



Legal Protection of Students Victims of Violence from a Victimology Perspective

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Abstract

This research aims to examine violations of constitutional rights in relation to the science of victimology, because the view of victimology is that every crime victim must be protected by law. In fact, there is still a lot of violence, especially in the world of education, against children in Islamic boarding schools. Legally, in the provisions of Article 54 of Law Number 35 of 2014 concerning amendments to Law Number 23 of 2002 concerning child protection, it is stated that children in the school environment must be protected from acts of violence. carried out by teachers, school administrators, or friends at the school concerned, or other educational institutions. Various forms of violence in the school environment pose a threat to the implementation of education in Indonesia. The forms of legal protection provided in the educational process in Islamic boarding schools are protection of children from ignorance, protection of children from violence, protection of physical and mental health, protection of children's freedom, protection of students in educational units. Then it is implemented with the Child Friendly School or Child Friendly Islamic Boarding School program. However, this program has not yet been fully achieved because outreach has not been evenly distributed to Islamic boarding schools in South Lampung Regency. The form of law enforcement against unprotected children in Islamic boarding schools is through preventive and repressive measures. Preventive actions carried out by the South Lampung Regency Child and Protection Unit through the National Bimnas Unit carried out appeals and outreach to schools and the community, including Islamic boarding schools, regarding child protection. The next repressive action taken is that if a report is received, the Women and Child Protection Unit will act according to established procedures and carry out it in accordance with applicable laws and regulations. However, law enforcement against student violence still occurs quite a lot, due to obstacles for law enforcers in taking action both in preventive and repressive efforts.

Keywords: *Violence; Children; Legal Protection*

Introduction

In the life of the nation and state, children are the future of the nation and the next generation of the nation's development ideals, so that every child has the right to survival, growth and development, creativity, participation, and the right to protection from acts of violence and discrimination as well as

civil and civil rights. freedom (Emilda Firdaus dan Sukamarriko Andrikasmi 2018). Child protection in the world of education is something very basic. because in general education is all the efforts of adults in the association of children to achieve physical and spiritual development towards maturity so that it is useful for themselves and society (M Ngalim Purwanto 2000).

In Article 54 of Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2002 concerning Child Protection, it is stated that "(1) Children in and within the school environment must be protected from acts of violence committed by teachers, school administrators or friends. "friends in the school concerned, or other educational institutions, (2) Protection as intended in paragraph (1) is carried out by educators, educational staff, government officials, and/or the community."

The current fact is that violence has also entered the school environment. In schools, inappropriate experiences that occur and are experienced by children are also reported quite often in the mass media. Apart from threats from peers or school friends, acts of violence experienced by children are often also carried out by teachers (Bagong Suyanto 2016).

Based on the facts that have occurred in Islamic boarding schools in various regions, of course this is outside the child protection rules that are stated in the law. In this regard, pay close attention to the facts and data obtained from the researcher's initial observations through direct observation and interviews with Islamic boarding school students. (Interview with Class 1 Tsanawiyah and Class 2 Aliyah students, Saturday, April 20 2024, at the Candipuro Islamic Boarding School, South Lampung, n.d.). Researchers obtained information that the education system implemented in this Islamic boarding school has two forms of learning, namely formal learning and non-formal learning. In this form of learning regulations apply which contain sanctions.

A number of cases of violence that occur in educational environments, especially "Islamic boarding schools" have become a dark stain that must be stopped immediately, such as several examples of cases of violence in Islamic boarding schools which were reported in the mass media, including the death of AD (15) Islamic boarding school student in South Lampung Regency, as a result of being abused 13 fellow students. The application of sanctions and punishment techniques in the form of violence usually uses rattan and other thin wooden objects, shouting, sanctions in the form of a form of burdensome and excessive work. The use of violence rarely occurs in the formal learning process, whereas in the non-formal learning process, acts of violence often occur which are often excessive and cause scars. Acts of violence are not only carried out by caregivers but also by seniors to their juniors, where the seniors are usually given authority. by the ustadz in regulating a field in non-formal learning, this is triggered by power based on seniority which is disguised in the name of disciplining students.

