



IMPLEMENTATION OF LEGAL PROTECTION FOR TEACHERS TO TACKLING CRIMINAL ACTS OF PERSECUTION

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ABSTRACT

The teacher has the task of teaching, educating, guiding, directing, training, evaluating, evaluating students to realize the goals of national education, upholding school discipline, disciplining students who violate the discipline given sanctions so that they are aware of their mistakes. Teachers have the right to obtain legal protection in their duties, including protection against acts of violence, threats, discriminatory treatment, intimidation, unfair treatment from students, parents, community, bureaucracy, or other parties. Baidlowi Ahmad S.Pd.I as a professional educator, when disciplining students Ahmad Fais Royadi violated religious norms, immorality, and politeness were given sanctions (Punishment). Students complain to parents, suspecting that teachers are acting in violation of Law Number 23 of 2002 on Child Protection, article 54. Parents report teachers to the Indonesian Child Protection Commission (KPAI) and the Police. This research was prepared using a normative juridical approach, which is research focused on examining the application of rules or norms in positive law. The results showed that the implementation of the legal protection of Baidlowo Ahmad, S.Pd.I teachers regulated by Law No.30 of 2002 concerning the National Education System article 40 paragraph (1) d, Law No. 14 of 2005 concerning Teachers and Lecturers Article 39 Paragraph (1), (2), (3), Government Regulation Number 74 Year 2008 Article 39 Paragraph (2) Article 40 Paragraph (2). There is no clear and firm certainty, prioritizing teacher welfare can be ruled out by child protection which contains strict sanctions. Legal protection arrangements for teachers are ruled out by child protection, teachers should get equitable legal protection.

Keywords : Legal protection; Teacher.

A. INTRODUCTION

In the era of globalization, the Indonesian people need qualified human beings, both now and in the future, who are able to face increasingly fierce competition with other nations in the world that are increasingly advanced. If the Indonesian nation is not serious in trying to improve quality education to educate the nation's life, the Indonesian state will undoubtedly be left behind with the developed countries. The quality of Indonesian people is obtained through quality education. Teachers as professional educators have a very strategic function, role and position. Teachers as professional educators develop a vision, namely the realization of the implementation of learning in accordance with the principles of professionalism to fulfill equal rights for citizens to obtain quality, weighty, education. and quality. The vision, mission and role and position of teachers as professional educators have a function to improve the position of teachers and have a role as agents of learning to improve the quality of quality national education. In accordance with the teacher's function as professional educators, the position of the teacher aims to develop the potential of students to become believers and devoted to God Almighty, have noble character, knowledge, physically and mentally healthy, capable, creative, innovative, independent and become virtuous, democratic, and responsible citizens.[1]

Teachers are professional educators in carrying out teaching and learning activities inside and outside schools to discipline students so that later they become responsible, honest, and law-abiding people. Teachers in carrying out the task of the teaching and learning process

are obliged to create affective, innovative, creative, effective, fun, joyful, and weighty learning so that students feel safe, comfortable, and calm in obtaining knowledge, and have noble character. Educators when conveying the process of teaching and learning activities are ongoing, teachers often come across students who violate school rules, religious norms, moral norms, politeness norms, dare to commit acts of violating legal norms, then the actions of students need to be given guidance, so that students do not lead to criminal acts. Students who violate discipline, violate laws and rebel against teachers are nurtured, guided and given sanctions so as not to repeat their wrong actions. The goal of the teacher to discipline (Punishment) by giving punishment is so that students have responsibility and realize their mistakes. Students who violate rules and regulations are sanctioned by the teacher, complaining to the parents/guardians of the students. The parents of the students considered that the teacher's actions were guilty of violating human rights and child protection and reported the teacher to the police station. Teachers as educators are in a position that is vulnerable to law. Teachers as educators are in a position that is prone to law, between professional demands and the treatment of society that cares for their children even if they make mistakes, it is normal. Teachers have the obligation to make students achieve the goals of national education, enforce school rules, shape the character of good students. Teachers fail to discipline students, student character is poor, teachers become accustomed to mistakes, targets for failure to achieve national education goals. Teachers as professional educators carry out the task of teaching and learning activities to deliver students to achieve the goals of national education to receive legal protection in carrying out their duties. enforcing school rules, forming the character of good students. Teachers fail to discipline students, student character is poor, teachers become accustomed to mistakes, targets for failure to achieve national education goals. Teachers as professional educators carry out the task of teaching and learning activities to deliver students to achieve the goals of national education to receive legal protection in carrying out their duties. enforcing school rules, forming the character of good students. Teachers fail to discipline students, student character is poor, teachers become accustomed to mistakes, targets for failure to achieve national education goals. Teachers as professional educators carry out the task of teaching and learning activities to deliver students to achieve the goals of national education to receive legal protection in carrying out their duties.

