hingga-tewas-di-sampang-hakim-tolak-rehabilitasi-pelaku?page=all>. Pada tanggal 27 Juli 2020

<sup>10</sup> Satriyo Agung, "Perlindungan Guru di Era Reformasi" Yogyakarta, h.04

is no Law on protecting teachers. So all parties must understand, realize that what teachers do like above is merely carrying out the noble task of creating the goals of the nation's intelligence state as demanded by the Preamble of the 1945 Constitution. In addition, teachers also carry out their main duties as professional educators. If all citizens are aware of the teacher's duty in educating the nation's sons and daughters to become good citizens, surely everyone will support and protect teachers. So that the teaching profession is protected from criminalization or violence against teachers. All realize that to prepare a <sup>24</sup> generation that is smart, superior, competitive, and has a key character lies in the <sup>10</sup> teacher. Hopefully teachers can carry out their duties independently and be able to work optimally in improving the quality of education in Indonesia.

## CLOSING

### Conclusion

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There are four protections for teachers in carrying out their duties, the first is legal protection, professional protection, occupational safety and health protection and protection of intellectual property rights. The central government has enacted Law Number 20 of 2003 concerning the National Education System, Law Number 14 of 2005 concerning Teacher <sup>10</sup> and Lecturers, Government Regulation Number 19 of 2005 concerning National Education Standards and Government Regulation Number 74 of 2008 concerning Teachers. These laws and regulations are the main basis or legal basis for the government in carrying out the obligation to provide legal protection for teachers. The mechanism for resolving cases of violence by students against teachers is that the education system in schools no longer only emphasizes academic achievement on paper. Develop and improve the morality and mentality of students in social interactions. In the family environment, parents are obliged to instill social values and norms in their children. Parents must continue to carry out educational supervision when children use technology (cell phones and the internet). For the nation's leaders (without exception), show polite attitudes and behavior to the next generation in leading the country .

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