It is understood that errors in the uncertainty of the sanctions system are what cause acts of violence which have fatal consequences for students. Because in Islamic boarding schools there are many students who come from various regions and also have different traits and characteristics. This is due to several reasons, including them being far from parental supervision, coming from various different customs and cultures and a lack of supervision. This causes acts of violence such as hitting, mocking, taking things that do not belong to them and this is done directly and continuously.

Based on the description above, various forms of violence in the school environment are a threat to the implementation of education in Indonesia, in the background of the problems as described above as well as various phenomena of violence that occur in the world of education, especially in Islamic boarding school environments today, the problem of violence that often occurs against students or students need to do in-depth research.

Methods

The approach the author uses in this research is the Sociological Juridical approach. The Sociological Juridical Approach emphasizes research that aims to obtain legal knowledge empirically by

going directly into the object (Soerjono Soekanto 2005). Sociological Juridical Research is legal research using secondary data as initial data, which is then continued with primary data in the field or in society, examining the effectiveness of a law and research that wants to find relationships (correlations) between various symptoms or variables, as a data collection tool consisting of from study of documents or library materials and interviews (questionnaires) (Amirruddin 2012).

Results and Discussion

Forms of Legal Protection Provided in the Education Process at Islamic Boarding Schools from a Victim Logical Perspective

In the implementation of victimology, it has benefits, namely benefits related to understanding the victim's boundaries, the victim's creation process - the victim's rights, benefits related to explaining the victim's role in a crime, efforts to defend the victim's rights and legal protection. The final benefit is related to efforts to prevent casualties. In principle, these three benefits are aimed at prioritizing the interests of victims of criminal acts rather than emphasizing the perpetrators of criminal acts. The implementation of these benefits certainly cannot be separated from the law enforcement function.

Victimology is also a means of preventing crime/anticipating the development of crime in society. so that victimology as a means of combating crime is also included in the Public Policy process. Anticipation of crime in question includes the development or frequency of crime, the quality of crime, the intensity of crime and the possibility of the emergence of other forms of crime. Victims are not only understood as objects of a crime but must also be understood as subjects who need social and legal protection. Basically, victims are good people, individuals, groups or communities who have suffered losses which have been directly disturbed as a result of their experience as targets of crime. Other subjects who can suffer losses as a result of crime are legal entities.

Victims in Scientific Concepts (Victimological) Victim objects in victimology are known as victims in scientific concepts, including: Victims resulting from crimes or acts that can be punished (victim of crime), victims of accidents (victim of accident), victims of natural disasters (victim of natural disaster), victims of arbitrariness in power or victims of human rights violations (victims of illegal abuses of public power) or victims of abuse of power in the economic sector (victims of illegal abuses of economic power).

According to Arif Gosita, the definition of victims is those who suffer physically and spiritually as a result of the actions of other people who seek to fulfill their own or other people's interests which conflict with the interests and human rights of those who suffer. The rights of victims are: a. get compensation for his suffering b. refuses restitution from the perpetrator/does not need it c. get restitution/compensation d. receive coaching and rehabilitation e. get his property rights f. get the help of a victim advisor g. use legal remedies. In relation to Article 1365 of the Civil Code, an act is considered unlawful if the following elements are met: 1. there is an act; 2. the act violates the law; 3. the perpetrator's wrongdoing occurred; 4. the victim experiences losses; 5. There is a causal relationship between the act and the losses experienced by the victim. Victims have the right to sue or claim compensation for their losses due to unlawful acts against criminals, especially in the world of education, which is increasingly common.