Teachers as professional educators have the main task of teaching, educating, guiding, directing, training, assessing and evaluating students who have violated religious norms, moral norms, norms of decency. Teachers have the right to obtain legal protection in carrying out their duties and rights over intellectual property. Legal protection for teachers includes legal protection against violence, threats, discriminatory treatment, intimidation or unfair treatment on the part of students, parents of students, society, bureaucracy, or other parties. Legal protection for teachers in the process of teaching and learning activities inside and outside the classroom is regulated in Law Number 30 of 2002 concerning the Education System article 40 paragraph (1) d. Article 39 paragraph (1), (2), (3), (4), (5) Law Number 14 of 2005 concerning Teachers and Lecturers.

Legal protection for teachers, namely Baidlowi Ahmad bin Ahmad Turmudzi is regulated in Law Number 14 of 2005 concerning Teachers and Lecturers, Article 39 which mandates,

- (1) The government, local governments, communities, professional organizations and / or education units are obliged to provide protection for teachers in the implementation of their duties.
- (2) The protection as referred to in paragraph (1) includes legal protection, professional protection, and occupational safety and health protection.
- (3) Legal protection as referred to in paragraph (2) includes legal protection against acts of violence, threats, discriminatory treatment, intimidation, or unfair treatment on the part of students, parents of students, society, bureaucracy, or other parties.
- (4) Professional protection as referred to in paragraph (2) includes protection against termination of employment that is not in accordance with statutory regulations, improper remuneration, restrictions on expressing views, harassment of the profession, and other restrictions / prohibitions that can hinder teachers from carry out the task.
- (5) The protection of occupational safety and health as referred to in paragraph (2) includes protection against risks of occupational safety disturbances, work accidents, fires during work, natural disasters, work environment health, and / or other risks.

In its implementing regulations, Government Regulation Number 74 of 2008 concerning Teachers, Article 39 paragraph (1) states, that:

Teachers have the freedom to impose sanctions on students who violate religious norms, moral norms, norms of decency, written or unwritten regulations set by the Teacher, regulations at the level of educational units, and laws and regulations in the learning process that are under their authority.

Article 40: (1)

Teachers have the right to receive protection in carrying out tasks in the form of a sense of security and safety guarantees from the Government, Local Government, education units, Professional Teacher Organizations, and / or the Community in accordance with their respective authorities.

Article 41:

- (1) Teachers have the right to legal protection from acts of violence, threats, discriminatory treatment, intimidation, or unfair treatment on the part of students, parents of students, society, bureaucracy, or other parties,
- (2) Teachers are entitled to professional protection against termination of employment that is not in accordance with the provisions of laws and regulations, improper remuneration, restrictions on expressing views, harassment of the profession, and other restrictions or restrictions that can hinder the Teacher from carrying out his duties.
- (3) Teachers have the right to receive occupational safety and health protection from educational units and educational unit administrators against the risk of occupational safety problems, work accidents, fires during work, natural disasters, work environment health and / or other risks.

Baidlowi Ahmad bin Ahmad Turmudzi, an educator at Madrasah Aliyah (MA) Manahijul Huda, Ngagel Village, Dukuhseti District, when disciplining students Ahmad Fais Royadi violated

school rules, parents of students thought that teachers violated child protection, teachers reported to KPAI and the police and processed legally in court. Baidlowi Ahmad bin Ahmad Turmudzi was found legally and convincingly proven guilty of committing a criminal offense of child abuse Decision Number: 10/Pid.Sus/2014/PN.Pati.

Educators in carrying out their duties to obtain a sense of security and guarantee of work safety in carrying out their duties are obtained by teachers through protection a. law, b. profession and c. occupational safety and health, the working community, teacher professional organizations, government or local governments can help each other in providing legal protections for teachers in their profession juridically. Abduhzen stated, that as a profession, teacher work requires guarantees and protection of laws and definite rules. This is very important so that besides getting a sense of security they also have clarity about their rights and obligations what they can and shouldn't do, and what other parties can and shouldn't do to them, both as humans, educators, and workers.[2]

Participants in the process of teaching and learning activities inside and outside the classroom to achieve national education goals are protected by Law Number 23 of 2002 concerning Child Protection, which is regulated by article 54, children inside and in the school environment must be protected from acts of violence committed by teachers, school managers or their friends in the school concerned, or other educational institutions.

Legal protection for teachers is regulated clearly and firmly. Protection for teachers Baidlowi Ahmad, S.Pd.I is regulated in Law Number 30 of 2002 concerning the Education System Article 40 paragraph (1) d. Article 39 paragraphs (1), (2), (3), (4), (5) Law No. 14 of 2005 on Teachers and Lecturers, there is a gap in legal protection for children, namely Ahmad Faiz Royadi is regulated in article 80 of the Law. Number 23 of 2002 concerning Child Protection. This problem can be resolved by means of penal and non-penal legal channels, penal channels are resolved through the court while non-penal is resolved out of court with the principle of *Ultimum Remidium* law and Alternative Dispute Resolution principles, the Republic of Indonesia Police can carry out a mediation process between victims and perpetrators. involving the family concerned.

Based on the background and scope of the problems mentioned above, the researchers formulated the following problems: What is the regulation of legal protection for teachers to tackling criminal act of persecution? And How is the implementation of legal protection for teachers in criminal acts of persecution?

B. DISCUSSION

Baidlowi Ahmad bin Ahmad Turmudzi is a professional educator at Madrasah Aliyah (MA) Manahijul Huda in Ngagel Village, Dukuhseti District, Pati Regency has the main task of educating, teaching, guiding, directing, training, assessing and evaluating students as well as realizing the goals of national education and enforcing school rules.

Baidlowi Ahmad, S.Pd.I as a teacher at Madrasah Aliyah (MA) Manahijul Huda, Ngagel Village, Dukuhseti District in order to realize the goals of national education, which functions to develop the ability to shape the character and civilization of a nation that has dignity in order to educate the nation's life, has the aim of developing potential students to become human beings

who believe and fear the Almighty God, have noble character, are healthy, knowledgeable, capable, creative independently and become democratic and responsible citizens.

Baidlowi Ahmad bin Ahmad Turmuzi as a professional educator at Madrasah Aliyah (MA) Manahijul Huda, Ngagel Village, realizes the mission of developing learning operations in accordance with the principles of professionalism to fulfill equal rights for all citizens of the world to obtain quality, weight and quality education. The vision, mission, role and position of teachers as professional educators have a function to increase the dignity of teachers and their roles as agents of learning and improve the quality of national education.

Teachers at Madrasah Aliyah (MA) Manahijul Huda Ngagel, Dukuhseti District, Pati Regency as professional educators carry out the task of teaching and learning activities in and outside the classroom, enforcing school rules and disciplining students who violate religious norms, moral norms, and politeness is guided, fostered and sanctioned with the aim that students are aware of their mistakes and do not repeat their actions.

Madrasah Aliyah (MA) teacher Manahijul Huda Ngagel, Dukuhseti District in carrying out the learning process inside and outside of school has the right to obtain legal protection in carrying out tasks.

According to Abduhzen, the definition of legal protection for teachers is that a profession in the work of teachers requires guarantees and protection of certain laws and regulations. This is very important so that in addition to having a sense of security, they have clarity about what rights and obligations other parties can and should not do to them, both as humans, educators and workers. According to Satjipto Rahardjo, legal protection is providing protection to human rights that have been harmed by others and this protection is given to the community so that they can enjoy all the rights provided by law, or in other words, legal protection is various legal remedies that must be provided by law enforcement officers to provide a sense of security, both mentally and physically from interference and various threats from any party. According to CST Kansil, legal protection is a variety of legal measures to provide a sense of security, both mindfully and physically from interference and threats from any party. Legal protection is a narrowing of the meaning of protection, in this case only protection by law. According to Setiono, legal protection is an act or effort to protect people from arbitrary actions by the authorities who are not in accordance with the rule of law, to create order and peace so as to enable humans to enjoy their dignity as humans. The definition of legal protection between Abduhzen, Stjipto Rahardjo, CST Kansil, and Setiana is compatible. Legal protection Kansil is a variety of legal measures to provide a sense of security, both mindfully and physically from interference and various threats from any party. Legal protection is a narrowing of the meaning of protection, in this case only protection by law. According to Setiono, legal protection is an act or effort to protect people from arbitrary actions by the authorities who are not in accordance with the rule of law, to create order and peace so as to enable humans to enjoy their dignity as humans. The definition of legal protection between Abduhzen, Stjipto Rahardjo, CST Kansil, and Setiana is compatible. Legal protection Kansil is a variety of legal measures to provide a sense of security, both mindfully and physically from interference and various threats from any party. Legal protection is a narrowing of the meaning of protection, in this case only protection by law. According to Setiono, legal protection is an act or effort to protect people from arbitrary actions by the authorities who are not in accordance with the rule of law, to create order and peace so