Education is a conscious and planned effort to create a learning atmosphere and learning process so that students actively develop their potential to have religious spiritual strength, self-control, personality, intelligence, noble morals, and skills that are treated by themselves and society, this is in accordance with the provisions of the Law. SISDIKNAS No.20 of 2003. One place to make this happen is educational institutions, both formal education and non-formal education. In other words, education is guidance or assistance given by adults to the development of children to reach maturity with the aim that

children are competent enough to carry out their life tasks on their own, not with the help of other people. However, where educational institutions, whether schools or Islamic boarding schools, should be, is the place where children get good educational services starting from security, self-protection and welfare. Now this is inversely proportional to the actual situation, even though the aim is to educate, but in line with the rise in criminal cases involving children in educational units which involve physical violence against children, which has an impact which has a very big impact on child psychology and child development. Like the case that occurred at the Islamic boarding school in Candipuro sub-district, namely a case of violence against students and students carried out by a teacher, for the reason that it was a way to educate students or students. Establishment of Law Number 35 of 2014 is expected to provide certainty of protection for children from acts of violence and other forms of violations, so that with the presence of this law, violence against children can be reduced.

Responsibilities and efforts to protect and even fulfill children's rights in educational units are contained in the mandate of the Child Protection Law and in the 1945 Constitution. Where protective efforts are not only the responsibility of the government, but are also the responsibility of parents, families, communities and educational unit administrators. Meanwhile, within the scope of educational units, Article 54 Paragraph (2) explicitly emphasizes that the responsibility for protecting children is borne by educators, educational staff, government officials and the community. Thus, efforts to protect children who are currently studying at Islamic boarding schools are carried out by teachers, staff and supervisors within the scope of the Islamic boarding school. The forms of protection efforts carried out by the Islamic boarding school include: Providing students with books containing guidance while studying at Islamic boarding schools. , conducting interviews with students and guardians of students about boarding school rules, distributing classes evenly, handling types of violations by students or students who are educated are controlled by the MK and BK.

Efforts for legal protection in Islamic boarding schools are a form of mitigation to anticipate violations that could harm children or students. From the start, Islamic boarding schools have conveyed their rights and obligations, as well as mechanisms for handling students who commit violations. Apart from that, Islamic boarding schools must also continue to encourage so that all stakeholders starting from teachers, coaches, staff and all elements involved in providing education understand their respective rights and obligations.

Based on Law NO 20 of 2003 concerning SISDIKNAS and Law NO. 35 of 2014 concerning Child Protection. The protection provided to students in the educational process is very important to know and learn about. Referring to the provisions of Law NO. 35 of 2014 concerning child protection paragraph (1) "The State, Government and Regional Government guarantee the protection, care and welfare of children by paying attention to the rights and obligations of parents, guardians or other people who are legally responsible for children." Several forms of protection towards children. Referring to the provisions of Law NO.35 of 2014, they include: Protection of Children from Ignorance; Every Child has the right to receive education and teaching in the context of personal development and their level of intelligence in accordance with their interests and talents. Protection of Children from Violence; Children in and around Education units are obliged to receive protection from acts of physical, psychological violence, sexual crimes and other crimes committed by educators, education staff, fellow students and/or other parties. Protection of Physical and Mental Health of the Government, Regional Government, Community and People Parents are obliged to protect children from actions that harm the child's health and growth and development. Protection of Children's Freedom.

The Government and Regional Governments in carrying out maintenance and care are obliged to try and help children, so that children can: participate, be free to express opinions and think in accordance with their conscience and religion, be free to receive oral or written information in accordance with the child's age and development stages, be free to form associations and gather, be free to rest, play, recreate, be creative and create arts and culture; and obtain play facilities that meet health and safety requirements. Protection of Students in Education Units from Crime. Children in and within the education unit

environment must receive protection from acts of physical, psychological violence, sexual crimes and other crimes committed by educators, education staff, fellow students and/or parties. other. The protection as referred to in the paragraph is carried out by educators, education staff, government officials, and/or the community.

According to Moeljatno, criminal acts are behavior and events that are caused by behavior and are criminal acts that are not connected with power which constitute criminal responsibility for the person who commits the criminal act (Bambang Poemomo 1993). According to Santoso, violence is also defined as assault and battery, which is a legal category that refers to illegal acts involving the threat and actual application of physical force to another person. Beating attacks and murders are officially seen as collective actions. Thus, these individual actions occur in the context of a group, as collective violence arises from collective situations that were previously preceded by shared ideas, values, goals and problems over a longer period of time (Topo Santoso 2002).