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Legal protection arrangements for Madrasah Aliyah (MA) teachers in Manahijul Huda Ngagel, Dukuhseti District are regulated,

- Law Number 20 of 2003 concerning the National Education System, namely article 40 paragraph (1) d. Educators and education personnel are entitled to legal protection in carrying out their duties and rights over intellectual property.
- Law Number 14 of 2005 concerning Teachers and Lecturers Article 39 paragraph (1), the Government, Local Government, Professional Organizations and / or Education Units are obliged to provide protection for teachers in carrying out their duties. Article 39 paragraph (2), the protection referred to in paragraph (1) includes legal protection, professional protection, as well as protection of occupational safety and health. Article 39 paragraph (3) legal protection as referred to in paragraph (2) includes legal protection against acts of violence, threats, discriminatory treatment, intimidation, or unfair treatment on the part of students, society, bureaucracy, or other parties.
- Government Regulation Number 74 of 2008 concerning Teachers Article 39 paragraph (2), Based on the In Loco Parentis Doctrine: Teachers have the freedom to impose sanctions on students who violate religious norms, norms of decency, norms of decency, written or unwritten regulations set by the teacher, education unit regulations and laws and regulations in learning which are under its authority. Whereas there is a doctrine known since the 18th century, namely In Luco Parentis, which means that the authority of a teacher is a delegation of deficiencies that parents have given to educating their children. Based on this theory teachers legally have a position as parents in schools, therefore have the right to apply corporal punishment in order to discipline children within reasonable limits. (Baylor L. Rev, 1974). Article 40 paragraph (2), Teachers have the right to receive protection in carrying out their duties in the form of a sense of security, and safety guarantees from the Government, Local Government, Education Units, Professional Organizations, and / or the public in accordance with their respective authorities, a sense of security and a guarantee of safety. Work in performing tasks is obtained from teachers

through protection, (a) law, (b) profession and (c) occupational safety and health, teacher professional organizations, government or local governments can help each other in providing protection.

- Regulation of the Minister of Education and Culture Number 10 of 2017 concerning Protection for Education and Education Personnel mandates that: Educators and Education Personnel who face problems related to the implementation of duties, including law, profession, occupational safety and health, and intellectual property rights.

Legal protection includes acts of violence, threats, discriminatory treatment, intimidation and / or unfair treatment received from students, the community, the bureaucracy, and / or other parties related to the implementation of duties as educators and educational personnel.

Protection of work safety and occupational health includes occupational safety problems, work accidents, natural disasters, work environment health, and other risks.

Article 3, mandates the obligation of protection to the government, regional governments in accordance with their respective authorities, educational units, professional organizations, and / or the community.

In the thesis research, the Review of Criminal Law on the Implementation of Legal Protection for Teachers to Overcome the Crime of Persecution. Legal protection for teachers is regulated by Law Number 20 of 2003 concerning the National Education System article 40 paragraph (1) d, namely that educators and education personnel are entitled to legal protection in carrying out their duties and rights over intellectual property. Law Number 14 of 2005 concerning Teachers and Lecturers, is regulated by article 39 paragraphs (1), (2), (3), (4), (5). Government Regulation Number 74 of 2008 concerning Teachers, is regulated in article 39 paragraph (2), article 40 paragraph (2). This is a mandate of legal protection for teacher Baidlowi Ahmad bin Ahmad Turmudzi, an educator at Madrasah Aliyah (MA) Manahijul Huda, Ngagel Village, Dukuhseti District when disciplining Ahmad Fais Royadi students who violated school rules, parents of students considered that teachers violated Child Protection, teachers are reported to the Indonesian Child Protection Commission (KPAI) and the police and are legally processed in court. Baidlowi Ahmad bin Ahmad Turmudzi was found legally and convincingly proven guilty of committing a criminal offense of child abuse Decision Number: 10 / Pid.Sus / 2014 / PN.Pati. Before it was decided in court, the parties between teacher Baidlowi Ahmad bin Ahmad Turmudzi and student Ahmad Fais Royadi and their families could pursue peace efforts with the principle of Alternative Dispute Resolution, The Indonesian National Police can carry out a mediation process between the victim and the perpetrator which also involves the family concerned. The police have the courage to act as a mediator, suggesting that both parties can settle in a family manner, because in the police there is a procedure known as Alternative Dispute Resolution or commonly abbreviated as ADR. The peace efforts made by the parties between Mr. Baidlowi Ahmad and Ahmad Fais Royadi and their families, on Wednesday, September 12, 2012 between Ahmad Fais Royadi and Mr. Baidlowi Ahmad have made a settlement in a family manner and a peace statement was made by the Manahijul Huda Education Foundation (MA Manahijul Huda) so that the case is declared complete. During the peace efforts with Mr. Baidlowi Ahmad, Ahmad Fais Royadi has been given Rp. 3,500,000 (three million five hundred thousand rupiah) by Mr. Baidlowi Ahmad and now it is peaceful and will

not sue, and then on Wednesday 12 September 2012 Ahmad Fais Royadi reported Mr. Baidlowi Ahmad bin Ahmad Turmudzi went to the Dukuhseti Sector Police Office to abuse children, and processed investigations, investigations, prosecutions, District Court decisions. Decision Case Number: 10 / Pid.Sus / 2014 / PN.Pti. investigation, prosecution, decision of the District Court. Decision Case Number: 10 / Pid.Sus / 2014 / PN.Pti. investigation, prosecution, decision of the District Court. Decision Case Number: 10 / Pid.Sus / 2014 / PN.Pti.

The gap between legal protection for teachers is a gap in legal protection for children, it can be overcome by a doctrine known since the 18th century, namely *In Luco Parentis*, which means that the authority of a teacher is a delegation of deficiencies that parents have given to educating children. their child. Based on this theory, teachers legally have the position of parents in school, therefore they have the right to apply physical punishment in order to discipline children within reasonable limits. (Baylor L. Rev, 1974)

Teachers as professional education, namely Baidlowi Ahmad, S.Pd.I, are free to impose sanctions on students who violate school rules.

The implementation of legal protection for teachers Baidlowi AAhmad, S.Pd.I, teachers at Madrasah Aliyah (MA) Manahijul Huda Ngagel, Dukuhseti District, Pati Regency, there is no clear legal certainty, Child Protection has clear legal certainty. Legal protection for children overrides the legal principle of *ultimum remidium*.

Implementation of protection for teachers regulated in article 39 paragraphs (1), (2), (3), (4) Law No. 14 of 2005 on teachers and lecturers there is no clear and firm legal certainty, no criminal sanctions only concerned with the welfare of teachers.

C. CONCLUSIONS

Legal protection for teachers including Baidlowi Ahmad bin Ahmad turmudzi is regulated in, Law Number 20 of 2003 concerning the National Education System, namely article 40 paragraph (1) d. Educators and education personnel are entitled to legal protection in carrying out their duties and rights over intellectual property. Law Number 14 of 2005 concerning Teachers and Lecturers Article 39 paragraph (1), the Government, Local Government, Professional Organizations and / or Education Units are obliged to provide protection for teachers in carrying out their duties. Article 39 paragraph (2), the protection referred to in paragraph (1) includes legal protection, professional protection, as well as protection of occupational safety and health. Article 39 paragraph (3) legal protection as referred to in paragraph (2) includes legal protection against acts of violence, threats, discriminatory treatment, intimidation, or unfair treatment on the part of students, society, bureaucracy, or other parties. Government Regulation Number 74 of 2008 concerning Teacher Article 39 paragraph (2), Teachers have the freedom to impose sanctions on students who violate religious norms, moral norms, norms of decency, written or unwritten regulations set by teachers, educational unit regulations and statutory regulations -Invitations in learning that are under their authority. Article 40 paragraph (2), Teachers have the right to receive protection in carrying out their duties in the form of a sense of security and safety guarantees from the Government, Local Government, Education Units, Professional Organizations, and / or the community in accordance with their respective authorities, a sense of security and a guarantee of safety. work in performing tasks is obtained from teachers through protection, (a) law, (b)

profession and (c) occupational safety and health, teacher professional organizations. The implementation of the protection stipulated in article 39 paragraph (1), (2), (3), (4) regarding teachers and lecturers is not clear and firm, there are no criminal sanctions, only concerned with the welfare of teachers so that it can be overridden by law 23 of 2002 concerning child protection which contains clear and firm criminal sanctions. In order to obtain justice protection, it should be clear and firm. The regulation of legal protection for teachers is regulated in article 39 paragraph (1), (2), (3), (4) Law number 14 of 2005 concerning teachers and lecturers whose substance is concerned with the welfare of teachers should contain clear and clear sanctions in accordance with hierarchy of laws and regulations in Indonesia refers to article 6 of Law Number 2. 2011 concerning the formation of laws and regulations so that teachers as professional educators in realizing the goals of national education and enforcing school rules, educators in carrying out the task of the process of teaching and learning activities are safe, comfortable, calm. The implementation of legal protection for teachers is regulated by Law Number 14 of 2005 concerning teachers and lecturers and Law Number 23 of 2002 concerning child protection, there are gaps, teacher protection and child protection should have principles of justice, balance, harmony and harmony.

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