In his study of violence against children, Terry E. Lawson (in Huraerah, 2007), an international psychiatrist who formulated the definition of child abuse, said there are four forms of violence (Abuse), namely emotional violence (emotional abuse), verbal violence (verbal abuse), violence physical (physical abuse), sexual violence; (sexual abuse) (Wiwid Noor Rakhmad 2016). Various forms of violence experienced by students in the school environment include harassment, bullying, abuse, fighting, blackmail, sexual assault, rape, acts of violence based on discrimination against ethnicity, religion, race and/or between groups (SARA) (Jetty Martje Patty dan Cindy Agnesia Ratmala 2020). In relation to legal protection for children in Indonesia, it has been confirmed in the Constitution of the Republic of Indonesia Article 28 B paragraph (2) that "Every child has the right to survival, growth and development and the right to protection from violence and discrimination". Following up on this, the government has made various laws and regulations which contain children's rights.

The various types of child protection in these laws and regulations include Protection of Children in the Religious Sector, Protection for worshipping according to their religion, Protection for children in embracing their religion is guaranteed by the state, government, community, family, parents, guardians and social institutions. Protection of children in embracing their religion includes coaching, mentoring, and practicing religious teachings for children. Protection in the Health Sector; The government is obliged to provide facilities and organize comprehensive health efforts for children. Parents and families are responsible for maintaining children's health if they are unable to carry out their responsibilities. then the government is obliged to fulfill it, the State, government, family and parents are obliged to ensure that children born are protected from diseases that threaten survival and/or cause disability. The State, government, family and parents are obliged to protect children from attempts to transplant their organs. for the other party.

The state, government, family and parents are obliged to protect children from acts of harvesting children's organs and/or body tissues without considering the child's health, buying and selling organs and/or body tissues of children and health research that uses children as research objects without the person's permission. old and does not prioritize the best interests of the child. Child Protection in the Education Sector. The government is obliged to provide basic education for a minimum of 9 (nine) years for all children. Children with physical and/or mental disabilities are given equal opportunities and accessibility to obtain ordinary and special education. Children who have advantages are given opportunities and accessibility to obtain education. Specifically, the Government is responsible for providing educational costs and/or free assistance or special services for children from underprivileged families, neglected children, and children who live in remote areas. Children in and within the school environment must be protected from acts of violence. carried out by teachers, school administrators or friends within the school concerned, or other educational institutions Child Protection in the Social Sector.

The government is obliged to organize the maintenance and care of abandoned children, in terms of the maintenance and care, supervision is carried out by the Minister of Social Affairs. verbal or written

information according to the child's age and development stages, freedom to associate and gather, freedom to rest, play, relax, be creative and create arts and culture; and obtain play facilities that meet health and safety requirements. If a child is abandoned because his parents have neglected their obligations, the institution, family or authorized official can submit a request to the court to determine the child as an abandoned child.

The court's determination as intended also determines the place for shelter, care and treatment of children. Apart from the context of protection for children above, of course there are special protection efforts for children, namely special protection for children who become refugees implemented in accordance with the provisions of humanitarian law, special protection for children who are victims of riots, disaster victims and children in situations of armed conflict, including, Special protection for children in conflict with the law, children in conflict with the law and children victims of criminal acts, Special protection for children who are victims of criminal acts including rehabilitation, protection of identity reporting, safety guarantees, providing accessibility, Special protection for children from minority and isolated groups is carried out through the provision of infrastructure and facilities to be able to enjoy their own culture, recognize and implement their own religious teachings, and use their own language, Special protection for children who are exploited economically and/or sexually, Special protection for children who are victims of abuse of narcotics, alcohol, psychotropic substances and other addictive substances (drugs), and are involved in their production and distribution, is carried out through monitoring, prevention, treatment and rehabilitation efforts by the government and society. Special protection for child victims kidnapping, selling and trafficking of children is carried out through monitoring, protection, prevention, care and rehabilitation efforts by the government and society. Special protection for children victims of violence including physical, psychological and sexual violence is carried out through efforts to disseminate and socialize the provisions of laws and regulations. who protect children who are victims of violence; and monitoring, reporting and providing sanctions, special protection for children with disabilities.

Forms of Law Enforcement Against the Unprotected Children in Islamic Boarding Schools

Law enforcement is the process of making efforts to enforce or function real legal norms as guidelines for actors in traffic or legal relations in social and state life. Referring to the provisions of Law NO 35 of 2014 concerning Child Protection Article 1 Paragraph (2) 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 receive protection from violence and discrimination. As for law enforcement efforts against children whose rights are not protected, such as the right to receive protection from violence and discrimination. As in the case of violence committed by a teacher against students or students being educated at Islamic boarding schools in Candipuro. Efforts need to be made law enforcement to protect the rights of students and students from acts of violence and discrimination whether carried out by Islamic boarding schools, schools or related staff. As for law enforcement efforts that can be carried out, namely by carrying out two law enforcement efforts, Preventive and Repressive.

Firstly regarding Preventive Law Enforcement, this effort is a preventive effort, namely a continuation of preventive efforts carried out before a crime occurs. In preventive efforts, the emphasis is on eliminating opportunities to commit crimes. One form of preventive law enforcement effort carried out by the Binmas Unit, so its task is to be preventive, as agents of the police to take preventive action against disturbances both in schools and the community, including Islamic boarding schools. So they bring, urge and carry out outreach about child protection, that violence against children should not occur in the Islamic boarding school environment, whether carried out by boarding school children or by teachers.

Second, repressive law enforcement is an effort made when a criminal act or crime has occurred, namely in the form of law enforcement by imposing penalties. Repressive efforts can also be interpreted as a conceptual aspect that is faced after a crime occurs. Countermeasures with repressive efforts are to

handle or take action against the perpetrators of criminal acts according to the actions they have committed and show them how to correct them again so that they are aware that the actions they have committed are unlawful and detrimental to society, so they do not repeat them and other people will not do them either. considering the sanctions are very heavy.

One form of effort to enforce repressive laws carried out by the regional government, namely the Women and Children Protection Unit, is that we will take action if a report comes in, then we will act according to the procedures that have been established and carry it out in accordance with the applicable laws and regulations. Obstacles that occur in law enforcement against child violence in Islamic boarding schools. He said "perhaps the preventive measures taken have not been fully achieved, due to socialization not yet fully underway, so perhaps due to time constraints, I have a discourse to collect Islamic boarding schools in Candipuro District. We will provide outreach in the future, discourse on socializing the Child Protection Law.

"So that the boarding school does not lose control in disciplining its students at the boarding school, the discourse has already been thought of because of limited human resources now so a thorough plan is needed." As a barrier to the repressive actions carried out, he said "because the boarding school will always cover up violence. It was not the boarding school who reported it, but the students' parents because their children complained to their parents. So when we carry out an investigation it will be very difficult because it is in a school environment."

Conclusions

Based on the description above, it can be concluded that the form of legal protection provided in the educational process in Islamic boarding schools is protection of children from ignorance, protection of children from violence, protection of physical and mental health, protection of children's freedom, protection of students in educational units. Then it is implemented with the Child Friendly School or Child Friendly Islamic Boarding School program. However, this program has not yet been fully achieved because outreach to Islamic boarding schools in South Lampung Regency has not been evenly distributed, so a special study of the needs of victims is needed from the perspective of victimology. Furthermore, the form of law enforcement against unprotected children in Islamic boarding schools is through preventive and repressive measures. Preventive actions carried out by the South Lampung Regency Child and Protection Unit through the National Bimnas Unit carried out appeals and outreach to schools and the community, including Islamic boarding schools, regarding child protection. The next repressive action taken is that if a report is received, the Women and Child Protection Unit will act according to established procedures and carry out it in accordance with applicable laws and regulations. However, law enforcement against student violence still occurs quite a lot, due to obstacles for law enforcers in taking action both in preventive and repressive efforts.

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